

The Burger Court Opinion Writing Database

Pacific Legal Foundation v. State Energy Resources Conservation & Development Commission

457 U.S. 1133 (1982)

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

June 16, 1982

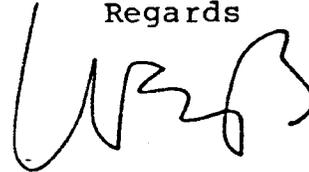
CHAMBERS OF
THE CHIEF JUSTICE

RE: (81-1944 - Pacific Legal Foundation v. California
(Energy Commn.
(
(81-1945 - Pacific Gas and Electric Co. v.
(California Energy Commn.

Dear Harry:

I agree with your June 15 memo defining the limited grant.

Regards



Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 15, 1982

RE: No. 81-1944 Pacific Legal Foundation v. California
Energy Commission
No. 81-1945 Pacific Gas and Electric Co. v. California
Energy Commission

Dear Harry:

I agree with your proposed limited question in the above.

Sincerely,

Bill

Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 15, 1982

CORRECTED COPY

Memorandum to the Conference

Re: No. 81-1944 - Pacific Legal Foundation v.
California Energy Commission
No. 81-1945 - Pacific Gas and Electric Co., et al.
v. California Energy Commission

You will recall that at the last conference, I was asked to review these cases and propose a question or questions for a limited grant. After further study and after consultation with Frank Lorson, I propose the following with respect to No. 81-1945 only:

"The petition for certiorari is granted limited to the following questions: Whether petitioners' challenges to the provisions in the 1976 amendments to California's Warren-Alquist Act, Cal. Pub. Res. Code §§25524.1(b) and 25524.2 (West 1977), which condition the construction of nuclear plants on findings by the State Energy Resources Conservation and Development Commission that adequate storage facilities and means of disposal are available for high-level nuclear waste, are ripe for judicial review, and whether §§25524.1(b) and 25524.2 are pre-empted by the Atomic Energy Act of 1954, 42 U.S.C. §2011 et seq."

I recommend that the petition in No. 81-1944 be denied. The grant in No. 81-1945 will enable the Court to resolve the questions raised by the SG and the petition in No. 81-1944 adds little or nothing. In No. 81-1944, the CA9 ruled that petitioner Thornberry had no standing to challenge the California statute, and the Court of Appeals dismissed the cross-appeal brought by the organizational petitioners, Pacific Legal Foundation, et al., on the ground that it was not taken from a final judgment. Those organizations had cross-appealed from the District Court's denial of their motion for summary judgment on the ground that they lacked standing. I see little point in considering the question of petitioner Thornberry's standing. No. 81-1944, of course, ~~might~~ be held for No. 81-1945, but I see little point in doing so.

Harry

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 15, 1982

81-1944 Pacific Legal Foundation v. California
81-1945 Pacific Gas and Electric Co. v. California

Dear Harry:

I agree with the question you propose in 81-1945,
and also agree that 81-1944 should be denied.

Sincerely,



Justice Blackmun

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 15, 1982

Re: 81-1944 - Pacific Legal Foundation v.
California Energy Comm.
81-1945 - Pacific Gas and Electric Co.
v. California Energy Comm.

Dear Harry:

Your proposed limited grant is fine with me.

Respectfully,



Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 15, 1982

- No. 81-1944 Pacific Legal Foundation v.
California Energy Comm.
- No. 81-1945 Pacific Gas and Electric Co.
v. California Energy Comm.

Dear Harry,

I agree with your proposed orders.

Sincerely,



Justice Blackmun

Copies to the Conference