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Editorial: Supreme Court should uphold Red River Compact on water

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As early as Thursday, the U.S. Supreme Court could rule on a water issue that will have enormous consequences for North Texas. It also will matter to many other states that share water resources with their neighbors.

The central question in Tarrant Regional Water District vs. Hermann is whether the Supreme Court will uphold the Red River Compact, a 35-year-old pact that sets markers on how Texas, Oklahoma, Arkansas and Louisiana share water from the river. Each state signed the compact, and Congress approved it in 1978.

Among other points, the agreement stipulates that Texas has access to certain water basins in Oklahoma, just as Oklahoma has access to specific Texas basins. Oklahoma, however, has denied the Tarrant Regional Water District the right to seek a permit for its share of the water from one of the basins the compact covers.

The Tarrant district rightly has pressed this case all the way to the Supreme Court.

The justices may be tempted by sovereignty arguments that were used by Oklahoma legislators to sustain a moratorium on the sale or transfer of water from Oklahoma to Texas. Here's the problem with that line of reasoning: Whenever a state enters into a compact, it by definition loses some of its sovereign rights. Chief Justice John Roberts emphasized that reality during oral arguments in this case back in April.

This newspaper hopes the court affirms that truth. This isn't just a Texas matter. Water compacts have been signed by a number of states, largely in the West. If the court does not uphold this compact, what will that decision mean for agreements that govern water use in places such as California and Arizona?

The sovereignty argument also runs afoul of another reality: The Tarrant district isn't trying to take Oklahoma's water, as some have attempted to portray the situation. It is simply applying for water that is Texas' under the compact.

The state of Texas is guaranteed 25 percent of the basin in which Tarrant water authorities are seeking a permit. That's the same amount the compact guarantees Oklahoma, Arkansas and Louisiana from the basin. Texas is not trying to seek a special status, as lawyers for the Tarrant district explained.

The best outcome for many parties would be for the Supreme Court to ratify the Red River Compact. The principle that a treaty is a treaty would send an important signal across many states. It also would allow North Texans to gain access to water that is supposed to be theirs under a longstanding agreement.

A deal was signed. Now it needs to be upheld.

Sovereignty questions

"The whole point of interstate compacts is that we have to — each state has to give up a little here or a little there to solve a problem. So, I don't know why these basic principles of state sovereignty apply in the context of an interstate compact."

Chief Justice John Roberts, responding during oral arguments in *Tarrant Regional Water District vs. Hermann*

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