

Supreme Court Upholds Tribes' Klamath Basin Water Rights  
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The U.S. Supreme Court in Washington D.C. today upheld the senior water rights of the Hoopa Valley Tribe and other tribes in *Baley v. United States*. Baley and other Klamath Irrigation District farmers argued that the federal government took their water without compensation in 2001 when water deliveries were delayed in order to satisfy the needs of endangered fish in Upper Klamath Lake and salmon in the Klamath River. The Appeals Court disagreed, reasoning that because the Tribes' water rights were reserved in the 19<sup>th</sup> Century, they were entitled to be satisfied first before the farmers were entitled to any water. Today, the Supreme Court refused to review or overturn the lower court decisions.

“*Baley* is an important affirmation of our Tribe’s priority right to the water to sustain our fisheries,” said Hoopa Valley Tribal Chairman Byron Nelson Jr.

In 2001, farmer protests about reserving water for fish led the federal government to change its regulations and divert more water from the Klamath in 2002, producing the biggest die-off of adult salmon ever recorded. Water diversions are regulated by biological opinions of federal agencies and have been modified several times since 2002, and they continue to be controversial. However,

many federal court rulings as well as general principles of water law in the western states, affirm the right of senior water rights holders to first priority in water.

The *Baley* plaintiffs argued that the long distance between Upper Klamath Lake and the Hoopa Valley and Yurok Reservations insulated the Klamath Project from claims of the Tribes' reserved water rights. The lower courts disagreed; they also ruled that the Hoopa Valley and Yurok Tribes' lack of participation in the State of Oregon's water adjudication did not take away their entitlement to water in the Klamath River because Oregon did not determine California rights. The Supreme Court's order leaves these rules in place.

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