

The Amicus Brief

Water is a “*public resource managed by states as trustees...*”
(page 9)

“*Mississippi holds the rights of a sovereign trustee over the state’s natural resources.*” (page 10)

States “*have the power to preserve and regulate*” important
natural resources (page 16)

Plaintiff’s Exhibit

P-214

No. 143, Original

Rhode Island v. Massachusetts,

37 U.S. 657, 733 (1838)

“The locality of [a State boundary] is matter of fact, and, when ascertained separates the territory of one from the other; for *neither state can have any right beyond its territorial boundary*. It follows, that when a place is within the boundary, it is a part of the territory of a state; title, jurisdiction, and sovereignty, are inseparable incidents, and remain so till the state makes some cession.”

Tennessee Fundamentally Misstates The Supreme Court

Tennessee Told The Court

“ “[e]quitable apportionment is the doctrine of federal common law that governs disputes between states concerning’ *an interstate water resource.*”

Quoting *Colorado v. New Mexico*, 459 U.S. 176, 183 (1982).

Colorado v. New Mexico Actually Says

“Equitable apportionment is the doctrine of federal common law that governs disputes between states concerning *their rights to use the water of an interstate stream.*”

Colorado v. New Mexico, 459 U.S. 176, 183 (1982)

Miss. Code Ann. § 51-3-1

“*All water*, whether occurring on the surface of the ground or underneath the surface of the ground, *is hereby declared to be among the basic resources of this state to therefore belong to the people of this state*, and is subject to regulation in accordance with the provisions of this chapter. The *control* and development and use of water for all beneficial purposes *shall be in the state*, which, in the exercise of its police powers, shall take such measures to effectively and efficiently manage, protect and utilize the water resources of Mississippi.”

Tenn. Code Ann. § 68-221-702

“Recognizing that the waters of the state are *the property of the state* and *held in public trust* for the benefit of its citizens, it is declared that the people of the state are beneficiaries of this trust and have a right to both an adequate quantity and quality of drinking water.”

The Amicus Parties Misstate § 68-221-702

They told the Court

“Tennessee similarly declared ‘[t]hat the waters of the state are . . . held in public trust for the benefit of its citizens.’ Tenn. Code Ann. § 68-221-702 (2013). Conspicuously missing in all this is any mention of water ‘ownership’ or ‘title.’”

Dkt. 124, at 21.

The TN Statute Actually Says

“Recognizing that the waters of the state are *the property of the state* and held in public trust for the benefit of its citizens, it is declared that the people of the state are beneficiaries of this trust and have a right to both an adequate quantity and quality of drinking water.” Tenn. Code Ann. § 68-221-702 (2013).