

# The Burger Court Opinion Writing Database

*EPA v. California ex rel. State Water Resources Control Board*

426 U.S. 200 (1976)

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 2, 1976

Re: 74-1435 - EPA v. California ex rel. Water Res. Control Board

Dear Byron:

I join your opinion dated May 19.

Regards,

WB

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

May 17, 1976

RE: No. 74-1435 Environmental Protection Agency v.  
California ex rel. State Water, etc.

Dear Byron:

I agree.

Sincerely,

*Brennan*

Mr. Justice White  
cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

May 17, 1976

Re: No. 74-1435, EPA v. State Water Resources  
Control Board

Dear Byron,

I should appreciate your adding the following  
at the foot of your opinion for the Court in this case:

MR. JUSTICE STEWART dissents. He agrees  
substantially with the reasoning of the Court  
of Appeals for the Ninth Circuit in this case,  
511 F.2d 963, and he would, accordingly, affirm  
its judgment.

Sincerely yours,

Mr. Justice White

Copies to the Conference

PS  
1

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

From: Mr. Justice White

Circulated: 5-14-76

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**1st DRAFT**

**SUPREME COURT OF THE UNITED STATES**

**No. 74-1435**

The Environmental Protection Agency et al., Petitioners, <i>v.</i> California ex rel. State Water Resources Control Board et al.	On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.
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[May —, 1976]

MR. JUSTICE WHITE delivered the opinion of the Court.

The issue in this case which arises under the Federal Water Pollution Control Act Amendments of 1972 (Amendments), 33 U. S. C. § 1251 *et seq.* (Supp. IV), is whether federal installations discharging water pollutants in a State with a federally approved permit program are to secure their permits from the State, or from the Environmental Protection Agency (EPA). As with the related Clean Air Act issue decided this day in *Hancock v. Train*, *ante*, decision of the specific statutory question—whether obtaining a state permit is among those “requirements respecting control and abatement of pollution” with which federal facilities must comply under § 313 of the Amendments<sup>1</sup>—is informed by constitutional principles governing submission of federal installations to state regulatory authority.

<sup>1</sup> 33 U. S. C. § 1323 (Supp. IV).

STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES: 3, 5, 21, 27

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

From: Mr. Justice White

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

Recirculated: 5-19-76

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 74-1435

The Environmental Protection Agency et al.,  
Petitioners,  
v.  
California ex rel. State Water Resources Control Board et al.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

[May —, 1976]

MR. JUSTICE WHITE delivered the opinion of the Court.

The issue in this case which arises under the Federal Water Pollution Control Act Amendments of 1972 (Amendments), 86 Stat. 816, 33 U. S. C. § 1251 *et seq.* (Supp. IV), is whether federal installations discharging water pollutants in a State with a federally approved permit program are to secure their permits from the State, or from the Environmental Protection Agency (EPA). As with the related Clean Air Act issue decided this day in *Hancock v. Train, ante*, decision of the specific statutory question—whether obtaining a state permit is among those “requirements respecting control and abatement of pollution” with which federal facilities must comply under § 313 of the Amendments<sup>1</sup>—is informed by constitutional principles governing submission of federal installations to state regulatory authority.

<sup>1</sup> 33 U. S. C. § 1323 (Supp. IV).

STYLISTIC CHANGES THROUGHOUT.

SEE PAGE<sup>8</sup>:

P. 27

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

From: Mr. Justice White

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

Recirculated: 6-3-76

3rd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 74-1435

The Environmental Protection Agency et al.,  
Petitioners,  
v.  
California ex rel. State Water Resources Control Board et al. } On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

[June 7, 1976]

MR. JUSTICE WHITE delivered the opinion of the Court.

The issue in this case which arises under the Federal Water Pollution Control Act Amendments of 1972 (Amendments), 86 Stat. 816, 33 U. S. C. § 1251 *et seq.* (Supp. IV), is whether federal installations discharging water pollutants in a State with a federally approved permit program are to secure their permits from the State, or from the Environmental Protection Agency (EPA). As with the related Clean Air Act issue decided this day in *Hancock v. Train*, *ante*, decision of the specific statutory question—whether obtaining a state permit is among those “requirements respecting control and abatement of pollution” with which federal facilities must comply under § 313 of the Amendments<sup>1</sup>—is informed by constitutional principles governing submission of federal installations to state regulatory authority.

<sup>1</sup> 33 U. S. C. § 1323 (Supp. IV).

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

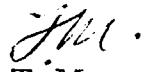
May 14, 1976

Re: No. 74-1435 -- The Environmental Protection Agency v.  
California ex rel. State Water Resources Control Bd.

Dear Byron:

Please join me.

Sincerely,

  
T.M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

May 24, 1976

Re: No. 74-1435 - EPA v. California ex rel. State  
Water Resources Control Board

Dear Byron:

Please join me in your opinion.

Sincerely,

Harry

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

May 18, 1976

Re: No. 74-1435 - EPA v. State Water Resources Control  
Board

Dear Byron:

Would you please include me, if agreeable with Potter, as joining his dissenting statement at the foot of your opinion for the Court in this case?

Sincerely,

*WW*

Mr. Justice White

Copies to the Conference

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

✓  
✓

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

May 17, 1976

Re: 74-1435 - The Environmental Protection Agency, et al.  
v. California ex rel. State Water Res. Control Bd.

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

Copies to the Conference