In a unanimous opinion by Justice Sotomayor, the United States Supreme Court affirmed the State of Oklahoma’s sovereignty over waters within its borders, over a challenge by a Texas water district arising out of an interstate compact on the Red River.

**Facts.** The Red River starts near the Texas-New Mexico border, flows through the Texas Panhandle and then forms the Texas-Oklahoma border. Eventually it flows through Arkansas, Louisiana and out to the Mississippi River. The River has caused many conflicts between the two states over the years, including one leading to mobilization of their militias. After 20 years of negotiation, Congress approved an interstate compact among the Red River states in 1980.

Tarrant Regional Water District (Tarrant) provides water to a growing Texas region, including Fort Worth, near the Oklahoma border. Tarrant applied for a water right with the Oklahoma Water Rights Board (OWRB). Tarrant sought to divert water from a Red River tributary in Oklahoma, whose statutes barred out-of-state water exports for conveyance across the state line. When it applied, it also filed suit in federal court, anticipating Oklahoma’s rejection.

**Dispute Over Interstate Compact Interpretation.** The dispute focused on interpretation of a provision in the River’s Compact regarding “subbasin 5,” where Tarrant sought water. Provision 5.05(b)(1) allowed the states “equal rights to the use of runoff originating in subbasin 5,” capped at 25% of the flow above the 3000 cubic feet per second required to flow into Arkansas. The Provision was silent as to whether a state could convey the water across state lines from subbasin 5. Tarrant argued that the silence allowed cross-border export, while OWRB argued that the Provision gave equal rights to the region only within each state’s own borders. The district court granted summary judgment for OWRB and the 10th Circuit affirmed that judgment.

**Interstate Compact Does Not Pre-Empt Sovereignty Over Water.** Applying principles of contract law, which apply to interpreting interstate compacts, the Court examined the Compact’s express terms, both the disputed provision and other comparable provisions. After finding “anomalous results” from Tarrant’s silence theory, the Court concluded that the Compact did not grant cross-border rights to diversion. It emphasized the well-established principle that States do not easily cede their sovereign powers or “absolute rights” over water in their own territory. The Court also contrasted the Red River Compact’s silence with other interstate compacts that expressly granted cross-border transfers, and noted that, in 27 years of Compact implementation, no party had previously asserted a claim for a cross-border diversion. The Court then summarily dismissed Tarrant’s other legal theories as to the Compact.

**State Water Laws Barring Exports Do Not Violate Commerce Clause.** The last Tarrant argument that the Court dismisses relates to the Interstate Commerce Clause. Tarrant challenged the constitutionality of the Oklahoma water statutes under a dormant Commerce Clause theory, arguing that the statutes discriminated against interstate commerce for water not allocated under the Compact. The Court concluded that the Compact did not provide for any unallocated water, as Oklahoma could use water in subbasin 5 until another state sought an accounting. Tarrant’s Commerce Clause theory therefore failed.

Justice Sotomayor effectively summarized the Court’s decision in two sentences: *The Red River Compact does not pre-empt Oklahoma’s water statutes because the Compact creates no cross-border rights in its signatories for these statutes to infringe. Nor do Oklahoma's laws run afoul of the Commerce Clause.*