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Dist. 410 U.S. 743 (1973)

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William H. Rehnquist
US Supreme Court Justice

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SUPREME COURT OF THE UNITED STATES

No. 71-1069

Associated Enterprises, Inc., and
Johnston Fuel Liners,
Appellants,
v.
Toltec Watershed Improvement
District.

On Appeal from the
Supreme Court of
Wyoming.

[March 20, 1973]

PER CURIAM.

In this case we are confronted with an issue similar to the one determined today in *Salyer Land Company v. Tulare Lake Basin Water Storage District*, — U. S. —. Appellee Toltec Watershed Improvement District was established after referendum held pursuant to Wyoming's Watershed Improvement District Act, Wyo. Stat. Ann. §§ 41-354.1 to 41-354.26. After formation, appellee sought a right of entry onto lands owned by appellant Associated Enterprises, Inc., and leased by Johnston Fuel Liners for the purpose of carrying out studies to determine the feasibility of constructing a dam and reservoir. When Associated resisted, the district sought to enforce its right in state court. Arguing that the statutes authorizing the referendum violated the Equal Protection Clause since under § 41-354.9 only landowners are entitled to vote and under § 41-354.10, a watershed improvement district cannot be determined to be administratively practicable and feasible unless a majority of the votes cast, representing a majority of the acreage in the district, favor its creation, appellants maintained

that the district was illegally formed. The trial court agreed that had the district been formed in violation of the Equal Protection Clause, appellants would have a good defense under state law to the asserted right of entry, but it held against them on the merits. The Wyoming Supreme Court affirmed.

Appellants urge here that the provisions entitling only landowners to vote and weighting the vote according to acreage violate the Equal Protection Clause. Like the California water storage district, the Wyoming watershed district is a governmental unit of special or limited purpose whose activities have a disproportionate effect on landowners within the district. The district's operations are conducted through projects and the land is assessed for any benefits received. *Id.*, §§ 41-354.17, 41-354.21, 41-354.22. Such assessments constitute a lien on the land until paid. *Id.*, § 41-354.23.

We cannot agree with the dissent's intimation that the Wyoming Legislature has in any sense abdicated to a wealthy few the ultimate authority over land management in that State. The statute authorizing the establishment of improvement districts was enacted by a legislature in which all of the State's electors have the unquestioned right to be fairly represented. Under the act, districts may be formed only as subdivisions of soil and water conservation districts. *Id.*, § 41-354.3. And a precondition to their formation referendum is a determination by a board of supervisors of the affected conservation district, popularly elected by both occupiers and owners of land within the district, that the watershed improvement district is both necessary and administratively practicable. *Id.*, §§ 41-354.7, 41-354.8; Wyoming Conservation Districts Law, Wyo. Stat. Ann. § 11-234 *et seq.*, § 11-243. As in *Salyer, supra*, we hold

that the State could rationally conclude that landowners are primarily burdened and benefited by the establishment and operation of watershed districts and that it may condition the vote accordingly. The judgment appealed from is, therefore,

Affirmed.