

IN THE SUPREME COURT OF THE UNITED STATES

No. 138, Original

STATE OF SOUTH CAROLINA, PLAINTIFF

v.

STATE OF NORTH CAROLINA

ON EXCEPTIONS
TO THE FIRST INTERIM REPORT
OF THE SPECIAL MASTER

MOTION OF THE UNITED STATES AS AMICUS CURIAE
FOR DIVIDED ARGUMENT AND TO PARTICIPATE IN ORAL ARGUMENT

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Acting Solicitor General, on behalf of the United States, respectfully moves for leave to participate in oral argument in this case as amicus curiae supporting plaintiff's exceptions, if the case is set for oral argument, and that the United States be allowed ten minutes of plaintiff's argument time. Plaintiff has agreed to cede ten minutes of argument time to the United States if the case is set for oral argument. Granting this motion accordingly would not require the Court to enlarge the overall time for argument.

South Carolina brought this action against North Carolina, seeking an equitable apportionment of the Catawba River between the two States. The Court is considering South Carolina's exceptions to the Special Master's recommendation that the City of Charlotte,

the Catawba River Water Supply Project, and Duke Energy Carolinas, LLC, be permitted to intervene in the dispute. South Carolina's exceptions implicate federal interests.

The United States administers numerous water projects throughout the Nation and represents sovereign interests of the United States and various Indian Tribes in interstate litigation, including equitable-apportionment actions. See, *e.g.*, Arizona v. California, 547 U.S. 150, 150 (2006); Nebraska v. Wyoming, 515 U.S. 1, 4 (1995). The United States also frequently participates in other litigation within the Court's original jurisdiction, as a plaintiff, a defendant, and an intervenor. *E.g.*, United States v. Alaska, 521 U.S. 1, 4 (1997) (plaintiff); California ex rel. State Lands Comm'n v. United States, 457 U.S. 273, 277 & n.6 (1982) (defendant); Texas v. Louisiana, 414 U.S. 1107 (1973) (mem.) (intervenor).

The United States therefore has an interest in the proper application of this Court's standards governing intervention in original proceedings, particularly as they implicate the orderly and efficient litigation and resolution of disputes among sovereigns. In particular, South Carolina's exceptions present the question whether individual water users may intervene in an equitable-apportionment action between States or whether the sovereign parties to the litigation properly represent those water users' interests. As explained in the United States' brief, wide-

scale intervention in equitable-apportionment actions by individual water users would make those actions less manageable, more unwieldy, and more difficult to resolve by settlement. The United States, as a frequent participant in actions of this type, has a significant interest in the correct resolution of this procedural question.

The United States has regularly participated in oral argument as amicus curiae in actions within this Court's original jurisdiction. See, e.g., New Hampshire v. Maine, 532 U.S. 742 (2001); Arizona v. California, 530 U.S. 392 (2000); New Jersey v. New York, 523 U.S. 767 (1998).

In light of the substantial interest of the United States in the issues in this case, and the United States' unique perspective on those issues, oral presentation of the views of the United States would be of material assistance to the Court.

Respectfully submitted.

EDWIN S. KNEEDLER
Acting Solicitor General

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