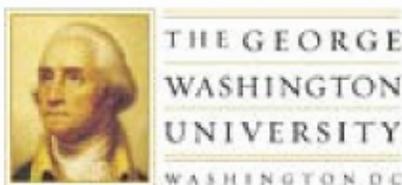


The Burger Court Opinion Writing Database

Watt v. Western Nuclear, Inc.

462 U.S. 36 (1983)

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



To: The Chief Justice
Justice Brennan
✓Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice White

Circulated: 17 MAY 1982

Recirculated: _____

No. 81-1686: Watt v. Western Nuclear, Inc.

Justice White, dissenting.

In this case, the Court of Appeals for the Tenth Circuit held that the mineral reservation of the Stock-Raising Homestead Act (SRHA), 43 U.S.C. §229, which reserves title to "all coal and other minerals" to the United States, does not extend to commercially valuable gravel deposits. As the Solicitor General explains in his petition for certiorari, this decision will affect the administration of more than 70 million acres of land. It will have a profound impact on state governments and their political subdivisions, because the federal government has allowed them to make free use of mineral materials such as gravel on SRHA lands. Moreover, almost all of the land patented under the SRHA is located either in the Court of Appeals for the Tenth Circuit or the Court of Appeals for the Ninth Circuit, and the latter has indicated that it construes §229 more broadly than does the decision in this case. See United States v. Union Oil, 549 F.2d 1271 (1977). The Solicitor General also submits that the decision below is contrary to the broad rule that where grants of federal land are involved, doubts about the meaning of the statute are resolved in favor of the government. United States v. Union Pacific R.R., 353 U.S. 112, 116 (1957); Andrus v. Charlestone Stone Products Co., 436 U.S. 604, 617 (1978).

Both because of the conflict in approach between the circuits on this issue and because of the importance of the question itself, I respectfully dissent from the denial of certiorari.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 17, 1982

00:09 11 JAN 88

Re: No. 81-1686 - Watt v. Western Nuclear, Inc.

Dear Byron:

I thought there was a tentative vote to grant certiorari in this case. If that vote is not firm, please join me in your dissent.

Sincerely,

Harry

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 18, 1982

81-1686 Watt v. Western Nuclear, Inc.

Dear Byron:

My vote at Conference was to join three. I have taken another look and now vote to grant.

Sincerely,



Justice White

lfp/ss

cc: The Conference