IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 5, Original

UNITED STATES OF AMERICA, *Plaintiff*,

v.

THE STATE OF CALIFORNIA, *Defendant*.

MOTION FOR LEAVE TO SUBMIT AMICUS CURIAE BRIEF AND FOR LEAVE TO PRESENT ORAL ARGUMENT ON BEHALF OF AMICUS CURIAE

WARREN C. COLVER
Attorney General for Alaska

AVRUM M. GROSS
Special Assistant Attorney General

GEORGE N. HAYES
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Dated: October 14, 1964

Attorney General
State of Alaska
Box 2170
Juneau, Alaska

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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Now comes the State of Alaska by its Attorney General and moves the Court, pursuant to Rule 43(4), Rules of the Supreme Court of the United States, for leave to submit Amicus Curiae brief, and pursuant to Rule 44(7), Rules of the Supreme Court of the United States, for leave to present oral argument in the above mentioned cause.

This Motion is based on the supporting Affidavit attached.

Respectfully submitted,

WARREN C. COLVER
Attorney General for Alaska

AVRUM M. GROSS
Special Assistant Attorney General

GEORGE N. HAYES
Special Assistant Attorney General

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AFFIDAVIT

UNITED STATES OF AMERICA }
STATE OF ALASKA } ss.

Now comes AVRUM M. GROSS, Special Assistant Attorney General of the State of Alaska, having been first duly sworn on oath, deposes and says:

1. I am a Special Assistant Attorney General for the State of Alaska, retained for the purpose of handling questions relating to inland waters abutting the Alaskan coast;

2. Alaska is presently engaged in litigation with the Federal Government over the definition of inland waters within bays on the Alaskan coast (*United States* v. *State of Alaska*, Civ. A-51-63, United States District Court, District of Alaska). The case is presently on appeal to the Ninth Circuit Court of Appeals;

3. The question to be determined in *United States* v. *State of Alaska* is the extent of inland waters within

bays. A determination of this question will establish the extent of State ownership over lands beneath inland waters within bays, and concurrently, will define the extent of lands granted to states by the Submerged Lands Act, Act of May 22, 1953, 67 Stat. 29, 43 U.S.C. §§ 1301-1315. A determination of the question will affect every coastal state in the United States;

4. The exact issue being considered in *United States* v. *State of Alaska* is present as a subsidiary issue in the case of *United States* v. *The State of California.* A determination of the extent of inland waters in Monterey Bay on the cost of California will settle the case of *United States* v. *State of Alaska* for all practical purposes and will be of enormous importance in determining inland waters of all coastal states within bays;

5. The State of Alaska has filed an Amicus Curiae brief in *United States* v. *State of California,* directed purely to the issue of the definition of inland waters within bays, and specifically, to the delineation of California's inland waters within Monterey Bay;

6. I have carefully reviewed the briefs of both the United States and the State of California in the subject case. Monterey Bay represents but one-seventh of the totality of California's claim over inland waters abutting its coast, and as a result, neither of the parties have comprehensively discussed the question in their briefs;

7. In view of the enormous significance a determination of this Court will have on the definition of inland waters on coastal states within bays, it would be highly beneficial to the Court to have separate argument on this point so as to distinguish it from the totality of

claims over inland waters disputed by the State of California and the United States Government. The briefs submitted by both parties do not, in my opinion, provide a complete foundation for a determination of this question. Oral argument of the parties will, of necessity, cover a wide range of issues and it is probable that the question of definition of inland waters within bays will not be comprehensively discusssed therein.

/s/ AVRUM M. GROSS
Avrum M. Gross
Special Assistant
Attorney General

SUBSCRIBED AND SWORN to before me this 5th day of October, 1964, at Juneau, Alaska.

/s/ GOLDEEN R. GOODFELLOW
Goldeen R. Goodfellow
Notary Public in and for
Alaska

My Commission Expires: 1/4/68

(SEAL)