

# The Burger Court Opinion Writing Database

*Salyer Land Co. v. Tulare Lake Basin Water Storage District*

410 U.S. 719 (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

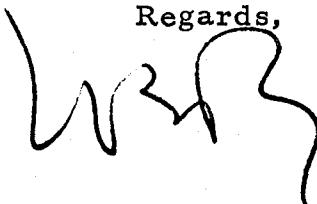
March 2, 1973

Re: No. 71-1456 - Salyer Land Co. v. Tulare Lake  
Basin Water Storage District

Dear Bill:

Please join me.

Regards,



Mr. Justice Rehnquist

Copies to the Conference

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-1456

From: Douglas, J.

FEB 9 1973

Circulated:

Salyer Land Company et al.,  
Appellants,  
v.  
Tulare Lake Basin Water  
Storage District.

Recirculated:  
On Appeal from the United  
States District Court for  
the Eastern District of  
California.

[February —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

The vices of this case are four-fold.

*First.* Nonresidents who own land in this water district are not allowed to vote for directors who determine the policy.

*Second.* Lessees of farmlands, though residents of the district, are not given the franchise.

*Third.* Residents who own no agricultural lands but live in the district and face all the perils of flood which the district is supposed to control are disenfranchised.

*Fourth.* Only agricultural landowners are entitled to vote and their vote is weighted, one vote for each one hundred dollars of assessed valuation as provided in § 41001 of the California Water Code.

There are 189 landowners who own up to 80 acres each. These 189 represent 2.34% of the agricultural acreage of the district. There are 193,000 acres in the district. Petitioner Salyer Land Company is one large operator, West Lake Farms and South Lake Farms are also large operators. The largest is J. G. Boswell Co. These four farm almost 85% of all the land in the district. Of these J. G. Boswell Co. commands the greatest number of votes, 37,825, which are enough to give it a majority of the board of directors. As a result it is permanently in the saddle. Almost all of the 77 residents of the dis-

— 1, 4, 5, 6

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

SUPREME COURT OF THE UNITED STATES

No. 71-1456

Circulated:

*FEB 14 1973*

Recirculated:

Salyer Land Company et al.,  
Appellants,  
v.  
Tulare Lake Basin Water  
Storage District.

On Appeal from the United  
States District Court for  
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*Fifth.* The corporate voter is put in the saddle.

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S

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

February 16, 1973

71-1456?

Dear Bill:

I have not circulated this new version  
of my dissent in Salyer, but wanted to show  
it only to you and Thurgood.

cc: W. O. D.

Mr. Justice Brennan

This is OK with me  
Bill

WD

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

145-6

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

February 16, 1973

S

Dear Thurgood:

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Mr. Justice Marshall

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## 3rd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 71-1456

Salyer Land Company et al.,  
Appellants,  
v.  
Tulare Lake Basin Water  
Storage District. } On Appeal from the United  
States District Court for  
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[February —, 1973]

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5  
*Change throughout*

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

SUPREME COURT OF THE UNITED STATES

No. 71-1456

From: Douglas, J.

Salyer Land Company et al.,  
Appellants,  
v.  
Tulare Lake Basin Water  
Storage District.

Circulated:  
On Appeal from the United  
States District Court of  
the Eastern District of  
California.

Received: 2-20-73

[February —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

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*Plaintiffs v. T.L.B.W.D.*

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

4th DRAFT

## SUPREME COURT OF THE UNITED STATES

From: Douglas, .

No. 71-1456

Circulated: \_\_\_\_\_

Salyer Land Company et al.,  
Appellants,  
v.  
Tulare Lake Basin Water  
Storage District.

On Appeal from the United  
States District Court for  
the Eastern District of  
California.

Recirculated: 2-21-73

[February —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

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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.

6th DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 71-1456

Circulated:

Salyer Land Company et al.,  
Appellants, } Recirculated: 3-1-73  
v. } On Appeal from the United  
Tulare Lake Basin Water District Court for  
Storage District. } the Eastern District of  
California.

[February —, 1973]

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

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

February 12, 1973

MEMORANDUM TO THE CONFERENCE

RE: No. 71-1456 - Salyer Land v. Tulare Lake Basin  
Water, etc.

I shall circulate a dissent in the above in due  
course.

W. J. B. Jr.

B  
All  
waited on  
you wif B dissent  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

February 22, 1973

RE: No. 71-1456 - Salyer Land Company  
v. Tulare Lake Basin Water Storage

Dear Bill:

Please join me in your dissenting  
opinion in the above.

Sincerely,

B  
Bill

Mr. Justice Douglas

cc: The Conference

3  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

February 15, 1973

Re: No. 71-1456, Salyer Land Company v.  
Tulare Lake Basin Water Storage District

Dear Bill,

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

Sincerely yours,

P. S.

Mr. Justice Rehnquist

Copies to the Conference

B  
Supreme Court of the United States  
Washington, D. C. 20543CHAMBERS OF  
JUSTICE BYRON R. WHITE

February 12, 1973

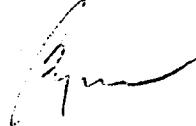
Re: No. 71-1456 - Salyer Land Co. v. Tulare  
Lake Basin Water Storage District

Dear Bill:

Please join me in your opinion in this case. I would prefer it, however, if the second sentence of the last paragraph beginning on page 12 began as follows:

"But in the type of special district we now have before us, the question for our determination is not whether or not . . . "

Sincerely,



Mr. Justice Rehnquist

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

February 13, 1973

Re: No. 71-1456 - Salyer Land Co. v. Tulare  
Lake Basin Water Storage District

Dear Bill:

While my conference vote was to affirm in this case further research has shaken my vote. I am now convinced that the Water Storage District here involved is more "governmental" than I realized. In the second place, I cannot join your opinion because I am not in agreement with your interpretation of our prior cases and, in particular, Phoenix, Cipriano and Kramer. I, therefore, will wait for Brennan's dissenting opinion before finally coming to rest.

Sincerely,



T.M.

Mr. Justice Rehnquist

cc: Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

February 27, 1973

Re: No. 71-1456 - Salyer Land Co. v. Tulare  
Lake Basin Water Storage District

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. 71-1456 - Salyer Land Co. v. Tulare Lake  
Basin Water Storage District

Dear Bill:

Please join me.

Sincerely,

*H. A. B.*

Mr. Justice Rehnquist

Copies to the Conference

3  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

February 24, 1973

Re: No. 1456 Salyer Land Co. v. Tulare Lake  
Basin Water Storage District

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Rehnquist

cc: The Conference

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.

1st DRAFT

Circulated: 2/9/73

Recirculated:

## SUPREME COURT OF THE UNITED STATES

No. 71-1456

Salyer Land Company et al.,  
Appellants,  
v.  
Tulare Lake Basin Water  
Storage District. } On Appeal from the United  
States District Court for  
the Eastern District of  
California.

[February —, 1973]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

This is another in the line of cases in which the Court has had occasion to consider the limits imposed by the Equal Protection Clause of the Fourteenth Amendment on legislation apportioning representation in state and local governing bodies and establishing qualifications for voters in the election of such representatives. *Reynolds v. Sims*, 377 U. S. 533 (1964), enunciated the constitutional standard for apportionment of state legislatures. Later cases such as *Avery v. Midland County*, 390 U. S. 474 (1968), and *Hadley v. Junior College District*, 397 U. S. 50 (1970), extended the *Reynolds* rule to the governing bodies of a county and of a junior college district, respectively. We are here presented with the issue expressly reserved in *Avery, supra*:

"Were the [county's governing body] a special-purpose unit of government assigned the performance of functions affecting definable groups of constituents more than other constituents, we would have to confront the question whether such bodies may be apportioned in ways which give greater influence to the

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.

3rd DRAFT

Circulated: \_\_\_\_\_

**SUPREME COURT OF THE UNITED STATES**

Circulated: 2/13/73

No. 71-1456

Salyer Land Company et al., Appellants, v. Tulare Lake Basin Water Storage District.	On Appeal from the United States District Court for the Eastern District of California.
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[February —, 1973]

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