

No. 8, Original

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ALEXANDER L. STEVAS.

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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1981

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STATE OF ARIZONA, *Plaintiff,*

v.

STATE OF CALIFORNIA, ET AL., *Defendant.*

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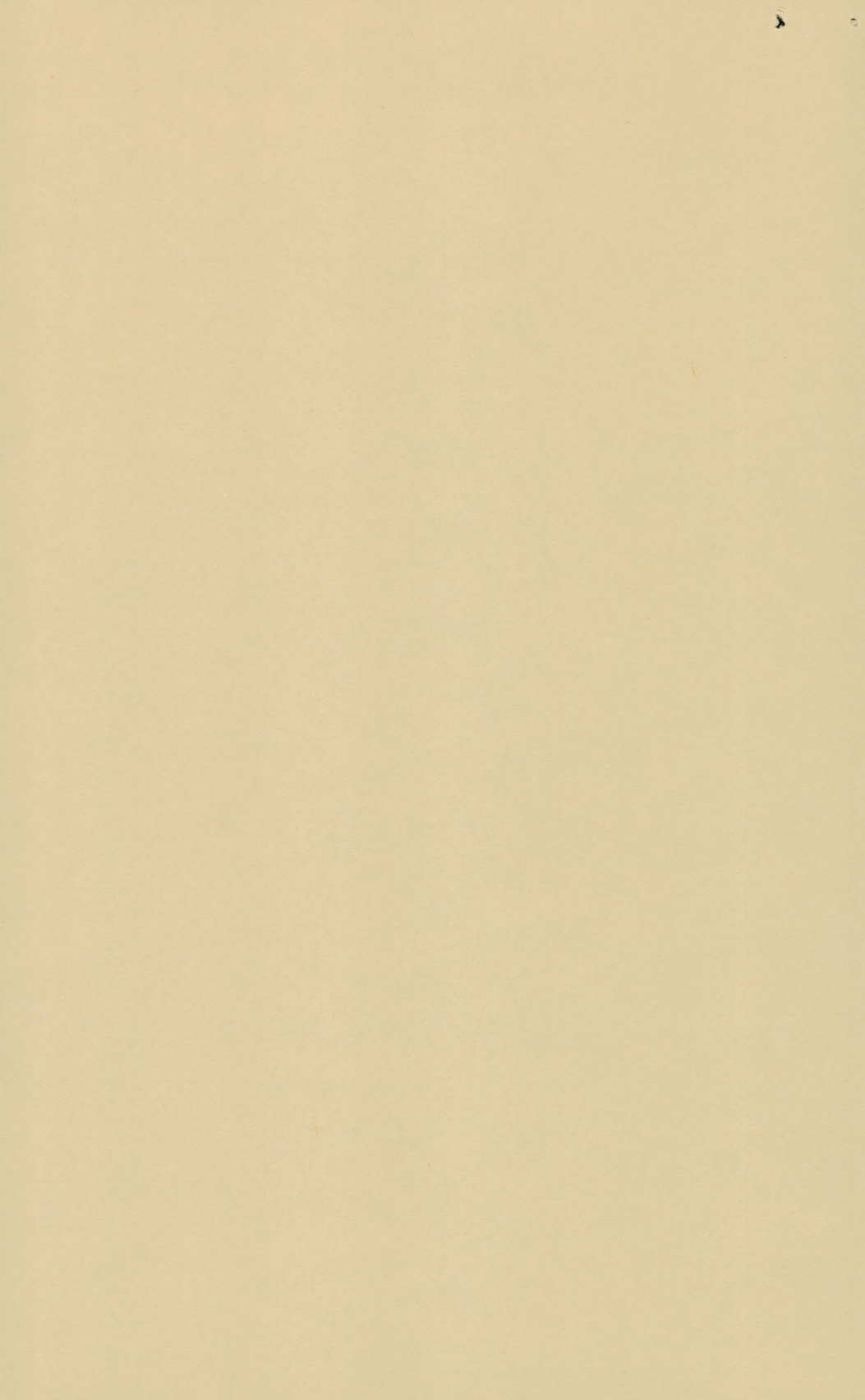
MOTION TO MODIFY ORDER

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**This Honorable Court holds the power to change wrong to right. Hence, with this in mind the Quechan Indians joined by their neighboring tribes of the Lower Colorado River filed a petition to intervene in the case at bar requesting special hearings plus legal counsel of their own choosing so that a wrong committed by their trustee, the**



United States, could be righted. In the wake of earlier hearings all five Indian tribes claimed that they had received less water than they should have, and that this was due to an inherent conflict of interest affecting their trustee. On Jan. 9, 1979 this Court took cognizance of their request by appointing the Honorable Elbert P. Tuttle as Special Master to conduct the requested hearings.

The special hearings that followed have now been concluded. The Master's Report has been filed. All parties have responded in writing, and this Court has ordered oral argument for one and one-half hours for Dec. 8, 1982, subject to the limitation that there be no more than two speakers for "each side". The Quechan Tribe sincerely believes that unless this Order is modified it could for all practical purposes negate the opportunity to right the wrong heretofore provided by Special Master Tuttle's Order allowing intervention by each tribe with independent legal counsel chosen by them. This result becomes quite clear if one merely reflects



upon the following facts:

First, this is not a case with only two sides. In the beginning there were only two states. The number has increased. In addition, there is the United States appearing for its own interests and as trustee for the Indians. Then, because of the conflict of interest besetting the United States, there are also five autonomous Indian tribes with independent legal counsel.

Second, during the special hearings the Quechan Tribe was consistent with its original position that there existed a conflict of interest. It therefore presented a case against its trustee for failure to adequately represent it in the first hearings and the refusal of the trustee to present any case whatsoever regarding most of the acreage claimed on their behalf in the recent hearings. Special Master Tuttle summarized the situation when he said:

"I believe that the 'omission' of a significant amount of factually supportable





claims clearly occurred in the earlier proceedings. Although the United States lawyers at the earlier trial presented substantial claims for the Tribes, these claims fell short of the maximum possible claims under the standards required by the prior Master. In a paternalistic sense the result obtained by the United States might seem fair because the Tribes received much-needed water rights. But the trustee's duty is not to decide what is fair, his duty is to present the best case for his Indian wards. An objective view of the facts reveals that actual fairness was not achieved in the sense that under the legal standards applied in this case the Tribes would have received more if the United States as trustee had dedicated its efforts to maximizing the Tribes' welfare." (Report at 48-49)



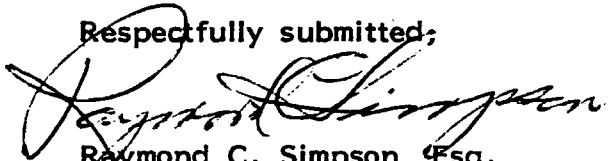
To substantiate its claims the Quechan Tribe engaged independent experts to establish its water entitlement. The results of their work proved that the Tribe's entitlement was considerably in excess of that asserted on its behalf by the United States. In contrast, the other tribes elected to present no evidence regarding the conflict of interest, and this therefore made it imperative for the Quechan Tribe to file a "Separate Response". Thus, against this backdrop it must be noted that the Quechan "side" will not be presented in the oral argument phase of the case at bar unless the Order pertaining to the number of speakers is modified to permit three.

The Quechan Tribe has contacted Mr. Carl Boronky in his capacity as a spokesman for the State Parties. He stated that the States have no objection to a change in the number of speakers since they would also like to have three for the three states. The United States obviously can offer no objection since the number it set forth in



its earlier Motion provided for five speakers. The other four tribes have agreed upon the one speaker to present their "side", but without allowing an additional speaker to present the Quechan "side", the Quechan Tribe would be denied its day in court. Therefore, the Quechan Tribe does hereby move this Honorable Court to modify its Order to permit three speakers.

Respectfully submitted;

A handwritten signature in black ink, appearing to read "Raymond C. Simpson". The signature is fluid and cursive, with a large initial "R" and "S".

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