



# washington dc update

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## Supreme Court Accepts Tarrant Regional Water District Case

A multi-year journey through the Federal Courts which began in 2007 and included defeats in Federal Court in Oklahoma City and the 10<sup>th</sup> Circuit Federal Appeals Court in Denver, ended on Friday when the US Supreme Court accepted Tarrant Regional Water District vs. Herrmann as one of its cases in 2013.

At stake is whether Federal water compacts are enforceable. The Red River Compact of 1980 divided the Red River equally between the States of Texas, Oklahoma, Arkansas, and Louisiana. In 2000, the Oklahoma-Texas Border Compact established that virtually all of the Red River that divides the two States is located in Oklahoma.

This meant that any Texas entity that wished to have access to water under the Red River Compact would have to access this water from inside Oklahoma. But the Oklahoma Legislature passed a law signed by the Governor which prohibited the sale of water to Texas which essentially curtailed Texas access to its 25% share of the Red River which had been established under the compact.

In 2010, a Federal judge in Oklahoma City upheld the right of Oklahoma to ban water sales to Texas. A three Judge Federal appeals panel at the 10<sup>th</sup> Circuit in Denver upheld this ruling. The case was appealed to the Supreme Court which asked the US Solicitor General for its opinion. The Solicitor General urged the Supreme Court to take the case in a petition filed in December. On Friday, the Supreme Court agreed to hear the case.

In the opinion of Tarrant Regional what is at stake is not just its own access to the Red River but also water compacts that are crucial parts of the water supplies of Los Angeles, San Diego, Tucson, Phoenix, Denver, Las Vegas, and Salt Lake City as well as many other entities. We are pleased that the Supreme Court will now weigh in on this issue, particularly in light of the recently released Bureau Colorado River Study which predicts severe shortfalls over the next 50 years.

The docket number for this case is 11-889. We will be following this case very closely and it will be a topic of discussion at the WESTCAS Reg-Leg meeting in Phoenix on February 19-20. Wayne Owen and Linda Christie of Tarrant Regional are also closely involved with the case and can provide updates for WESTCAS members.

