

The Burger Court Opinion Writing Database

United States v. District Court, County of Eagle

401 U.S. 520 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

CHAMBERS OF
THE CHIEF JUSTICE

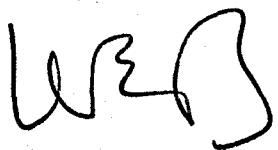
March 22, 1971

No. 87 - The Colorado Eagle County and Water Div.

Dear Bill:

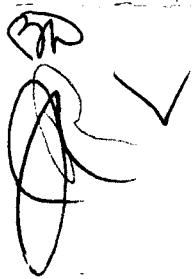
Please join me.

Regards,



Justice Douglas

cc: The Conference



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

CHAMBERS OF
JUSTICE HUGO L. BLACK

March 16, 1971

Dear Bill,

Re: No. 87 - U. S. v. District Court in and for the County of Eagle, etc. - and No. 812 - United States v. District Court in and for Water Division No. 5, etc.

I agree to your opinions in the
above two cases.

Sincerely,

H. L. B.

Mr. Justice Douglas

cc: Members of the Conference

TM

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. 87.—OCTOBER TERM, 1970

United States, Petitioner,

v.

District Court in and for
the County of Eagle
and 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.

Eagle River is a tributary of the Colorado; and Water District 37 is a Colorado entity encompassing all Colorado lands irrigated by water of the Eagle and its tributaries. The present case started in the Colorado courts and is called a supplemental water adjudication under Rev. Stat. 1963, 148-9-7. The Colorado court issued a notice which, *inter alia*, asked all owners and claimants of water rights in those streams "to file a statement of claim and to appear . . . in regard to all water rights owned or claimed by them." The United States was served with this notice pursuant to 43 U. S. C. § 666.¹ The United States moved to be dismissed as a

¹ 43 U. S. C. § 666 (a), 66 Stat. 560, provides:

"Consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner of or is in the process of acquiring water rights by appropriation under State law, by purchase, by exchange, or otherwise, and the United States is a necessary party to such suit. The United States, when a party to any such suit, shall (1) be deemed to have

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 87 AND 812.—OCTOBER TERM, 1970

United States, Petitioner,
87 *v.*The District Court in and
for the County of Eagle
and State of Colorado et
al.United States, Petitioner,
812 *v.*The District Court in and
for Water Division No. 5,
State of Colorado, et al.

From: Harlan, J.

MAR 17 10 71

Circulated: _____

Recirculated: _____

On Writ of Certiorari to the
Supreme Court of Colo-
rado.

[March —, 1971]

MR. JUSTICE HARLAN, concurring.

I join in the opinions of the Court in these cases, explicitly disclaiming, however, the intimation of any view as to the existence and scope of the so-called "reserved water rights" of the United States, either in general or in the particular situations here involved.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 16, 1971

RE: No. 87 - United States v. District Court in
and for the County of Eagle and State of
Colorado, et al.

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

87 - U.S. v. District Court (Eagle Co.)

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

March 16, 1971

Re: No. 87 - United States v.
District Court for County of
Eagle

Dear Bill:

Please join me.

Sincerely,

B.R.W.

Mr. Justice Douglas

cc: Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

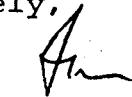
March 16, 1971

Re: No. 87 - United States v. District Court
in and for the County of Eagle

Dear Bill:

Please join me.

Sincerely,


T.M.

Mr. Justice Douglas

cc: The Conference

March 16, 1971

Re: No. 87 - U. S. v. District Court in and for
County of Eagle, Colorado

Dear Bill:

Please join me.

Sincerely,

H. A. B.

Mr. Justice Douglas

cc: The Conference