

# The Burger Court Opinion Writing Database

## *Kerr-McGee Corp. v. Navajo Tribe*

471 U.S. 195 (1985)

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



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

From: **The Chief Justice**

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1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 84-68

**KERR-McGEE CORPORATION, PETITIONER v.  
NAVAJO TRIBE OF INDIANS ET AL.**

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE NINTH CIRCUIT

[April —, 1985]

CHIEF JUSTICE BURGER delivered the opinion of the  
Court.

We granted certiorari to decide whether the Navajo Tribe  
of Indians may tax business activities conducted on its land  
without first obtaining the approval of the Secretary of the  
Interior.

I

In 1978, the Navajo Tribal Council, the governing body of  
the Navajo Tribe of Indians, enacted two ordinances impos-  
ing taxes known as the Possessory Interest Tax and the Busi-  
ness Activity Tax. The Possessory Interest Tax is meas-  
ured by the value of leasehold interests in tribal lands; the  
tax rate is 3% of the value of those interests. The Business  
Activity Tax is assessed on receipts from the sale of property  
produced or extracted within the Navajo Nation, and from  
the sale of services within the Nation; a tax rate of 5% is  
applied after subtracting a standard deduction and speci-  
fied expenses. The tax laws apply to both Navajo and non-  
Indian businesses, with dissatisfied taxpayers enjoying the  
right of appeal to the Navajo Tax Commission and the Nav-  
ajo Court of Appeals.

The Navajo Tribe, uncertain whether federal approval was  
required, submitted the two tax laws to the Bureau of Indian  
Affairs of the Department of the Interior. The Bureau in-

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

April 8, 1985

No. 84-68

Kerr-McGee Corp. v. Navajo Tribe  
of Indians, et al.

Dear Chief,

I agree.

Sincerely,

A handwritten signature in cursive script that reads "Bill".

The Chief Justice

Copies to the Conference

5  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

April 4, 1985

84-68 - Kerr-McGee Corporation v.  
Navajo Tribe of Indians

Dear Chief,

Please join me.

Sincerely yours,



The Chief Justice

Copies to the Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

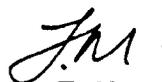
April 4, 1985

Re: No. 84-68 - Kerr-McGee Corp. v. Navajo Tribe

Dear Chief:

Please join me.

Sincerely,

  
T.M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 4, 1985

Re: No. 84-68, Kerr-McGee v. Navajo Tribe

Dear Chief:

Please join me.

Sincerely,

H.A.B.

The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 3, 1985

84-68 Kerr-McGee v. Navajo Tribe

Dear Chief:

Please add at the end of the next draft of your opinion that I took no part in the consideration or decision of the above case.

Sincerely,



The Chief Justice

lfp/ss

cc: The Conference

17  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

April 10, 1985

Re: No. 84-68 Kerr-McGee Corp. v. Navajo Tribe of Indians

Dear Chief,

Please join me.

Sincerely,  
*WR*

The Chief Justice

cc: The Conference

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

6  
CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

April 3, 1985

Re: 84-68 - Kerr-McGee v. Navajo  
Tribe of Indians

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

Copies to the Conference

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

April 3, 1985

No. 84-68 Kerr-McGee Corp. v. Navajo Tribe of Indians

Dear Chief,

Please join me.

Sincerely,

*Sandra*

The Chief Justice

Copies to the Conference

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