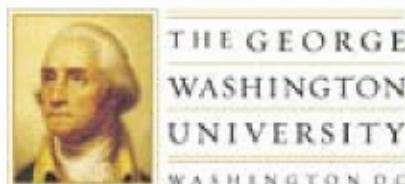


# The Burger Court Opinion Writing Database

*Aberdeen & Rockfish Railroad Co. v.  
Students Challenging Regulatory Agency  
Procedures (SCRAP)*

422 U.S. 289 (1975)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



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

CHAMBERS OF  
THE CHIEF JUSTICE

June 10, 1975

Re: (73-1966 - Aberdeen & Rockfish RR Co. v. SCRAP  
(73-1971 - U. S. v. SCRAP

Dear Byron:

Please join me in your circulation of June 4.

Regards,

WRB

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

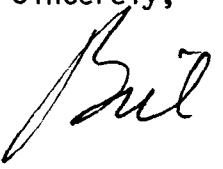
April 1, 1975

RE: No. 73-1966 - Aberdeen & Rockfish RR Co.  
No. 73-1971 - & U.S. v. S.C.R.A.P.

Dear Thurgood:

In the above I note that you and I are  
to dismiss for want of our jurisdiction.  
Would you be willing to take on the dissent?

Sincerely,



Mr. Justice Marshall

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

June 18, 1975

RE: No. 73-1966 - Aberdeen & Rockfish RR Co. v. S.C.R.A.P.  
73-1971 - United States v. S.C.R.A.P.

Dear Byron:

I agree.

Sincerely,

*Bill*

Mr. Justice White

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543CHAMBERS OF  
JUSTICE POTTER STEWART

June 5, 1975

No. 73-1966 - Aberdeen & Rockfish R. Co.  
No. 73-1971 - Students Challenging Regulatory Agency Procedures

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Dear Byron,

In our Conference discussion after the argument I expressed the view that the District Court had no jurisdiction in these cases under the Algoma rule. Your opinion for the Court convinces me that I was wrong. On the merits, I agree with your opinion, and join it with many thanks for your massive efforts in wrestling with a real Jonah.

Sincerely yours,

P.S.

Mr. Justice White

Copies to the Conference

*Brew*  
*In due course I  
will circulate a draft  
in this and other*  
*ways*

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

From: White, J.

Circulated: 6/4/75

Recirculated: \_\_\_\_\_

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 73-1966 AND 73-1971

Aberdeen and Rockfish Rail-  
road Company et al.,  
Appellants,

73-1966 *v.*

Students Challenging Regula-  
tory Agency Procedures  
(S. C. R. A. P.) et al.

United States et al.,  
Appellants,

73-1971 *v.*

Students Challenging Regula-  
tory Agency Procedures  
(S. C. R. A. P.) et al.

On Appeal from the  
United States District  
Court for the District of  
Columbia.

[June —, 1975]

MR. JUSTICE WHITE delivered the opinion of the  
Court.

The Nation's railroads, the United States and the Interstate Commerce Commission (ICC) appeal from the judgment of a three-judge federal court which set aside an ICC order terminating a general revenue proceeding without declaring unlawful certain rate increases filed by the Nation's railroads with the ICC and which directed the ICC to reopen the proceeding, prepare a better environmental impact statement under the National Environmental Policy Act [NEPA], 42 U. S. C. § 4332 (2)(e), hold hearings and reconsider, in light of the new

J  
STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES: 3, 14, 33

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice BREWSTER  
Mr. Justice STEWART  
Mr. Justice MARSHALL  
Mr. Justice BLACK  
Mr. Justice POWELL  
Mr. Justice REHNQVIST

From: White, J.

Circulated:

Recirculated: 6-12-

### 3rd DRAFT

## SUPREME COURT OF THE UNITED STATES

Nos. 73-1966 AND 73-1971

Aberdeen and Rockfish Railroad Company et al.,  
Appellants,

73-1966 v.

Students Challenging Regulatory Agency Procedures  
(S. C. R. A. P.) et al.

United States et al.,  
Appellants,

73-1971 v.

Students Challenging Regulatory Agency Procedures  
(S. C. R. A. P.) et al.

On Appeal from the  
United States District  
Court for the District of  
Columbia.

[June —, 1975]

MR. JUSTICE WHITE delivered the opinion of the Court.

The Nation's railroads, the United States and the Interstate Commerce Commission (ICC) appeal from the judgment of a three-judge federal court which set aside an ICC order terminating a general revenue proceeding without declaring unlawful certain rate increases filed by the Nation's railroads with the ICC. The order directed the ICC to reopen the proceeding, prepare a better environmental impact statement under the National Environmental Policy Act [NEPA], 42 U. S. C. § 4332 (2)(c), hold hearings and reconsider, in light of the new

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

From: White, J.

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

Recirculated: 6/18/75

4th DRAFT

## SUPREME COURT OF THE UNITED STATES

Nos. 73-1966 AND 73-1971

Aberdeen and Rockfish Railroad Company et al.,  
Appellants,  
73-1966 *v.*

Students Challenging Regulatory Agency Procedures  
(S. C. R. A. P.) et al.

United States et al.,  
Appellants,  
73-1971 *v.*

Students Challenging Regulatory Agency Procedures  
(S. C. R. A. P.) et al.

On Appeal from the  
United States District  
Court for the District of  
Columbia.

[June —, 1975]

MR. JUSTICE WHITE delivered the opinion of the Court.

The Nation's railroads, the United States and the Interstate Commerce Commission (ICC) appeal from the judgment of a three-judge federal court which set aside an ICC order terminating a general revenue proceeding without declaring unlawful certain rate increases filed by the Nation's railroads with the ICC. The order directed the ICC to reopen the proceeding, prepare a better environmental impact statement under the National Environmental Policy Act [NEPA], 42 U. S. C. § 4332 (2)(c), hold hearings and reconsider, in light of the new

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

June 6, 1975

Re: No. 73-1966, Aberdeen and Rockfish v. SCRAP  
No. 73-1971, United States v. SCRAP

Dear Byron:

In due course I will circulate a dissent in this case.

Sincerely,



T. M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

June 18, 1975

Re: No. 73-1966 -- Aberdeen and Rockfish v. SCRAP  
No. 73-1971 -- United States v. SCRAP

Dear Byron:

Please join me.

Sincerely,

*T. M.*  
T. M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

June 9, 1975

Re: No. 73-1966 - Aberdeen & Rockfish RR v. SCRAP  
No. 73-1971 - United States v. SCRAP

Dear Byron:

Please join me.

Sincerely,

*Harry*

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

June 4, 1975

No. 73-1966 Aberdeen and Rockfish v. SCRAP  
No. 73-1971 United States v. SCRAP

Dear Byron:

Please note at the end of your opinion that I took no part in the consideration or decision of this case.

Sincerely,

*L. Powell*

Mr. Justice White

1fp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 6, 1975

Re: No. 73-1966 - Aberdeen & Rockfish v. S.C.R.A.P.;  
and No. 73-1971

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

Copies to the Conference