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Court Denies Water Users' Just Compensation Claims in Takings Case
Western Water Law challenged in the process

Klamath Falls, OR – After fifteen years of litigation, culminating in a lengthy trial last January that brought over 25 Klamath Project water users to Washington, DC, the United States Court of Federal Claims judge hearing the “Takings Case” ruled in favor of the United States. The water users sought just compensation for taking of their water rights in 2001 when the United States re-allocated irrigation water to threatened and endangered species under the Endangered Species Act. Judge Marian Blank Horn’s 75 page opinion, which was filed on September 29, concluded that, “The government’s actions in 2001, did not, therefore, constitute a taking of these plaintiffs’ property under the Fifth Amendment of the United States Constitution or effect an impairment of their rights under the Klamath Compact.”

If the court had ruled in favor of the plaintiffs, the government would have been ordered to compensate water users for a “physical takings” of their property. “It was never about the money,” said Gary Wright, former President of the Klamath Water Users Association (KWUA). “It has always been about the future of our families and our community.”

“It is extremely disappointing,” said Scott White, KWUA Executive Director. “When you watch a grown man wipe away his tears on the witness stand, you really get a sense of what this means. It is not easy to break this kind of news.”

White said that the Court did acknowledge that most landowners within the Klamath Project have a property interest in the water that it is protectable under the Fifth Amendment, and recognized the seriousness of the impacts to the irrigation community from the events of 2001. However, the Court agreed with the government’s argument that because three tribes in the Basin (Klamath, Yurok, and Hoopa Valley Tribes) have senior, instream rights to water for fisheries, and those rights must be for at least as much water as the ESA required, the Project water users could not claim a right to the water that was dedicated to the endangered species.

White also said that the water users who filed the case will make any decisions about whether to appeal the Court ruling. “We’re certainly not out. We’re Klamath Basin family farmers and ranchers. We’ll continue to strap up our boots and go to work. We’re not going anywhere.”

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