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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1955 ⁶⁹ 1961

No. ¹⁰ Original

STATE OF ARIZONA,

Plaintiff,

vs.

STATE OF CALIFORNIA, PALO VERDE IRRIGATION DISTRICT, IMPERIAL IRRIGATION DISTRICT, COACHELLA VALLEY COUNTY WATER DISTRICT, METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, CITY OF LOS ANGELES, CALIFORNIA, CITY OF SAN DIEGO, CALIFORNIA, AND COUNTY OF SAN DIEGO, CALIFORNIA,

Defendants,

UNITED STATES OF AMERICA,

Intervener,

STATE OF NEVADA,

Intervener.

COMPLAINT AND ANSWER IN INTERVENTION
BY THE STATE OF UTAH

E. R. CALLISTER,
Attorney General of Utah,
DENNIS MCCARTHY,
Special Assistant
Attorney General.

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1955

No. 10 Original

STATE OF ARIZONA,
Plaintiff,
vs.

STATE OF CALIFORNIA, PALO VERDE IRRIGATION DISTRICT, IMPERIAL IRRIGATION DISTRICT, COACHELLA VALLEY COUNTY WATER DISTRICT, METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, CITY OF LOS ANGELES, CALIFORNIA, CITY OF SAN DIEGO, CALIFORNIA, AND COUNTY OF SAN DIEGO, CALIFORNIA,
Defendants,
UNITED STATES OF AMERICA,
Intervener,
STATE OF NEVADA,
Intervener.

COMPLAINT AND ANSWER IN INTERVENTION
BY THE STATE OF UTAH

Pursuant to the order of the United States Supreme Court, dated December 12, 1955, to the effect that the State of Utah and the State of New Mexico should be joined

as parties in the above cause in their respective capacities as States of the Lower Basin, the State of Utah does hereby plead as follows:

I.

The State of Utah is a signatory State of the Colorado River Compact dated November 24, 1922, and a member State of the Lower Basin thereunder, and is entitled to a share of the waters allocated to the Lower Basin by the said Colorado River Compact. Specifically, Articles III(a) and III(b) of said Compact apportion to the Lower Basin the exclusive beneficial consumptive use of 8,500,000 acre feet of water per annum. The State of Utah alleges that it has the right to the beneficial consumptive use of the waters thus apportioned under Articles III(a) and III(b) of said Compact to the extent of 175,000 acre feet per annum for present and future agricultural and domestic uses.

II.

Due to its physical location as a State of the Lower Basin, the State of Utah cannot feasibly or economically utilize any of the water flowing in the main stream of the Colorado River. For economic and geographic reasons, the only waters from the Colorado River System available to the State of Utah for present and future use in the Lower Basin are found in the Virgin River, Kanab Creek and Johnson Creek, and the tributaries of these streams. By reason of the unavailability of any other waters to it in the Lower Basin, the State of Utah is and should be entitled to a priority of use of the waters from the above designated streams in the aforesaid amount of 175,000 acre feet per annum. The respective areas in the State of Utah located in the Lower

Basin, and the amount of water necessary for the present and future development thereof are as follows:

Virgin River and Adjacent Areas

Depletions by presently irrigated areas after full water supply is available (22,857 acres)	65,625 acre feet
Depletions by irrigation of new lands with full water supply (23,534 acres)	70,852 acre feet
Depletions by miscellaneous uses (domestic, evaporation, industrial) .	23,350 acre feet
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	159,827 acre feet

Kanab Creek and Johnson Creek Areas

Depletions by presently irrigated areas under full water supply (5,338 acres)	15,173 acre feet
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Total . . .	175,000 acre feet

III.

Article III(f) of the Colorado River Compact provides for further "equitable apportionment of the beneficial uses of the waters of the Colorado River System unapportioned by paragraphs (a), (b) and (c) * * * at any time after October first, 1963, if and when either Basin shall have reached its total beneficial consumptive use as set out in paragraphs (a) and (b)." The State of Utah alleges that it has a right to an equitable share of these presently unapportioned waters, if and when a further apportionment is made under Article III(f) of said Compact.

IV.

With respect to certain questions raised by the pleadings of the parties on file herein, the State of Utah alleges as follows:

1. Is the State of Arizona a member of the Colorado River Compact? The State of Utah alleges that the State of Arizona effectively ratified said Compact on February 24, 1944, and thereby the State of Arizona became a member of said Compact and entitled to the rights conferred therein and subject also to the obligations therein imposed. The State of Utah also alleges that the State of California likewise is subject to said Compact, as well as to the obligations imposed by the California Limitation Act of 1929.

2. How is beneficial consumptive use under the Compact to be measured? The State of Utah alleges that beneficial consumptive use of the waters apportioned to the Lower Basin should be measured by the same method as adopted for the Upper Basin in the Upper Colorado River Basin Compact, to wit: By the inflow-outflow method in terms of the man-made depletion of the virgin flow at specified points along the main stream.

3. How shall evaporation losses from Lower Basin reservoirs be charged? The State of Utah alleges that evaporation losses shall be charged against the apportionment of water made to each state in the same proportion as the consumptive use of water delivered from storage reservoirs and used in each state bears to the total consumptive use in the Lower Basin of water delivered from storage reservoirs.

4. Is the water referred to in Article III(b) of the Colorado River Compact apportioned or unapportioned

water? The State of Utah alleges that the water referred to in Article III(b) of the said Compact is apportioned water and the beneficial consumptive use thereof is subject to apportionment between the States of the Lower Basin.

V.

To the extent that the foregoing allegations in Paragraphs I, II, III, and IV hereof conflict with or are inconsistent with the allegations contained in the several pleadings of the parties already on file herein, the State of Utah denies each and all such allegations. With respect to the other allegations of the several pleadings of the parties on file herein, the State of Utah neither admits nor denies such allegations, but reserves the right to take such position thereon as its interest in this suit may make apparent as the trial of the case proceeds.

W H E R E F O R E , the State of Utah respectfully prays:

1. That the respective rights of the States of Arizona, California, Nevada, Utah, New Mexico, and of the United States of America in and to the use of the waters of the Colorado River in the Lower Basin be adjudicated, determined and set at rest.

2. That the right of the State of Utah in and to the beneficial consumptive use of 175,000 acre feet per annum of the water apportioned to the Lower Basin by Articles III(a) and III(b) of the Colorado River Compact be confirmed in the State of Utah in perpetuity.

3. That the State of Utah be decreed the right to its equitable share in and to the beneficial consumptive use of

any waters which may be apportioned under Article III(f) of the Colorado River Compact.

4. That the State of Utah have such other and further relief as the Court may deem proper, also that the State of Utah be granted leave to amend or supplement this complaint and answer as its interests may appear as the trial of the case proceeds.

DATED this 10th day of February, 1956.

E. R. CALLISTER,
Attorney General of Utah,

DENNIS McCARTHY,
Special Assistant
Attorney General.