

# WATER & THE LAW

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## Contact Us

If you have any questions or if you would like to see something discussed in the future, please let us know by sending an e-mail to [info@smithlawonline.com](mailto:info@smithlawonline.com)

or contact one of us directly through the following links:

[Craig Smith](#)  
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To view previous newsletters, visit our website

[www.smithhartvigsen.com](http://www.smithhartvigsen.com)

## Upcoming Events

Rural Water Association of Utah - Private Not-for-Profit Conference

July 30, 2013

North Salt Lake, UT

For more information click [here](#)

## Greetings!

Welcome to the Summer 2013 Issue of *Water & The Law*. We hope you will find this newsletter to be helpful and informative. As always, we welcome your feedback. If you have questions or comments, please reply to this e-mail or call us at 801-413-1600.

Smith Hartvigsen, PLLC

## Water Calculation App for iPhone

Smith Hartvigsen is pleased to announce the launch of its new iPhone app, "Water Chart." The app allows the user to make water measurement conversions, such as:

- Convert gallons per minute (gpm) to cubic feet per second (cfs)
- Convert millions of gallons to acre-feet
- Convert cubic feet per second (cfs) to acre-feet per year

The app also converts measurements associated with land, such as:

- Convert feet to miles
- Convert rods to feet
- Convert links to feet
- Convert kilometers to miles
- Convert square feet to acres

The app also contains other useful information about Utah water rights, the public land survey system (section, township, and range), and more.

To download the app go to the following:

<https://itunes.apple.com/us/app/water-chart/id635800298?mt=9>.

Or scan the following QR code:

Rural Water Association of  
Utah - Fall Conference  
August 26-29, 2013  
Layton, UT  
For more information click  
[here](#)

American Water Works  
Association - Intermountain  
Section Conference  
September 11-13, 2012  
Sun Valley, ID  
For more information click  
[here](#)

Utah League of Cities -  
Annual Conference  
September 11-13, 2013  
Salt Lake City, UT  
For more information click  
[here](#)

Rural Water Association -  
National Conference  
October 1-3, 2013  
Louisville, KY  
For more information click  
[here](#)

To view more information  
about water law in Utah, visit  
our water blog at

[utahwaterrights.blogspot.com](http://utahwaterrights.blogspot.com)



If you don't have an iPhone, you can find a pdf of a water and land measurement conversion chart by going to the following:  
<http://www.smithhartvigsen.com/resources/archive/Water-Chart-10-20-10.pdf>.

## Governor's Water Town Hall Meetings

Governor Herbert has set up a committee to seek public input on water policies and strategies for the State of Utah. The committee will travel across the state and hold "town hall meetings" to hear comments and suggestions on planning for future water needs. The scheduled meetings are as follows:

July 9	Richfield	Sevier County Fairgrounds, Exhibit Hall
July 11	Layton	Layton City Council Chambers
July 16	Price	Price City Hall, Room 207
July 18	Provo	Provo High School, Auditorium
July 25	St. George	Dixie State Univ., Dunford Auditorium
Aug 6	Vernal	Vernal City Council Chambers
Aug 13	Salt Lake	Dept. of Natural Resources, Auditorium
Aug 15	Logan	Mount Logan Middle School

All meetings will be held from 7:00 to 9:00 pm.

For more information on the meetings, or to submit a comment without having to attend a meeting, go to the following:  
<http://www.utahswater.org/>.

## U.S. Supreme Court Decision: Tarrant Regional Water District v. Hermann

By Jeff Gittins

It is a rare occurrence that the United State Supreme Court hears a case involving water rights. But when the Court does hear a

water case, it is generally a large case involving a dispute between two or more states regarding a shared water source. Such is the case in *Tarrant Regional Water District v. Herrman*, which pits the State of Oklahoma against the State of Texas.

The case focuses on the Red River Compact, which was signed in 1978 by Arkansas, Louisiana, Oklahoma, and Texas following more than 20 years of negotiation. The purpose of the Compact was to equitably apportion the water of the Red River and its tributaries between the states. The area covered by the Compact was divided into five subdivisions (called "Reaches"), which were further divided into "Subbasins." This case centered on Subbasin 5 of Reach II.

Due to the large population growth in north Texas in recent years, public water suppliers in north Texas began searching for new sources of water to meet the growing demand. Tarrant Regional Water District and other water districts in north Texas tried to purchase water from Oklahoma, but were unsuccessful. Tarrant then filed a permit with the Oklahoma Water Resources Board to take 310,000 acre-feet of water from the Kiamichi River, which is a tributary to the Red River located in Oklahoma.

Because Tarrant knew that the permit would be denied based on Oklahoma laws prohibiting out-of-state applicants from diverting water in Oklahoma, Tarrant filed a lawsuit to enjoin enforcement of these laws. Tarrant claimed that the Oklahoma laws were pre-empted by the Compact and violated the federal commerce clause. The district court ruled in favor of Oklahoma, and that decision was upheld by the Tenth Circuit Court of Appeals. The case was then sent to the United States Supreme Court.

The section of the Compact at issue gave the states "equal rights to the use of runoff water originating in subbasin 5 [of Reach II] and undesignated water following into subbasin 5," but was silent regarding state boundary limitations. Tarrant asserted that the Compact therefore allowed them to divert water from Subbasin 5 of Reach II, even if the diversion occurred within Oklahoma. Oklahoma, on the other hand, argued that because the Compact did not explicitly allow diversions by one state in another state, Texas was prohibited from diverting water in Oklahoma.

Ultimately, the Court sided with Oklahoma, and held that the Compact did not create any cross-border rights and that the water located within Oklahoma's portion of Subbasin 5 remained under the control of Oklahoma and its laws. The

Court also concluded--in very brief and summary analysis--  
that Oklahoma's laws did not violate the federal commerce  
clause.

We welcome feedback and questions. Please contact us at [info@smithlawonline.com](mailto:info@smithlawonline.com)  
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