

The Burger Court Opinion Writing Database

*Associated Enterprises, Inc. v. Toltec
Watershed Improvement District*

410 U.S. 743 (1973)

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

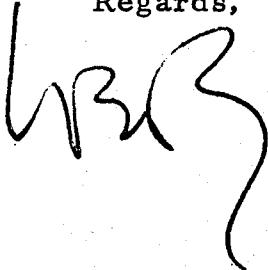
March 2, 1973

Re: No. 71-1069 - Associated Enterprises v. Toltec
Watershed Improvement District

Dear Bill:

Please join me.

Regards,



Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

February 10, 19

Dear Bill:

I overlooked No. 71-1069 -

Associated Enterprises v. Toltec District.

I will write in that as well as in Salyer
and I doubt if I can do it before February
16.

W. O. D.

Mr. Justice Rehnquist

HOOVER INSTITUTION
ON WAR, REVOLUTION AND PEACE
Stanford, California 94305-6000



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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

February 21, 1973

MEMORANDUM TO THE CONFERENCE:

Mr. Justice Douglas will be
circulating 71-1069, Assoc. Enterprises, Inc.
v. Toltec shortly.

Sandra Phillips
Sandra Phillips

The Conference

2
M

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

2nd DRAFT

From: Douglas, J.

Circulated: 2-21-73

No. 71-1069

Recirculated:

Associated Enterprises, Inc., and
Johnston Fuel Liners,
Appellants,
v.
Toltec Watershed Improvement
District.

On Appeal from the
Supreme Court of
Wyoming.

[February —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

I

For the reasons set forth in my dissenting opinion in *Salyer Land Company v. Tulare Lake Basin Water Storage District*, — U. S. —, —, I cannot agree that the voting provisions of Wyoming's Watershed Improvement District Act pass muster under the Equal Protection Clause. Accordingly, I dissent.

At issue is Wyoming's Watershed Improvement District Act, Wyo. Stat. Ann. §§ 41-354.1-41-354.26. Appellee Toltec Watershed Improvement District was established as a result of a referendum held pursuant to this Act, May 12, 1969.¹

¹ Establishment of a Watershed Improvement District entails several steps. First, a petition proposing the creation of such a district must be filed with the board of supervisors of the soil and water conservation district in which the proposed watershed district will lie. § 41-354.5. The petition must set forth the boundaries of the proposed district, reasons justifying creation, and must be signed by a majority of the landowners in the proposed district. *Ibid.*

On receipt of the petition, the board of supervisors must call a public hearing, at which "[a]ll owners of land within the proposed watershed improvement district and all other interested parties shall

Please sign me
Att

3rd DRAFT

To: The Chief Justice,
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: Douglas, J.

No. 71-1069

Circulated:

FEB 23 1973

Associated Enterprises, Inc., and
Johnston Fuel Liners,
Appellants,
v.
Toltec Watershed Improvement
District.

On Appeal from the
Supreme Court of
Wyoming.

[February —, 1973]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN concurs, dissenting.

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7-
You joined WOP
yesterday

4th DRAFT

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

SUPREME COURT OF THE UNITED STATES

Front Buildings, &c.

No. 71-1069

Circulated:

Associated Enterprises, Inc., and
Johnston Fuel Liners,
Appellants,
v.
Toltec Watershed Improvement
District.

On Appeal from the
Supreme Court of
Wyoming.

[February 1, 1973]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN concurs, dissenting.

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4th DRAFT

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

SUPREME COURT OF THE UNITED STATES

No. 71-1069

Associated Enterprises, Inc., and
Johnston Fuel Liners,
Appellants,
v.
Toltec Watershed Improvement
District.

On Appeal from the
Supreme Court of
Wyoming.

From: Douglas, J.

Circulated:

Recirculated: 3-1

[February —, 1973]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL concur, dissenting.

I

For the reasons set forth in my dissenting opinion in *Salyer Land Company v. Tulare Lake Basin Water Storage District*, — U. S. —, —, I cannot agree that the voting provisions of Wyoming's Watershed Improvement District Act pass muster under the Equal Protection Clause. Accordingly, I dissent.

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

*20
My
You wanted for
Walt*
CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 22, 1973

RE: No. 71-1069 Asso. Enterprises v.
Toltec Watershed Imp. District.

Dear Bill:

Please join me.

Sincerely,

Bill

Mr. Justice Douglas

cc: The Conference

37
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

February 15, 1973

Re: No. 71-1069, Associated Enterprises, Inc. v.
Toltec Watershed Improvement District

Dear Bill,

I am glad to join the per curiam you have
circulated in this case.

Sincerely yours,

P.S.
P.

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

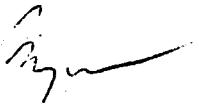
February 12, 1973

Re: No. 71-1069 - Associated Enterprises Inc.
v. Toltec Watershed Improvement
District

Dear Bill:

Please join me in your opinion in this
case.

Sincerely,



Mr. Justice Rehnquist

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 27, 1973

Re: No. 71-1069 - Associated Enterprises v.
Toltec Watershed Improvement

Dear Bill:

Please join me.

Sincerely,



T.M.

Mr. Justice Douglas

cc: Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 12, 1973

Re: No. 71-1069 - Associated Enterprises, Inc., et al.
v. Toltec Watershed Improvement District

Dear Bill:

Please join me in your proposed per curiam circulated
February 9.

Sincerely,

H. A. B.

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 24, 1973

Re: No. 71-1069 Associated Enterprises v. Toltec

Dear Bill:

Please join me in your Per Curiam.

Sincerely,

Lewis

Mr. Justice Rehnquist

cc: The Conference

U
WJB Dismiss

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

From: Rehnquist, J.

Circulated 2/9/73

Recirculated

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-1069

Associated Enterprises, Inc., and
Johnston Fuel Liners,
Appellants,
v.
Toltec Watershed Improvement
District. } On Appeal from the
Supreme Court of
Wyoming.

[February —, 1973]

PER CURIAM.

In this case we are confronted with an issue similar to the one determined today in *Salyer Land Company v. Tulare Lake Basin Water Storage District*, — U. S. —. Appellee Toltec Watershed Improvement District was established after referendum held pursuant to Wyoming's Watershed Improvement District Act, Wyo. Stat. Ann. §§ 41-354.1 to 41-354.26. After formation, appellee sought a right of entry onto lands owned by appellant Associated Enterprises, Inc., and leased by Johnston Fuel Liners for the purpose of carrying out studies to determine the feasibility of constructing a dam and reservoir. When Associated resisted, the district sought to enforce its right in state court. Arguing that the statutes authorizing the referendum violated the Equal Protection Clause since under § 41-354.9 only landowners are entitled to vote and under § 41-354.10, a watershed improvement district cannot be determined to be administratively practicable and feasible unless a majority of the votes cast, representing a majority of the acreage in the district, favor its creation, appellants maintained that the district was illegally formed. The trial court

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

From: Rehnquist, J.

2nd DRAFT

Circulated:

Recirculated:

2/26/73

SUPREME COURT OF THE UNITED STATES

No. 71-1069

Associated Enterprises, Inc., and
Johnston Fuel Liners,
Appellants,
v.
Toltec Watershed Improvement
District. } On Appeal from the
Supreme Court of
Wyoming.

[February —, 1973]

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WD