



## NATIVE AMERICAN RIGHTS FUND

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## Oregon Court Continues to Uphold Tribal Water Rights

(KLAMATH FALLS, ORE.)—On Wednesday, June 7, 2023, Klamath County Circuit Court Judge *pro tem* Stephen K. Bushong [issued an opinion](#) once again affirming the Klamath Tribes’ water and treaty rights. The Court rejected arguments that a prior ruling had wiped away a prior determination quantifying those water rights.

“The court did not then – and does not now – vacate the quantification of tribal claims in the [administrative order] pending any modification of the quantification of the tribal water rights,” Judge Bushong wrote.

“The Klamath, the Modoc and the Yahooskin-Paiute people have lived in the Klamath River Basin in Oregon from time beyond memory and our 1864 Treaty reserves our rights to hunt, fish, trap and gather, all of which require enough water to maintain a healthy and productive habitat for our treaty resources. We will continue to fight for the full protection these resources need,” said [Klamath Tribes Tribal Chairman Clayton Dumont](#).

The opinion sends the Tribes’ determined claims back to the Oregon Water Resources Department (OWRD) to evaluate whether the amount of the Tribes’ water rights should be modified on remand. Over objections from tribal opponents, the Court agreed with the Tribes to remand the matter back to OWRD, rather than to a referee.

“The Court recognized that our opponents have a limited opportunity to convince the Court that the size of the Tribes’ water rights should be reduced on remand. Any reduction below the amount necessary to support a healthy and productive habitat – which is how the claims were originally quantified – would be an abrogation of the Tribes’ treaty rights. And only Congress has the power to do that,” said **Native American Rights Fund [Staff Attorney Joe M. Tenorio](#)**.

The Court reminded all parties that, “the water level cannot be reduced below...the minimum required for a healthy and productive habitat.”

**Read the Opinion:** <http://www.narf.org/nill/documents/20230607klamath-opinion-tribal-claims.pdf>

**More About The Klamath Tribes’ Water Rights:** <https://narf.org/cases/klamath-tribes-water-rights/>

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## **About the Native American Rights Fund (NARF)**

NARF is a non-profit 501c(3) organization focused on applying existing laws and treaties to guarantee that federal and state governments live up to their legal obligations to Native Americans. Since 1970, [the Native American Rights Fund \(NARF\)](#) has provided specialized legal assistance to Indian tribes, organizations, and individuals nationwide to assert and defend the most important Native rights. In hundreds of major cases. NARF has achieved significant results in critical areas such as tribal sovereignty, treaty rights, natural resource protection, voting rights, and Indian education. Like us [on Facebook](#) and follow us [on LinkedIn](#) and [Twitter \(@NDNrights\)](#) to learn about the latest fights to promote justice and protect Native American rights.

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