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Arizona v. California, 530 U.S. 392 (2000)

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COURT REPORTS

FEDERAL COURTS

UNITED STATES SUPREME COURT

Arizona v. California, 530 U.S. 392 (2000) (holding (1) the State parties' failure to raise preclusion argument at a much earlier date and the Court's 1963 decision in Arizona I did not foreclose the United States and Fort Yuma Indian Reservation's ("Reservation") increased water rights claims for the Reservation's disputed boundary lands, and (2) Docket No. 320 did not preclude the United States and Reservation from asserting water rights claims for the Reservation).

In 1952, the State of Arizona invoked the United States Supreme Court's original jurisdiction to determine the extent to which Arizona and the State of California could use Colorado River system water. The United States intervened, seeking water rights for, among others, the Fort Yuma (Quechan) Indian Reservation ("Reservation").

In the 1963 initial litigation ("Arizona I"), the Court concluded tribe's water rights were effective upon creation of reservations. Hence, such water rights constituted present perfected rights given priority under the Boulder Canyon Project Act of 1928. Additionally, the Court decreed a tribe's water rights should be determined based upon each reservation's amount of practicably irrigable acreage.

In 1978, the United States—joined by others, including the Reservation—and Arizona, California, the Coachella Valley Water District, and the Metropolitan Water District of Southern California (collectively, "State parties"), motioned the Court to enter a supplemental decree to identify present perfected rights regarding each State's mainstream water use and priority dates. The Court declined to resolve the issue, instead declaring that the Reservation's rights were subject to appropriate adjustment—either by an agreement or the Court's decree if the reservation's boundaries were conclusively determined.

In the 1983 second round of litigation ("Arizona II"), the Court held the Secretary of the Interior's various administrative actions did not constitute final determinations concerning Reservation boundaries. Also, the Court barred the United States from pursuing water rights for lands omitted from Arizona I proceedings.

In 1984, the Court issued another supplemental decree, declaring

that the Reservation's water rights were subject to appropriate adjustment—either through an agreement or the Court's judgment if the reservation's boundaries were conclusively determined.

Subsequently, the State parties motioned the Court to determine whether the Reservation was entitled to claim additional boundary lands, and, if so, further water rights. The Court granted the State parties' motion in 1989.

The State parties' motion arose from President Arthur's 1884 Executive Order, which designated approximately seventy-two square miles of land in California along the Colorado River to the Reservation. The Reservation reached an agreement ("1893 Agreement") with Congress, whereby the Reservation ceded a 25,000-acre tract of its boundary lands in exchange for irrigated land allotments to individual Indians. The 1893 Agreement was contingent upon the United States performing certain specified obligations.

In 1935, doubts about the 1893 Agreement's validity emerged due to the Bureau of Reclamation's ("Bureau") attempt to route the All-American Canal through the Reservation's land. Arguably, the Bureau had to compensate the Reservation for such action. In 1936, Solicitor Margold rendered an opinion ("Margold Opinion") declaring that the Reservation had unconditionally ceded the disputed lands to the United States via the 1893 Agreement.

In 1951, the Reservation initiated an action ("Docket No. 320") before the Indian Claims Commission ("Commission"), challenging the 1893 agreement's validity. The Commission stayed the trial proceedings due to proposed congressional legislation that would have given the disputed lands back to the Reservation. Because Congress never enacted such legislation, the Commission vacated the stay. In 1976, the Commission transferred the matter to the Court of Claims.

Meanwhile, the Reservation had requested the Department of the Interior to reconsider its Margold Opinion. In 1978, Solicitor Krulitz ("Krulitz Opinion") concluded: (1) the 1893 Agreement had provided for a conditional cessation of the disputed lands; (2) the United States had not met such conditions; and (3) the United States held the disputed property's title in trust for the Reservation. On December 20, 1978, the Secretary of the Interior elicited a Secretarial Order that adopted the Krulitz Opinion.

In August 1983, the United States and the Reservation accepted a settlement, whereby the United States agreed to pay the Reservation fifteen million dollars to fully satisfy all rights, claims, or demands the Reservation had or could have asserted pursuant to Docket 320 claims. The Court of Claims approved such settlement and entered its final judgment accordingly. Furthermore, the Court of Claims concluded the Reservation was barred from asserting any further rights, claims, or demands against the United States and any future action pertaining to Docket 320 claims.

The Reservation and the United States claimed in the present

action that the Reservation should have increased water rights in the Colorado River. The Reservation and the United States based their claim upon the contention that the Reservation encompassed 25,000 acres of disputed boundary lands not attributed to the Reservation in earlier stages of this lengthy litigation.

First, the United States Supreme Court considered whether Arizona I precluded the United States and Reservation's claims. The State parties contended the United States could have raised the Reservation's boundary lands claim in the Arizona I proceedings and did not do so. Due to the Court's finality rationale in dismissing "omitted lands" claims in Arizona II, the State parties argued the United States was precluded from asserting its boundary lands claim. Also, they maintained that even if they failed to raise their preclusion defense earlier, the Court should raise it now *sua sponte*.

The United States and the Reservation responded that Arizona II's "omitted lands" rationale was not equally applicable to their disputed boundary lands claim. Furthermore, they argued the State parties had forfeited their preclusion defense.

The Court found the State parties' preclusion defense inadmissible, and, therefore, did not decide the "omitted lands" issue on the merits. The Court concluded Arizona II contained no discussion or inferences that the boundary lands issue might be precluded. Additionally, the Court noted the State parties neither raised their preclusion defense in 1979 in response to the United States' supplemental decree motion awarding the Reservation additional water rights, nor raised their preclusion defense when Arizona II was briefed and argued in 1982. Because the State parties had several opportunities to raise their preclusion argument and did not do so, a reasonable time frame to raise such argument had expired. Lastly, the Court declared it had never previously decided the boundary lands issue, thus declining to address a preclusion bar *sua sponte*. The Court held the State parties' failure to raise their preclusion argument earlier did not prevent the United States and the Reservation from claiming the Reservation was entitled to increased water rights for the disputed boundary lands.

Second, the Court considered whether the United States and Reservation's claims were precluded by the United States Claims Court's 1983 judgment proceeding, Docket No. 320. The State parties argued that such was the case based upon section 22 of the Indian Claims Commission Act ("Act"). According to the State parties, the Commission's judgment regarding claims to aboriginal or trust lands ceased land title and barred future claims against either the United States or third parties based on the extinguished title. The Court held that Docket No. 320 did not qualify as a judgment; hence, these State parties' arguments were inapplicable.

The Court also considered the issue preclusion doctrine. The Court acknowledged that Docket No. 320 expressly appeared to have a

claim-preclusive effect. However, the Court averred that settlements, generally, did not generate issue preclusion, unless the parties clearly intended their agreement to have such effect. The Court further stated that an issue preclusion argument was justified only when both a legal or factual issue was actually litigated and determined by a valid and final judgment, and such determination was essential to the judgment. Accordingly, the Court held the Docket No. 320 judgment did not preclude the United States and Reservation's claims for increased water rights regarding the Reservation's disputed boundary lands.

Finally, the Court approved the parties' proposed settlement concerning the Colorado River Indian Reservation.

The Court remanded the United States and Reservation's water rights claims, associated with the Reservation's disputed boundary lands claims, to the Special Master for determination on the merits. The Court declared that such claims were the last it would decide regarding the lengthy *Arizona v. California* litigation. The Court concluded that resolution of such claims allowed it to enter a final consolidated decree, thus concluding this litigation.

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UNITED STATES CIRCUIT COURTS

SECOND CIRCUIT

S. Road Assocs. v. Int'l Bus. Machs. Corp., 216 F.3d 251 (2d Cir. 2000) (holding citizen suits under the Resource Conservation Recovery Act ("RCRA") alleging groundwater contamination must be brought against persons or entities currently engaged in the specific RCRA violations).

International Business Machines Corporation ("IBM") leased and occupied property ("Site") from South Road Associates ("SRA") starting in the mid-1950s for manufacturing, parts-cleaning, storage, shipping, and other commercial operations. SRA acquired the property around 1979 and continued leasing the property to IBM until the 1994 expiration of the lease. During this time IBM used and stored chemicals on the Site classified by the Resource Conservation and Recovery Act ("RCRA") as solid and hazardous wastes. In 1981, IBM became aware of potential environmental problems at the Site. Through an internal investigation, IBM discovered that chemicals stored in underground tanks leaked and contaminated the surrounding soil, bedrock, and groundwater. In 1987, the New York State Department of Environmental Conservation ("NYSDEC")