

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

## SUPREME COURT OF THE UNITED STATES

### Syllabus

UNITED STATES *v.* IDAHO *EX REL.* DIRECTOR, IDAHO  
DEPARTMENT OF WATER RESOURCES  
CERTIORARI TO THE SUPREME COURT OF IDAHO  
No. 92-190. Argued March 29, 1993—Decided May 3, 1993

The McCarran Amendment allows a State to join the United States as a defendant in a comprehensive water right adjudication. It also provides, however, that "no judgment for costs shall be entered against the United States in any such suit." Idaho legislation enacted in 1985 and 1986 provided for a state-court adjudication "within the terms of the McCarran [A]mendment" of all water rights in the Snake River Basin. The legislation also altered the State's methods for financing such adjudications by requiring all water right claimants to pay a filing fee. Idaho uses these funds to pay the administrative and judicial expenses attributable to water right adjudications. After filing a petition under the 1985 and 1986 legislation naming the United States and all other Snake River water users as defendants, the State refused to accept the Federal Government's notices of claims because they were not submitted with the required filing fees. The United States estimates that in its case the fees could exceed \$10 million. The United States then filed a petition for a writ of mandamus to compel the State to accept its notices without fees, asserting that the McCarran Amendment does not waive federal sovereign immunity from payment of such fees. The State District Court granted Idaho summary judgment on this issue, and the State Supreme Court affirmed.

*Held:* The McCarran Amendment does not waive the United States' sovereign immunity from fees of the kind sought by Idaho. While "fees" and "costs" generally mean two different things in the context of lawsuits, the line is blurred, indeed, in the context of this proceeding. Whereas Idaho courts used to proportionately tax the "costs" against all parties to a water right adjudication at the time final judgment was entered, many of the items formerly taxed as "costs" are now denominated as

fees," and required to be paid into court at the outset. Moreover, although the Amendment's language making "the State laws" applicable to the United States submits the Government generally to state procedural law, as well as to state substantive law of water rights, it does not subject the United States to payment of the fees in question. This Court has been particularly alert to require a specific waiver of sovereign immunity before the United States may be held liable for monetary exactions in litigation. See, e.g., *United States v. Chemical Foundation, Inc.*, 272 U.S. 1, 20-21. The Amendment's language is not sufficiently specific to meet this requirement. Pp. 3-7.

UNITED STATES v. IDAHO EX REL. DIR. OF WATER

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122 Idaho 116, 832 P. 2d 289, reversed and remanded.

REHNQUIST, C. J., delivered the opinion of the Court, in which WHITE, BLACKMUN, O'CONNOR, SCALIA, KENNEDY, SOUTER, and THOMAS, JJ., joined. STEVENS, J., filed an opinion concurring in the judgment.