

In United States v. State of Oregon, 44 F.3d 758, 770-71 (9th Cir. 1994), the court found that a statewide claim filing deadline was too loosely connected to the adjudication process to be considered part of Oregon's comprehensive adjudication process to which the United States consented to be joined under the McCarran Amendment.

United.States.v.State.of.Oregon, **44 F.3d 758, 770-71 (9th Cir. 1994)**

IV Registration Statements [18]

“The State argued unsuccessfully below that the United States could be required to file registration statements describing its claims to waters outside of the Klamath Basin, as provided by Or.Rev.Stat. § 539.240. This provision requires those claiming undetermined vested rights or federal reserve rights to file a registration statement of all claims by December 31, 1992. Id. The information gathered through the registration process preserves evidence necessary for future comprehensive adjudications. Without detracting from the merits of the State's registration scheme, we are compelled to hold that the United States has not consented to be a part of this process.

In *United States v. Idaho*, the Court held that with the exception of procedural rules imposing costs or fees on the United States, “the McCarran Amendment submits the United States generally to state adjective law.” Id. at —, 113 S.Ct. at 1897. Oregon argues that the registration statement requirements are a part of the state adjective law governing the procedure by which comprehensive water rights adjudications are conducted. While the information obtained by the registration system regarding claims not yet at issue in any proceeding may be useful in future comprehensive adjudications, the process cannot accurately be described as part of the state's adjective law for the adjudication of water rights claims. There is no relation between the deadline for filing registration statements and the commencement of the statutory adjudication. The claims thus *771 registered will only be adjudicated “upon the motion of the director or, in the discretion of the director, upon receipt of a petition from one or more appropriators of surface water.” Or.Rev.Stat. § 539.021. It is thus possible that many years will pass before a registered claim is adjudicated, if it is ever adjudicated at all. The connection between registration and adjudication is too tenuous for the registration provisions to be characterized as part of the adjudications to which the United States has consented to be joined.

[19] In the absence of a waiver of sovereign immunity, the State may not require the United States or the Tribe to register water rights claims prior to the adjudication of those claims, nor may it prejudice those claims if no registration statements are filed.” (Highlight added)