

9-1-2002

United States v. City of Las Cruces, 289 F.3d 1170 (10th Cir. 2002)

Alan Curtis

Follow this and additional works at: <https://digitalcommons.du.edu/wlr>



Part of the [Law Commons](#)

Custom Citation

Alan Curtis, Court Report, United States v. City of Las Cruces, 289 F.3d 1170 (10th Cir. 2002), 6 U. Denv. Water L. Rev. 169 (2002).

This Court Report is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in Water Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

United States v. City of Las Cruces, 289 F.3d 1170 (10th Cir. 2002)

surface elevations reflected that eliminating the interceptor trench would not have decreased flow to the Buffords' property. Therefore, the appellate court affirmed the lower court's denial because the Buffords did not meet their burden of proof.

Robert Lykos

United States v. City of Las Cruces, 289 F.3d 1170 (10th Cir. 2002)
(holding that section 8 of the Reclamation Act and federal compact and treaty obligations not directly implicating interstate equitable apportionment issues do not create federal question jurisdiction).

In 1986, Elephant Butte Irrigation District ("EBID") filed suit against the United States and other parties in the New Mexico state district court, claiming senior appropriative rights on the Rio Grande River from Elephant Butte Dam to the Texas state line. EBID sought a stream adjudication and an injunction preventing the New Mexico State Engineer from allowing appropriation of Rio Grande River water until completion of the adjudication. Following three unsuccessful attempts to have EBID's suit dismissed, the United States and Texas ("United States") filed a declaratory judgment action in the United States District Court for the District of New Mexico to quiet title to Rio Grande Reclamation Project ("Project") water. The district court found it had discretion to dismiss the United States' suit under the *Colorado River* doctrine based on substantial similarities between the state and federal court actions. Alternatively, the *Brillhart* doctrine gave the district court discretion to grant declaratory relief to the United States' where similar claims were at issue in parallel state court proceedings. The district court dismissed the suit. The United States appealed to the Tenth Circuit Court of Appeals.

The Project runs through New Mexico and Texas, beginning in northern New Mexico at Elephant Butte Reservoir. A 1906 treaty obligated the United States to provide Project water from the Rio Grande River totaling 60,000 acre feet per year to Mexico. The United States argued the quiet title action involved Project water used to meet delivery obligations under the Rio Grande Compact ("Compact") and the 1906 treaty with Mexico. Both the Compact and the Project involved equitable apportionment of interstate waters pursuant to federal law. Because the United States' claims involved a federal question, requiring the district court to assert jurisdiction, the appellate court improperly dismissed the suit on five counts.

First, the United States asserted *Brillhart* discretion applied only to declaratory judgments, not quiet title actions. Thus, the district court lacked discretion to dismiss the United States' claims. The Tenth Circuit Court of Appeals concluded that the Quiet Title Act was the exclusive means for challenging the United States' title to real property. The court held that although the United States sued under

the Quiet Title Act, *Brillhart* applied, because the United States sought only declaratory relief.

Second, the United States contended district courts had discretion to dismiss actions only where federal and state court proceedings were parallel. Because the New Mexico state court proceedings involved different parties, and the United States' rights in Project water were not at issue, neither *Brillhart* nor *Colorado River* applied. The court held *Colorado River* required only substantial similarity between parties and issues to trigger district court discretion to dismiss a federal action. Further, under *Brillhart*, district courts have even greater discretion in granting declaratory judgments where parallel state proceedings exist.

Third, the United States claimed the federal action implicated section 8 of the Reclamation Act and obligations under the Compact and the 1906 treaty with Mexico, creating federal questions and requiring the district court to assert jurisdiction. The court held section 8 of the Reclamation Act prevented reclamation project acquisitions and water distributions from interfering with interstate equitable apportionments. Because the instant case did not involve an interstate equitable apportionment dispute, Section 8 was inapposite. The court found both the 1906 treaty and Compact raised questions of federal law. However, the federal action did not require consultation of either the Compact or the 1906 treaty, thus no question of federal law arose.

Fourth, the United States argued the interstate and international character of the Project favored a federal forum. The court agreed adjudication of rights in an interstate stream raised questions of federal common law, but held the United States' suit for declaratory relief did not involve the issues of equitable apportionment between states. Effectively, the United States asserted title to Project water under applicable state, not federal law. Because the United States' claims did not implicate federal common law, the suit did not favor a federal forum over state court proceedings.

Fifth, the United States asserted Project rights and federal law exclusively governed obligations under contracts between the United States, New Mexico, and Texas. The court found the United States' complaint failed to mention existence or relevance of any federal contract or to cite any specific contractual language bearing on the title dispute. Thus, the United States' claims raised no contractual issue under federal law. The court held the district court did not abuse its discretion in withholding judgment over the United States' declaratory action, but vacated the dismissal, remanding for consideration of whether a stay in the federal proceedings was a preferable remedy.

Alan Curtis