

Federal government may fight alongside Texas in water dispute, U.S. Supreme Court rules

The ruling is an apparent victory for Texas in a legal battle that has dragged on for more than five years. The states are bickering over the distribution of water from the Rio Grande. Those allocations are laid out in the 1938 Rio Grande Compact.

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by [Emma Platoff](#) March 5, 2018 Updated: 5 PM Central

In the fight against New Mexico over the critical Rio Grande water supply, Texas has the federal government on its side.

And the feds can stay there, the U.S. Supreme Court [ruled](#) Monday morning in a victory for Texas.

Monday's unanimous ruling decides one narrow question in a five-year-old suit over the 80-year-old Rio Grande Compact, a legal agreement governing water allocations between Texas, New Mexico and Colorado. Texas sued New Mexico in 2013, arguing that the state was siphoning off more water than it's entitled to. New Mexico responded that the 1938 compact never explicitly stated how much water was supposed to end up in Texas and argued that Texas' case should be dismissed.

Historically, Texas has received about 43 percent of the river's water. But New Mexico has disrupted that ratio in recent years by pumping more groundwater — a method that has become vastly more common in the last several decades.

In 2014, the federal government [joined](#) Texas' argument, filing similar claims against New Mexico and arguing that it, too, has a stake in the case. The question the high court resolved this week was whether the U.S. could intervene in this type of inter-state disagreement.

The court ruled that it could, given this case's "distinctively federal interests." Partly, that's because a breach of the contract could jeopardize the country's relationship with Mexico, which is also due certain water allocations from the Rio Grande water supply.

"It is a huge win for the Texas side of the case," said Russell Johnson, a water attorney who's not involved in the case. "You not only have the Texas interest complaining, you have the federal government complaining that New Mexico's activities interfere with federal obligations."

Texas Attorney General [Ken Paxton](#) said the ruling would bolster the state's case against New Mexico.

"The Rio Grande plays an integral role in the water supply for Texas' border regions and farmers, and New Mexico's illegal actions have deprived Texans of this vital resource," he said in a statement released Monday evening.

But lawyers for New Mexico dismissed Monday's ruling as "a preliminary matter clarifying the United States' role in the case."

"[New Mexico Attorney General Hector Balderas] will continue to vigorously defend the rights of New Mexico water users and work with all parties to seek a fair resolution for New Mexicans," spokesman James Hallinan said.

Monday's opinion is not a final win for Texas in this case. The case now heads back to Gregory Grimsal, a federally appointed "special master" who will make a preliminary ruling and submit that to the high court for its final decision.

In 2016, Grimsal [recommended](#) that the court deny New Mexico's motion to dismiss Texas' complaint. It's highly unlikely that there will be a final ruling before the court's term ends this summer.

If Texas ultimately prevails in the case, it could win not just more water but also hundreds of millions of dollars in damages.

Texas and New Mexico have often gone toe-to-toe over water rights, said Doug Caroom, a water attorney representing El Paso in this case who worked for the Texas Attorney General's Office decades ago during similar litigation. The federal government hasn't always been willing to intervene on Texas' behalf, he said — and in at least one case, that meant the suit was dismissed.

"It's good for us, because the federal government's a powerful ally," Caroom said.