

## ABSTRACTS

### Volume 12

Richard D. Gragg III, et al., *The Location and Community Demographics of Targeted Environmental Hazardous Sites in Florida*, 12 J. LAND USE & ENVTL. LAW 1 (1996).

This Article focuses on the Florida Environmental Equity and Justice Commission's report concerning whether environmental hazards are disproportionately located in minority and low income communities in Florida. The Article provides a comprehensive background of the environmental justice movement in the United States and in Florida. Next, it describes the Commission's study and discusses the methodology that the Commission used for its proximity and demographic analysis. The Article finds that targeted environmental waste sites are disproportionately located near minority and low income communities and suggests the next step in examining environmental justice problems in Florida. Finally, the Article provides comprehensive graphs and tables illustrating the results of the Commission.

Martin H. Belsky, *Indian Fishing Rights: A Lost Opportunity for Ecosystem Management*, 12 J. LAND USE & ENVTL. LAW 45 (1996).

This Article targets the problem of depletion of salmon and steelhead fisheries in the Northwest United States. The Article provides a brief overview of the *Sohappy v. Smith* and *United States v. Washington* decisions, which promoted regulation and conservation of these fisheries. Next, the Article discusses the Ecosystem Management Model, which these courts declined to adopt. Additionally, a description of the legislative measures taken in response to these two cases is provided. The Article concludes that adoption of an ecosystem management approach to fisheries management is essential to the future well-being of the fisheries in the Northwest United States.

Charles E. Connerly & Marc Smith, *Developing a Fair Share Housing Policy for Florida*, 12 J. LAND USE & ENVTL. LAW 63 (1996).

This Article focuses on the prevalent problem of increasing concentrations of poverty in the inner city and social isolation of inner-city residents in major American cities caused by the mass exodus of middle class, working residents to the suburbs. The Article advocates the implementation of fair share housing programs to remedy these problems of socioeconomic isolation. Specifically, the Article argues that Florida has an optimal statutory scheme to easily introduce such a program. The Article gives a description of fair share programs, including federal efforts toward fair share housing and the state programs of California, New Jersey, Massachusetts,

Connecticut, and Oregon. Finally, the Article closes with five alternatives for a fair share program suited specifically for Florida, utilizing the elements of other federal and state approaches to fair share housing.

Colin Crawford, *Analyzing Evidence of Environmental Justice: A Suggestion for Professor Been*, 12 J. LAND USE & ENVTL. LAW 103 (1996).

This Article addresses the inherent prejudices in modern environmental policies and practices. Specifically, this Article discusses the continuing debate regarding the strength of the correlation between the location of hazardous waste facilities and an area's minority population. Professor Crawford urges his contemporaries, particularly Professor Vicki Been, to expand their evidentiary fields to include statistics of an area's standard of living in order to obtain an accurate analysis of the motives behind locating hazardous waste facilities in certain areas. The Article concludes with a case study of Noxubee County, Mississippi to demonstrate the effect of applying this expanded method of research.

Raed Mournir Fathallah, *Water Disputes in the Middle East: An International Law Analysis of the Israel-Jordan Peace Accord*, 12 J. LAND USE & ENVTL. LAW 119 (1996).

This Article discusses the role of the Jordan River basin in the peace accord (Treaty) between the state of Israel and the Hashemite Kingdom of Jordan. After reviewing past water disputes involving the Jordan River, the water allocation and management sections of the Treaty are compared with the Treaty's predecessor, the Main Plan. Even though it was never ratified, both Israel and Jordan tacitly conducted their respective water polices in accordance with the Main Plan. This discussion is followed by a comparison of the Treaty with the substantive and procedural requirements of the International Law Commission Draft Articles and other international water law theories: equitable utilization, no significant harm, and procedural duties. Based on this analysis, the author predicts that the Treaty will influence future water disputes in the area.

Dana Crosby, *Water, Water, Everywhere, But Not Enough to Drink?: A Look at Water Supply and Florida's Growth Management Plan*, 12 J. LAND USE & ENVTL. LAW 153 (1996).

This Article discusses water supply problems in Florida, specifically addressing water supply and local and regional planning laws. First, background is provided on Florida's current water situation, including Florida's state and local growth management plans. Additionally, the Article analyzes the role of the water management districts in Florida. The Article examines two factors contributing to Florida's water supply problems: pollution and population growth. Finally, the Article concludes with recommendations to alleviate these water problems, including leadership and coordination in

planning, emphasis of regional planning components, further research of the local supply first policy, promotion of conservation, and finally, encouragement of desalination efforts.

Thomas Lundmark, Book Review, INTRODUCTION TO U.S. ENVIRONMENTAL LAWS (by Edward E. Shea), 12 J. LAND USE & ENVTL. LAW 171 (1996).

*Introduction to U.S. Environmental Laws* by Edward Shea is a book designed to introduce foreigners to American environmental law, providing a chapter on each of the major federal environmental enactments. Being a lecturer in Europe on American environmental law, Dr. Lundmark offers his unique insight into the effectiveness of Mr. Shea's book as an introductory educational tool. The book review describes the subject matter of the book and comments on its organization. Further, Dr. Lundmark points out several of the book's substantive flaws and omissions. Finally, the author offers several remedies to the book's shortcomings.

Richard J. Lazarus, *Litigating Suitum v. Tahoe Regional Planning Agency in the United States Supreme Court*, 12 J. LAND USE & ENVTL. LAW 179 (1997).

On May 27, 1997, the United States Supreme Court decided *Suitum v. Tahoe Regional Planning Agency*, a case addressing ripeness issues as they pertain to regulatory takings and transferable developmental rights (TDRs). As record counsel for the Tahoe Regional Planning Agency in the *Suitum*, Professor Lazarus considers the strategic litigation choices made by both parties and their impact on the *Suitum* litigation. By way of introduction, this essay recounts the *Suitum* facts from two different perspectives, that of petitioner and respondent. Then the essay explores the ways that the parties chose to litigate their respective sides, expounding upon the issues that the parties chose to emphasize in their briefs and at oral argument. Finally, the essay reflects on what happened at oral argument and projects the *Suitum* outcome, based largely on the questions posed by the Justices at oral argument. A brief addendum provides the author's thoughts on the actual outcome of the case.

Russel M. Lazega and Charles R. Fletcher, *The Politics of Municipal Incorporation in South Florida*, 12 J. LAND USE & ENVTL. LAW 215 (1997).

In the past few years, more affluent unincorporated communities have chosen incorporation, particularly in South Florida. This Article addresses the recent incorporation phenomenon in Florida, examining the causes and effects of the movement. The first part of the Article provides background on the structure of Florida's local government system. Additionally, the Article discusses the advantages of incorporation to Florida's communities, explaining the impetus for this new trend. Next, the Article explores the revenue tax base erosion resulting from these recent incorporations and

discusses other problems caused by the incorporation wave. Lastly, the Article presents potential options to assuage the incorporation crisis, examining the advantages and disadvantages of each of these proposals.

Robert P. Butts, *Private Property Rights in Florida: Is Legislation the Best Alternative?*, 12 J. LAND USE & ENVTL. LAW 247 (1997).

This Article analyzes the Bert J. Harris, Jr. Private Property Rights Protection Act (Act) passed by the Florida Legislature in 1995. In addition to examining the legislation, the Article includes an examination of the Act in the context of existing Florida takings case law. This is done by comparing the present case results to the anticipated results under the Act. This evaluation is followed by reviewing the perspective views of both the property rights proponents and opponents. Next, the author discusses the anticipated state of takings law in Florida. The author concludes that legislation is the best way to address takings laws in Florida and a more permanent alternative, such as a constitutional amendment, is presently premature since takings law is still evolving.

Paul S. Weiland, *Amending the National Environmental Policy Act: Federal Environmental Protection in the 21st Century*, 12 J. LAND USE & ENVTL. LAW 275 (1997).

The National Environmental Policy Act (NEPA) represents the cornerstone of American environmental law and marks the beginning of the environmental law statutory movement in the United States. This Article traces the evolution of NEPA and the environmental movement and describes the framers' intent in passing NEPA. Next, the Article examines judicial and executive interpretations of NEPA. The Article concludes by assessing NEPA's present state and suggesting possible reforms to ensure a strong future commitment to NEPA.

Shawn M. Willson, *Exactng Public Beach Access: The Viability of Permit Conditions and Florida's State Beach Access Laws After Dolan v. City of Tigard*, 12 J. LAND USE & ENVTL. LAW 303 (1997).

In the aftermath of *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*, local governments may find it more difficult to utilize permit conditions as a tool for preserving beach access. This Comment explores the viability of Florida's beach access laws after these decisions, examining the potential effects on permitting for construction at the local level. As an introduction, the Comment reviews Florida's current beach access statutes and discusses the *Nollan* and *Dolan* cases. The Comment then analyzes the true meaning of the "rough proportionality" requirement of *Dolan*, entertaining views from subsequent case law and commentators. Additionally, the Comment addresses problems that *Dolan* may create in Florida's access laws. The Comment concludes by offering suggestions to preserve beach access in Florida, including proposals for amending Florida's statutory chapter on beach access, platting of public beach access points, and creating a citizen standing provision to enforce beach access.

Leigh Derenne Braslow, *Coastal Petroleum's Fight to Drill Off Florida's Gulf Coast*, 12 J. LAND USE & ENVTL. LAW 343 (1997).

This Comment examines the six year litigation between Coastal Petroleum and the State of Florida over a vast lease of oil drilling rights that the State and Coastal negotiated almost half a century ago. Coastal Petroleum argues that Florida's 1990 offshore ban on oil drilling deprives the company of its property rights. The company also argues that it should not be required to post an enormous security bond in order to obtain its drilling permit for the leased area. The Comment analyzes five different legal doctrines that might be asserted in litigation: (1) Submerged Lands Act; (2) public trust doctrine; (3) vested rights; (4) Fifth Amendment takings; and (5) substantive due process. The author concludes that to the detriment of Florida's valuable natural resources, Coastal probably has a better chance at winning the litigation.

Dana M. Tucker, *Preventing the Secondary Effects of Adult Entertainment Establishments: Is Zoning the Solution?*, 12 J. LAND USE & ENVTL. LAW 383 (1997).

This Comment examines the effects of the adult entertainment industry on America's communities and addresses whether current legal protections adequately shield communities from negative secondary effects resulting from the industry. The Comment begins by recounting the history of municipalities' abilities to zone out adult entertainment establishments, describing the growth of the industry, and outlining the growth of their First Amendment protection. Next, the Comment examines the potential secondary effects resulting from adult entertainment establishments, including the spread of AIDS, increased prostitution, rape, crime, and neighborhood deterioration. The author discusses whether zoning is a viable method for decreasing these secondary effects from America's neighborhoods. Finally, two additional alternatives are presented to combat secondary effects. The author concludes that zoning should be combined with these additional alternatives to reach the best desired result for the optimal health of America's neighborhoods.

Martha Mann, Review, *Recommended Legal Web Sites for Land Use and Environmental Law*, 12 J. LAND USE & ENVTL. LAW 425 (1997).

This review of legal web sites for environmental and land use law serves as a useful tool for practitioners looking to expand their research to the vast array of information on the internet. The author provides a brief overview of the beginnings of the internet and how do an internet search. The review focuses on describing many of the major web sites containing information about either land use or environmental law.