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Answer of the State of Nevada to the Appearance and Statement in Behalf of New Mexico and Its Claim of Interest in and to Lower Basin Waters, *Arizona v. California*, No. 10, Original, 1955 Term (U.S.).

Landmark decision:

Arizona v. California, 373 U.S. 546 (1963).

In the Supreme Court of the United States

OCTOBER TERM, 1955

No. 10, 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 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.

STATE OF NEW MEXICO, PARTY.

STATE OF UTAH, PARTY.

ANSWER OF THE STATE OF NEVADA TO THE APPEARANCE AND STATEMENT IN BEHALF OF NEW MEXICO OF ITS CLAIM OF INTEREST IN AND TO LOWER BASIN WATERS

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COMES NOW the intervening State of Nevada in answer to the Appearance and Statement of the intervening State of New Mexico, and admits, denies and alleges, as follows:

I

Answering paragraph IV of said Statement, Nevada denies that

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"various contracts with the United States for delivery of water from Lake Mead" constitutes the "Law of the River" or any part thereof.

II

Answering paragraph VIII of said Statement, Nevada denies that New Mexico shall have free and unrestricted beneficial consumptive use of all waters originating within the drainage basins of the Gila River and its tributaries and the Little Colorado and its tributaries within the boundaries of said State, and in this connection Nevada alleges that said waters within said drainage basins are waters that constitute a portion of the waters lying and being situate in the Lower Basin of the Colorado River Stream System as defined in Article II(f) of the Colorado River Compact, the beneficial consumptive use of which was and is apportioned to the entire Lower Basin in and by the provisions of Article III thereof, with no apportionment of said waters and/or the beneficial consumptive use thereof being made to any individual State signatory to said Compact. Nevada further alleges that said waters are a part of the common fund of the waters that drain into the Colorado River Stream System below Lee Ferry and are therefore subject to the provisions of the said Compact with respect to the equitable apportionment thereof.

III

(a) Answering subparagraph 3(2) of paragraph X, page 8 of said Statement, Nevada denies that beneficial consumptive use, as used in Article III(a) and III(b) of the Compact, should be measured in terms of stream depletion, in that and for the reason that the well-recognized rule of measurement of beneficial consumptive use of water in the Western States is the measured diversion from the source less the measured return flow thereof to the source, and that the stream depletion measurement is an exception to the return flow measurement to be used only upon wasting streams where major channel losses of water are brought about by evaporation and transpiration, but which a portion of such losses are converted to beneficial uses by the activities of man by impounding, pumping and

diversion of the waters upstream from the area wherein said losses took place—all as alleged in subparagraph 2 of paragraph XVIII, Petition of Intervention of Nevada.

(b) Answering subparagraph 3(3) of paragraph X, page 8 of said Statement, Nevada reiterates the allegations of subparagraph 3 of paragraph XVIII of its Petition in Intervention "that evaporation losses of water from storage reservoirs on the main stream of the Colorado River in the Lower Basin are first chargeable out of excess or surplus water and that such evaporation losses are not chargeable against Article III(a) or III(b) waters unless and until all such available excess or surplus water is exhausted in any given year."

Nevada reiterates the prayer of its Petition in Intervention.

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CARSON CITY, NEVADA

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