

The Burger Court Opinion Writing Database

United States v. District Court, Water Division No. 5

401 U.S. 527 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University





CHAMBERS OF
THE CHIEF JUSTICE

Supreme Court of the United States
Washington, D. C. 20543

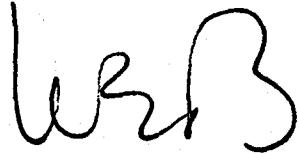
March 22, 1971

No. 812 - The Colorado Eagle County and Water Div.

Dear Bill:

Please join me.

Regards,



Justice Douglas

cc: The Conference

GR
181
Please find us
To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 812.—OCTOBER TERM, 1970

Fr. Douglas, J.
Circulated: 3/12/71

United States, Petitioner,
v.
The District Court in and
for Water Division No. 5,
State of Colorado, et al. } On Writ of Certiorari to the
Supreme Court of Colorado.

[March —, 1971]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

This is a companion case to the *Eagle County* case and involves an action brought under a different state statute ¹ in the District Court of Colorado for Water Division 5.² That Court was given responsibility for water rights determinations affecting ". . . all lands in the State of Colorado in the drainage basins of the Colorado River and all of its tributaries arising in Colorado, with the exception of the Gunnison River,"³ which includes the area of the Eagle River system.

Notice was served on the United States pursuant to 43 U. S. C. § 666 (b) and it moved to quash the service. That motion was denied. A writ of prohibition was sought in the Supreme Court and it was also denied. The case is here on a petition for a writ of certiorari which we granted. 400 U. S. 940.

¹ The Colorado Water Rights Determination and Administration Act of 1969, Rev. Stat. § 148-21-1 *et seq.*, Rev. Stat. § 148-21-18 (3).

² The 1969 Act here in question abolished the 70 water districts previously existing and replaced them with seven water divisions.

³ *Id.* § 148-21-8 (6).

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

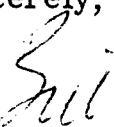
March 16, 1971

RE: No. 812 - United States v. The District
Court in and for Water Div. No. 5, etc.

Dear Bill:

I agree with the opinion you have prepared in the above case.

Sincerely,


W.J.B. Jr.

Mr. Justice Douglas

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

March 15, 1971

812 - U. S. v. District Court (Water Div.)

Dear Bill,

I am glad to join your opinion for the
Court in this case.

Sincerely yours,

P. S.

Mr. Justice Douglas

Copies to the Conference

[Handwritten signature]
March 16, 1971

Re: No. 812 - United States v. The
District Court for Water
Division No. 5

Dear Bill:

Please join me.

Sincerely,

B.R.W.

Mr. Justice Douglas

cc: Conference



CHAMBERS OF
JUSTICE THURGOOD MARSHALL

Supreme Court of the United States
Washington, D. C. 20543

March 16, 1971

Re: No. 812 - United States v. District Court
in and for Water Division No. 5

Dear Bill:

Please join me.

Sincerely,



T.M.

Mr. Justice Douglas

cc: The Conference

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March 16, 1971

Re: No. 812 - U. S. v. District Court in and for
Water Division 5, Colorado

Dear Bill:

Please join me.

Sincerely,

H. A. B.

Mr. Justice Douglas

cc: The Conference