

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,

WSB

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,

Bub

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
✓

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

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 74-1435

The Environmental Protec-
 tion 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), 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 Amendments¹—is informed by constitutional principles governing submission of federal installations to state regulatory authority.

¹ 33 U. S. C. § 1323 (Supp. IV).

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

To: The Chief Justice V
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 Protec-
tion 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 Amendments¹—is informed by constitutional principles governing submission of federal installations to state regulatory authority.

¹ 33 U. S. C. § 1323 (Supp. IV).

STYLISTIC CHANGES THROUGHOUT.
SEE PAGE 8:

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 Protec-
tion 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 Amendments¹—is informed by constitutional principles governing submission of federal installations to state regulatory authority.

¹ 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.
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,



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,



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