

WTO Lead Counsel in U.S. Supreme Court “Environmental Case to Watch”

News

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A Wheeler Trigg O'Donnell appellate team led by partner and former Colorado Solicitor General **Fred Yarger** is representing an Oregon water district in a pair of cases on petition to the U.S. Supreme Court. Law360 calls *Klamath Irrigation District v. U.S. Bureau of Reclamation et al.* an “Environmental Case to Watch” as SCOTUS begins its 2023 term.

In Klamath, WTO represents a water district that serves farmers in southern Oregon who depend on water for their livelihoods. Two related rulings from the Ninth Circuit threaten to destroy the farmers’ rights in the Klamath Basin water system—which they obtained after a decades-long water adjudication process in state court. Worse, the Ninth Circuit rulings undermine the existing congressionally mandated system for allocation of water throughout the American West, which requires all water users, including the federal government, to obtain water rights in state court.

The Ninth Circuit’s rulings allow water releases from a vast federal reservoir, regardless of whether the government has any legal right to the water, without judicial review. As a consequence, the farmers’ rights to water have been effectively lost and many are facing bankruptcy. Even the

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William P. Sowers, Jr.
Counsel



Frederick R. Yarger

federal government admits the Ninth Circuit made a significant legal error.

Partner

The Court is expected to decide later this year whether to review the case. WTO attorneys **Daniel Nightingale** and **William Sowers** also represent the District.

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