

DEC 18 1963

JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1963

No. 8 Original

STATE OF ARIZONA,

Complainant,

v.

STATE OF CALIFORNIA, PALO VERDE IRRIGATION
DISTRICT, IMPERIAL IRRIGATION DISTRICT,
COACHELLA VALLEY COUNTY WATER DISTRICT,
METROPOLITAN WATER DISTRICT OF SOUTH-
ERN CALIFORNIA, CITY OF LOS ANGELES, CALI-
FORNIA, CITY OF SAN DIEGO, CALIFORNIA, AND
COUNTY OF SAN DIEGO, CALIFORNIA,

Defendants

UNITED STATES OF AMERICA

Intervener

STATE OF NEVADA

Intervener

STATE OF NEW MEXICO

Impleaded Defendant

STATE OF UTAH

Impleaded Defendant

STATEMENT BY ARIZONA ON DECREE PROPOSED
BY THE UNITED STATES

Supreme Court of the United States

NO. 8, ORIGINAL — OCTOBER TERM, 1963

State of Arizona, Plaintiff

v.

State of California, et. al., Defendants

STATEMENT BY ARIZONA ON DECREE PROPOSED BY THE UNITED STATES

Arizona agrees that the language proposed by the United States in the form of Decree submitted by the United States reflects the holding of the Court in its Opinion of June 3, 1963.

Arizona further agrees that the language proposed by the United States as appropriate to complete the Decree insofar as there is disagreement among the parties as to the form of Decree conforms the Decree to the Opinion of the Court with one exception.

Arizona respectfully urges that II B (2) should remain as proposed without the addition of the proviso tendered by Nevada and the United States for the completion of said subparagraph, striking the semicolon after the word "California" and inserting in lieu thereof a period.

Arizona does not begrudge her sister state the small amount of water represented by the 4% of the surplus which Nevada and the United States contend should be awarded Nevada. Arizona believes that the Court's reasoning in reaching the conclusion that the contract provisions in both Arizona's and Nevada's contracts with the Secretary charging each state with its depletions from the tributaries above Lake Mead are invalid compels the conclusion that this provision of Arizona's contract is also invalid.

Arizona also asserts that the reasoning of the Court's opinion rejecting the Master's conclusion that the Secretary could not

charge Arizona or Nevada for depletions from the main stem above Lake Mead likewise compels the conclusion that this provision of the Arizona contract is invalid.

The Court's Opinion reasoned 373 U. S. 591:

"If Arizona and Nevada can, without being charged for it, divert water from the river above Lake Mead, then California could not get the share Congress intended her to have."

We believe, similarly, if the Secretary may contract with Nevada for delivery to Nevada of 4% of the surplus allocated to Arizona by Congress, then Arizona will not get the share Congress intended her to have.¹

Arizona concurs with the reasons expressed by the United States in its Memorandum expressing the views of the United States with respect to the proposals of the California defendants and will not file a further Memorandum unless requested to do so by the Court.

Respectfully submitted,

RINEY B. SALMON

Chief Counsel

MARK WILMER

BURR SUTTER

Counsel

Arizona Interstate Stream Commission

William F. Meagher

John E. Madden

Calvin H. Udall

John Geoffrey W.

¹Arizona excepted to the Special Master's Report, insofar as it validated this provision of her contract. Exception No. 8, page 11, "Arizona's Motion for Adoption, With Exceptions of the Special Master's Report and Recommended Decree." Arizona stated her reasons for this exception at pages 100, et. seq. of her Opening Brief in this Court.