Arizona v. California — DOJ case summary

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Arizona V. California
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One of the longest-running water rights cases began in 1952 with the filing of an original action in the Supreme Court by Arizona against California seeking a division of the waters of the Colorado River. The United States subsequently intervened to protect federal water rights, including reserved water rights held for the benefit of five Indian reservations (Fort Mojave, Fort Yuma (Quechan), Chemehuevi, Colorado River, and Coocopah). Nevada, Utah, and New Mexico also intervened. The Court appointed a special master who conducted extensive proceedings and later recommended a division of the Colorado River's waters.

In a detailed 1963 decision, the Supreme Court largely adopted the Master's recommendations, 373 U.S. 546, and subsequently issued a decree in 1964. The Court recognized that the Colorado River Compact provided for a division of water between Upper Basin States (Colorado, Wyoming, Utah, and New Mexico) and the Lower Basin States (Arizona, Nevada, and California). But the Compact did not provide for a further subdivision of water among the three Lower Basin States. The Court concluded that the Boulder Canyon Project Act, which authorized the construction of the All-American Canal and other Colorado River diversion works, accomplished that task.

The Court also determined that the United States had reserved water rights for five Indian reservations in accordance with the Court's earlier decision in Winters v. United States, 207 U.S. 564 (1908). Winters held that the United States' creation of an Indian reservation reserved sufficient water to irrigate those reservation lands that are capable of growing crops. The Court adopted the Master's findings regarding the amounts of practicably irrigable lands on the various reservations, the corresponding amounts of water that the Tribes were entitled to withdraw from the mainstream of the River, and the priority dates of those rights, ruling that "enough water was reserved to irrigate all the practicably irrigable acreage on the reservations." The Court, however, did not resolve disputes regarding the boundaries of the Fort Mojave and Colorado River Indian Reservations. These disputes led to additional litigation.

Between 1969 and 1978, the Secretary of the Interior issued orders determining the boundaries of the Fort Yuma, Fort Mojave, and Colorado River Reservations. Meanwhile, the parties in the original

action moved the Court to revise its 1964 Decree to set out their rights with greater specificity. The five Indian tribes on behalf of which the United States had filed water rights claims in the previous proceedings moved to intervene and made claims for additional water. The Supreme Court denied those motions and ultimately entered a 1979 Supplemental Decree setting out the "present perfected rights to the use of the mainstream water in each State and their priority dates." The Supplemental Decree described the Indian Tribe's water rights, but also noted that those rights "shall continue to be subject to appropriate adjustment by agreement or decree of this Court in the event that the boundaries of the respective Reservations are finally determined." At the United States' suggestion, the Court referred the matters that the Tribes had raised to a new Special Master.

In his report to the Court, the Special Master determined that the Secretary of the Interior's orders issued between 1969 and 1978 had determined the Tribes' reservation boundaries for purposes of the Court's 1964 Decree. Those "boundary lands" determinations, he believed, had resulted in enlargement of the reservations, thus entitling the Tribes to additional water. The Master also determined that there were additional lands — the so-called omitted lands — already within the recognized 1964 boundaries that were also entitled to water. In a 1983 ruling, the Court rejected this recommendation, refusing to reopen the 1964 Decree to award the Tribes additional waters on account of the "omitted lands." The Court held that the Secretary's findings were not final determinations because the affected states had not had an opportunity to seek judicial review. The California water agencies challenged the Secretary's findings in federal district court.

After the 1983 Supreme Court ruling, the states and their agencies that had been involved in the subsequent district court proceeding once again petitioned the Court to reopen its 1964 Decree, seeking a ruling on whether the Quechan, Fort Mojave, and Colorado River Indian Reservations were entitled to additional boundary lands and whether the Tribes were entitled to additional water rights. The Court appointed two new Special Masters, who issued a series of orders that culminated in a report that recommended that the Court approve proposed settlements regarding the Fort Mojave and Colorado River Indian Reservations. The Master's report, however, did not favor additional water for the Quechan Tribe, on the grounds that a judgment of the Court of Claims had effectively divested the Tribe of any claim to the boundary lands and corresponding water rights. In a 1989 ruling, the Supreme Court approved the Fort Mojave and Colorado River Reservations settlement agreements. In 2000, the Court rejected the Master's recommendation that the Quechan Tribe was precluded from pursuing a claim.

After the 2000 ruling, the parties made several attempts to settle the claims of the Quechan Tribe. The Indian Resources Section was actively involved in those negotiations, which finally resulted in agreements with Arizona, California, and Colorado water districts that were approved by the Supreme Court in 2005. The settlements provided the Tribe with over 26,000 acre-feet of water per year.

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