

Biden triumphs over tribe in SCOTUS Colorado River fight



States are battling over the Colorado River's shrinking flows in the drought-stricken Southwest. Ross D. Franklin/AP Photo

The Supreme Court on Thursday ruled in favor of the Biden administration in a divisive fight over the Colorado River that pitted the Interior Department's first Native American leader against the Navajo Nation.

In a [5-4 ruling written](#) by Justice Brett Kavanaugh, the court found that Interior is not legally obligated under a 1868 treaty to analyze and address the Navajo Nation's needs for

water from the drought-stricken river, which serves about 40 million people in the arid Southwest.

“[I]t is not the Judiciary’s role to rewrite and update this 155-year-old treaty,” Kavanaugh wrote.

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Justice Neil Gorsuch penned a dissenting opinion joined by the court’s three liberal members.

The consolidated case, *Interior v. Navajo Nation* and *Arizona v. Navajo Nation*, deals with a treaty under which the federal government — after confining the tribe to a reservation — promised that its members would have the land and water needed to establish a permanent home.

In the 1908 case *Winters v. United States*, the Supreme Court ruled that Native Americans are presumed to hold water rights if they are necessary to ensure full use of reservation lands.

During oral argument in the Navajo’s case, [some of the justices questioned](#) how the federal government could say it had set up a permanent home for the tribe without providing the water its residents require.

Families in the Navajo Nation live on just a fraction of the water used by the average American, and about one-third of

reservation residents lack running water.

The [case has raised the ire](#) of some legal observers and tribes that had hoped for a new era on tribal rights litigation with the arrival of President Joe Biden and Interior Secretary Deb Haaland, a member of the Pueblo of Laguna.