

Per Curiam

IDAHO EX REL. ANDRUS, GOVERNOR, ET AL. v.
OREGON ET AL.

ON MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

No. 67, Orig. Argued November 8, 1976—Decided December 7, 1976

Without determining whether the bill of complaint states a claim upon which relief can be granted, Idaho's motion for leave to file a bill of complaint is granted to the extent that the complaint prays that the Court declare Idaho entitled as against Oregon and Washington to an equitable portion of the upriver anadromous fishery of the Columbia River Basin and that the Court determine such portion on the evidence and award costs and incidental relief, but is denied in all other respects.

Wayne L. Kidwell, Attorney General of Idaho, argued the cause for plaintiffs. With him on the brief were *Terry E. Coffin*, Deputy Attorney General, and *Matthew J. Mullaney, Jr.*

Lee Johnson, Attorney General, argued the cause for defendant State of Oregon. With him on the brief were *W. Michael Gillette*, Solicitor General, and *Raymond P. Underwood, Beverly B. Hall*, and *Thomas H. Denney*, Assistant Attorneys General. *Slade Gorton*, Attorney General, argued the cause for defendant State of Washington. With him on the brief was *Edward B. Mackie*, Deputy Attorney General.*

PER CURIAM.

The Court has considered the written submissions of the parties and heard oral argument by the Attorneys General of the States with respect to the motion of the State of Idaho for leave to file a bill of complaint. It having been

*Briefs of *amici curiae* were filed by *Solicitor General Bork* for the United States; by *Wendell Wyatt* for the Columbia River Fishermens Protective Union; and by *Robert E. Smylie* for the Izaak Walton League of America, Inc., et al.

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concluded that the Court has original and exclusive jurisdiction of this case to the extent that the complaint prays that the Court declare that the State of Idaho is entitled to an equitable portion of the upriver anadromous fishery of the Columbia River Basin and that the Court determine Idaho's equitable portion based on the evidence and award costs and appropriate incidental relief, the motion for leave to file is hereby granted to that extent. The motion is in all other respects denied. This order is not a judgment that the bill of complaint, to the extent that permission to file is granted, states a claim upon which relief may be granted. This order also leaves open the question of the indispensability of the United States as a party for decision after evidence, in the event the United States does not enter its appearance in the case. The States of Oregon and Washington are directed to file answers to the bill of complaint or to otherwise plead within 60 days and process is ordered to issue accordingly.

It is so ordered.