

The Burger Court Opinion Writing Database

California ex rel. State Lands Commission v. United States

459 U.S. 1 (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

CHAMBERS OF
THE CHIEF JUSTICE

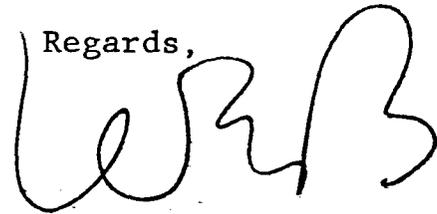
June 8, 1982

Re: No. 89 Original - California, ex rel. State Lands
Commission v. U.S.

Dear Byron:

I join and I do not see your opinion and Bill Rehnquist's concurring opinion as irreconcilable. I could join Bill as well except that would involve a separate writing.

Regards,



Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

December 2, 1981

RE: No. 89 Orig. California ex rel. State Lands Comm.
v. United States

Dear John:

I agree with the proposed order you have prepared
in the above.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

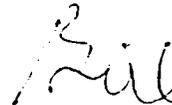
May 21, 1982

RE: No. 89 Orig. California v. United States

Dear Byron:

I agree.

Sincerely,



Justice White

cc: The Conference

85 MAY 21 1982

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

From: **Justice White**

Circulated: 20 MAY 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 89 Original

STATE OF CALIFORNIA, EX REL., STATE LANDS
 COMMISSION, PLAINTIFF *v.* UNITED STATES

ON CROSS MOTIONS FOR JUDGMENT

[May —, 1982]

JUSTICE WHITE delivered the opinion of the Court.

The issue before the Court is the ownership of ocean-front land created through accretion to land owned by the United States on the coast of California. The decision turns on whether federal or state law governs the issue.

I

From the time of California's admission to the Union in 1850, the United States owned the upland on the north side of the entrance channel to Humboldt Bay, California. In 1859 and 1871, the Secretary of the Interior ordered that certain of these lands, which fronted on the Pacific Ocean, the channel and Humboldt Bay be reserved from public sale.¹ Since that time the land has been continuously possessed by the United States and used as a Coast Guard Reservation. The Pacific shoreline along the Coast Guard site remained substantially unchanged until the turn of the century when the United States began construction of two jetties at the entrance to Humboldt Bay.² The jetty constructed on the

¹ Secretarial Order, December 27, 1859; Secretarial order, August 19, 1871. See Exhibit C to Exhibits in Support of California's Motion for Leave to File Complaint.

² Construction of the jetties commenced on the South Spit in 1889 and on the North Spit in 1891. U. S. Army Corps of Engineers, San Francisco

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 16, 1982

MEMORANDUM TO THE CONFERENCE

Re: 89 Original -
California v. United States

On page 14 of the circulating draft, the date for submitting a decree was left blank. Unless there is objection, I shall insert September 27, 1982.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 9, 1982

Re: No. 89 Original - State of California v. U.S.

Dear Byron:

Please join me.

Sincerely,

T.M.

T.M.

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 3, 1981

Re: No. 89 Orig. - California, ex rel. State Land
Commission v. United States

Dear John:

I go along with the order you propose.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry", with a horizontal line underneath.

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 11, 1982

1982

Re: No. 89 Original - California v. United States

Dear Byron:

Please join me.

Sincerely,



Justice White

cc: The Conference

May 31, 1982

89 Orig. California v. United States

Dear Byron:

I enclose a draft of a short statement concurring in the judgment and most of your opinion.

This area of the law is more than a little confusing for me as well as beyond the "outer limits" of my experience. I have difficulty reconciling Hughes, Corvallis, and Wilson. I do think that Wilson comes close to controlling this case - where the U.S. continues to own the property. I would prefer to leave open whether there may be a different result where ocean front lands were patented by the U.S.

If you could leave this open, I would join all of your opinion. Otherwise, I am inclined to circulate the two or three sentences along the lines of the enclosed draft.

Sincerely,

Justice White

lfp/ss

lfp/ss 05/31/82

89 Orig. California v. United States

JUSTICE POWELL, concurring.

I agree with the Court that under Wilson v. Omaha Indian Tribe, 442 U.S. 653 (1979), and §5(a) of the Submerged Lands Act, 43 U.S.C. §1313(a), the coastal property in this case belongs to the United States. In my view, however, this case does not present the question whether federal law applies to determine the boundary of oceanfront lands patented by the United States. I therefore do not concur in so much of the Court's opinion that purports to resolve this issue.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 14, 1982

89 Orig. California v. United States

Dear Byron:

Please join me.

Sincerely,



Justice White

lfp/ss

cc: The Conference

88 JUN 14 1982

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

December 2, 1981

Re: No. 89 Orig. California ex rel. State Lands
Comm. v. United States

Dear John:

I agree with the recommendation contained in your
letter of December 1st.

Sincerely,



Justice Stevens

Copies to the Conference

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

From: Justice Rehnquist

Circulated: 6/3/82

Recirculated: _____

Re: No. 89 Orig., California ex rel. Lands Comm'n v. United States

JUSTICE REHNQUIST, concurring in the judgment.

I concur in the judgment. I believe that our decision in Wilson v. Omaha Indian Tribe, 442 U.S. 653 (1979), holds that federal common law applies to resolve this title dispute between the United States and California, and that § 5(a) of the Submerged Lands Act supplies the appropriate rule of decision.

The dispute in this case concerns the legal effect of artificially caused accretions on ocean front property owned by

pp. 1-3

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

From: **Justice Rehnquist**

Circulated: _____

Recirculated: JUN 7 1982

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 89 Original

STATE OF CALIFORNIA, EX REL., STATE LANDS
 COMMISSION, PLAINTIFF *v.* UNITED STATES

ON CROSS MOTIONS FOR JUDGMENT

[June —, 1982]

JUSTICE REHNQUIST, with whom Justice Stevens and JUSTICE O'CONNOR
 joins, concurring in the judgment.

I concur in the judgment. I believe that our decision in *Wilson v. Omaha Indian Tribe*, 442 U. S. 653 (1979), requires the application of federal common law to resolve this title dispute between the United States and California, and that § 5(a) of the Submerged Lands Act indicates the source of that law.

The dispute in this case concerns the ownership of artificially caused accretions on ocean front property belonging to the United States. The dispute centers on the legal effect of the movement of the "mean high water mark." That mark separates the fastlands continuously owned by the United States from the "tidelands"—the area of partially submerged lands between the mean high and low water marks. California's claim of title to the tidelands is based upon the Equal Footing Doctrine. Because the tidelands belong to it and because the accretions formed on the tidelands, California contends that state law applies to resolve this title dispute between it and the United States. The rule adopted by the California courts regarding artificially caused accretions holds that title to accreted land vests with the State rather than the riparian or littoral owner. The United States contends that federal common law applies and argues that the federal common law rule holds that title to land formed by accretion

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 4, 1982

Re: 89 Orig. - California ex rel. Lands
Commission v. United States

Dear Bill:

Please join me in your opinion concurring in the
judgment.

Respectfully,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

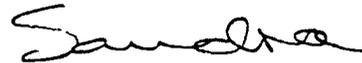
December 2, 1981

No. 89 Orig. California, ex rel. State Lands
Comm. v. United States

Dear John,

I agree with the proposed order.

Sincerely,



Justice Stevens

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

58
May 20, 1982

No. 89 Orig. California v. United States

Dear Byron,

I will await the dissent.

Sincerely,



Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 3, 1982

No. 89 Orig. California v. United States

Dear Bill,

Please join me in your opinion concurring
in the judgment.

Sincerely,



Justice Rehnquist

Copies to the Conference