

## Section 1500 Grounds for Another Case Dismissal

On January 15, 2014 the U.S. Court of Federal Claims dismissed yet another takings case, holding that 28 U.S.C. § 1500 deprived the court of jurisdiction over the claim.

Plaintiff, Ministerio Roca Solida (Solid Rock Ministry), is a Christian church in Nye County, Nevada founded in 2006. In that same year, the church purchased 40 acres of land for \$500,000, and built a church camp—Camp Solid Rock—for use by its parishioners. A desert stream flowed through the camp, which was used by the church for baptisms, and a pond, used for recreation.

In 2010, the U.S. Fish and Wildlife Service completed a water diversion project on the Ash Meadows National Wildlife Refuge. Camp Solid Rock is located within the boundaries of Ash Meadows. FWS's water diversion project prevented any water from reaching the stream and pond on Camp Solid Rock. In 2010, the Camp property was flooded following a significant rainfall, also presumably caused by FWS's diversion project.

On August 22, 2012, Solid Rock Ministry filed suit against FWS and the Ash Meadows Manager in the U.S. District Court for the District of Nevada seeking injunctive and declaratory relief, including a claim for compensation under the Fifth Amendment, based on FWS's water diversion project. Two days later, on August 24, 2012, Solid Rock Ministry filed a takings lawsuit in the CFC, seeking compensation for damages caused by FWS's water diversion project.

Citing the Supreme Court's decision in *United States v. Tohono O'Odham Nation*, and Federal Circuit decisions such as *Trusted Integration* and *Central Pines Land Company*, the trial court concluded that Section 1500 required dismissal of the lawsuit:

*Solid Rock Ministry's action in the district court and the present case meet the standard set forth in Tohono. The claims in both actions arise from Solid Rock Ministry's ownership of the same parcel of land and water and its alleged injuries as a result of the same FWS water diversion project. In fact, the complaints in the two cases describe the underlying government actions in virtually identical language. The complaints "at best, repackaged the same conduct into . . . different theories, and at worst, alleged the same takings claims."*

Read decision [here](#).