

South Platte River Compact/Bill of Complaint: Nebraska Files Action in U.S. Supreme Court Against Colorado



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The State of Nebraska filed a Bill of Complaint ("Complaint") and Motion for Leave to File Bill of Complaint ("Motion") in the Supreme Court of the United States ("Supreme Court") against the State of Colorado in regard to a dispute pertaining to the South Platte River Compact ("Compact").

The Complaint alleges that Colorado is threatening Nebraska's water supply from the South Platte River in two respects:

1. Allowing unlawful water diversions that deprive Nebraska of its right to water during irrigation season.
2. Obstructing Nebraska's efforts to construct the Perkins County Canal.

The Supreme Court has original jurisdiction regarding disputes between states.

The South Platte River is an interstate river with a drainage area of 24,300 square miles across portions of Nebraska and Colorado. It is noted to rise in the Rocky Mountains and merge on the plains about 20 miles south of Denver. The River eventually crosses the state line and flows across the length of Nebraska.

Nebraska and Colorado entered into the Compact in 1923. Congress ratified the Compact in 1926. Nebraska argues in its Complaint that the state:

...surrendered many claims it had over parts of the River in exchange for promises from Colorado not to appropriate water in ways that would diminish downstream flows to Nebraska, but that Colorado water developments would, in fact, increase flows at the State line.

Nebraska states that its attempt to resolve conflicts with Colorado regarding the Compact are at an impasse.

The Supreme Court is requested to grant Nebraska leave to file its Bill of Complaint arguing:

- The litigants in this controversy are two sovereign states.
- Significant issues are involved that only the Supreme Court can resolve.
- An exceptional provision in the Compact that allows one State (Nebraska) to exercise eminent domain in another State (Colorado).
- Only the Supreme Court can competently resolve the parameters of how a State can properly exercise this right when the Compact itself offers no guidance.
- Additional questions such as:
- Proper forum for such an unusual eminent domain action.

- Enforcement of Nebraska's water rights against Colorado's alleged overuse.
- The ability of Nebraska to realize its contractual right to construct the Perkins County Canal without interference from Colorado.
- No alternative forum is available to fully resolve the claims Nebraska asserts against Colorado, which are alleged to be of such seriousness and dignity as to justify the exercise of the Supreme Court's jurisdiction.

A copy of the [Bill of Complaint](#) and [Brief in Support of Motion for Leave to File Bill of Complaint](#) can be downloaded here.