

Texas group sues Oklahoma over water

Moratorium on out-of-state sale breaks federal law, district says.

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OKLAHOMA CITY — Fighting a law that could hinder its ability to meet growing water needs, a Texas water district sued Oklahoma last week, arguing that a moratorium on out-of-state water sales violates federal law.

The suit was filed in the U.S. District Court for the Western District of Oklahoma in Oklahoma City by the Tarrant Regional Water District, which serves 1.6 million people, including residents of Fort Worth and Arlington in north-central Texas.

It names the Oklahoma Water Resources Board and the Oklahoma Water Conservation Storage Commission.

The Texas agency argues that a moratorium passed by the Oklahoma Legislature to bar the exportation of water to other states violates the federal commerce clause. The moratorium was approved in 2002 and extended in 2006.

The lawsuit seeks a restraining order to prevent the Water Resources Board from using the moratorium as a basis for rejecting the sale of Oklahoma water to the Texas district.

It argues that Oklahoma has allocated only 7.6 percent of the 34 million acre-feet of water that flows out of the state each year into the Red River and Arkansas River.

"Oklahoma has no basis upon which to predict, and has not predicted that it will suffer any water shortage in the near or even distant future," the lawsuit says. "Indeed the OWRB has repeatedly affirmed that Oklahoma has more than sufficient resources to meet its need."

It says the moratorium has "an unconstitutional economic protectionist purpose."

Duane Smith, director of the Water Resources Board, said the agency is in the midst of developing a statewide 50-year water plan, adding that many areas of the state are in need of water.

"Our comprehensive water plan is for Oklahomans, not water planning for Texas," Smith said. "The Legislature was very clear in passing the moratorium about out-of-state water transport, and we're going to do our very best to adhere to that law."

Smith said his agency would ask Attorney General Drew Edmondson to represent the board. Edmondson said he had not read the suit and it was not discussed at a meeting he and water board liaison Kelly Hunter Burk had Wednesday with two representatives of the Tarrant County group.

He said that meeting revolved around what the Texas group was seeking in its application for Oklahoma water.

Edmondson said he was not surprised that the issue is winding up in court, but he was "a little surprised that we would be litigating it so quickly."

"I'm fairly confident that our moratorium can be defended against constitutional attack because it is not a permanent ban," the Oklahoma attorney general said.

The state's water plan is scheduled to be finished in 2010, Smith said.