

ABSTRACTS

VOLUME 18

Edward A. Fitzgerald, *The Seaweed Rebellion: Federal-State Conflicts Over Offshore Energy Development*, 18 J. LAND USE & ENVTL. L. 1 (2002).

This article addresses the conflict, commonly called the Seaweed Rebellion, between federal and state governments regarding offshore energy development on the outer continental shelf. It focuses on Florida's involvement in the conflict and follows the evolution of Florida's position from a supporter to an opponent of offshore development. The article discusses the major issues faced by administrations from Franklin D. Roosevelt through George W. Bush and the policies implemented by each. The article recommends the establishment of an ocean management program and provides suggested statutory changes to help Florida protect its coast in the future.

Blake Hood, *Transgenic Salmon and the Definition of "Species" Under the Endangered Species Act*, 18 J. LAND USE & ENVTL. L. 75 (2002).

This note considers how transgenic Salmon should be classified under the current definition of species in the Endangered Species Act. The author first considers and explains the different historical definitions for species of animals, such as: Taxonomists views of species; the Essentialists views; Darwin's theory of evolution as it relates to the definition of species; Mayr's Biological Species Concept (BCS); and other more general considerations. Following this scientific analysis, the author looks to the Endangered Species Act, its regulations, and judicial definitions of species to examine how lawmakers have defined species.

After establishing these differing views on species, the author explores how transgenic Salmon - genetically engineered salmon - fit within this legally-established view of species. Noting that transgenic Salmon, like other genetically modified fish, are regulated by the government, the author stills points out that there may be potential problems of threats posed by these genetically engineered fish to the general population of salmon.

Thusly, the author concludes that transgenic Salmon, as they may cause harm to Salmon, are not deserving of protection under

the Endangered Species Act, as they are not a species but a hybrid, not a category worthy of protection.

Charles R. Fletcher, *Florida Resource Development: A Call for Statewide Leadership*, 18 J. LAND USE & ENVTL. L. 113 (2002).

In his article, *Florida Water Resource Development: A Call for Statewide Leadership*, Charles R. Fletcher argues that Florida's current drought is due to a lack of statewide leadership in water resource planning and development. In discussing how Florida might improve its system, Mr. Fletcher surveys water resource development in North Carolina, New York, Texas, Kansas, Arizona, and California. These states offer alternatives to Florida's current system, and Mr. Fletcher identifies a number of proposals to effectively increase water resource development in Florida without the need for revision of Florida's administrative water use permitting system.

Michael C. Soules, *Constitutional Limitations of State Growth Management Programs*, 18 J. LAND USE & ENVTL. L. 145 (2002).

This article focuses on the under-analyzed facet of growth management efforts- their constitutional limitations. The goal is to aid policymakers by providing an analysis of successes and failures of existing state growth management plans. The author first analyzes the general structure of growth management programs in three states: Florida, Oregon, and Vermont. Then the author discusses several different constitutional topics in which he examines the best ways in which any constitutional deficiencies could be corrected while still meeting the goals of growth management. These topics include relevance of regulatory takings, unlawful delegation of power, standing, and due process. The author then concludes with suggestions for lawmakers to avoid breaching the constitutional limits upon state growth management efforts.

Alice F. Harris, *Recent Developments in Land Use & Environmental Law*, 18 J. LAND USE & ENVTL. L. 187 (2002).

This section highlights recent developments in federal and state environmental and land use case law. The section also summarizes Florida Legislation from the 2002 Legislative Session. Readers may also research these topics online at the official website of the Florida Legislature, <http://www.leg.state.fl.us>, the Florida Department of Environmental Protection's website, <http://www.dep.state.fl.us>, and

the Florida Department of Community Affairs' website, [HTTP://www.dca.state.fl.us](http://www.dca.state.fl.us).

J. David Breemer, *Overcoming Williamson County's State Procedures Rule: How the England Reservation, Issue Preclusion Exceptions, and the Inadequacy Exception Open the Federal Courthouse Door to Ripe Takings Claims*, 18 J. LAND USE & ENVTL. L. 209 (2003).

This article discusses an avenue available to takings claimants so that they may open the nearly closed door of the federal courts. In *Williamson County*, the United States Supreme Court established two ripeness prongs that create powerful barriers to landowners seeking to have their takings claims heard on the merits in federal court. Through an in depth analysis of the facts and litigation of this case and others, the author assesses the foundation of the state procedures requirements and concludes it is not required by the Takings Clause. The article scrutinizes the rule's fundamental unfairness and error in its application. Additionally, the author addresses exceptions that should allow many takings claimants to raise their federal constitutional claim in the federal courts.

Tara Boldt-Van Rooy, *"Bottling Up" Our Natural Resources: The Fight Over Bottled Water Extraction in the United States*, 18 J. LAND USE & ENVTL. L. 267 (2003).

This note begins by looking at the bottled water industry and its recent, enormous growth — for instance, in 2001 U.S. consumers drank five billion gallons of bottled water. Noting that the industry has grown in such a significant manner, this note takes issue with the regulations of the bottled water industry. The author argues that the federal regulations, state regulations, and self-imposed regulation (from the industry itself) were insufficient because the regulations focus on the quality of the water extracted from the source versus the quantity of the water extracted.

Following the explanation of the author's theory, that the industry should be regulated in the amount that it extracts, the author explores the environmental issues experienced in several states, including Michigan, Wisconsin, Texas, and a specific case study in Florida. Arguing that extraction for bottled water, taken from a local source and shipped elsewhere, causes significant environmental problems such as salt-water intrusion, and depletion of the local water sources, the author supports her quantity-based regulation theory.

Finally, the author suggests, as a means of counteracting the negative environmental impacts experienced because of bottled water extraction, that states: (1) classify water as a natural public resource; (2) restrict bulk transfers of water; (3) encourage experimentation with desalinization processes; and (4) establish eco-labeling programs to cover the costs incurred locally.

Robert E. Deyle and Mary Kay Falconer, *Revenue Options for a Risk-Based Assessment of Developed Property in Hurricane Hazard Zones*, 18 J. LAND USE & ENVTL. L. 299 (2003).

This article focuses on minimizing the risk of developing land in hurricane-prone areas. First, the author discusses major local emergency management services associated with hurricanes and methods for estimating the costs of those services. Second, the author summarizes a method for apportioning those costs based on alternative revenue options. Third, the author assesses the potential for financing local emergency management services associated with hurricanes. Finally, the author examines the feasibility of local emergency financing in the context of state constitutional and legislative authorities in Florida.

Jennifer A. Sullivan, *Laying Out An "Unwelcome Mat" to Public Beach Access*, 18 J. LAND USE & ENVTL. L. 331 (2003).

Florida beaches attract tourists from around the world. However, many are unaware of the issues surrounding public beach access; issues that potentially threaten the ability of the Florida visitor to enjoy the warm sands and blue waters that define the state to many. In her comment, Ms. Sullivan revisits the issue of public beach access and the doctrine of customary usage. Specifically, the battle that is occurring in the over-development of Florida Panhandle beaches is analyzed, with the "fishing village" of Destin serving as a prime example. The effect of recent Florida decisions concerning strict adherence to local comprehensive plans is applied to the current problems facing Panhandle beaches. Finally, Ms. Sullivan documents four distinct areas that have historically proved problematic within other areas of the state and discusses potential remedies as applied to the village of Destin.

Joshua M. Duke and Kristen A. Sentoff, *Managing Isolated Wetlands after Solid Waste and Tahoe: The Case of Delaware*, 18 J. LAND USE & ENVTL. L. 355 (2003).

Perhaps as few as fifteen states have adequate protection of isolated wetlands, which were left vulnerable by the U.S. Supreme Court's *Solid Waste* decision. This paper also examines the recent *Tahoe* decision and the case of Delaware to assess the impact of *Solid Waste* on isolated wetlands. The interim between *Solid Waste* in 1999 and any forthcoming legislation is the most challenging time, for this is when landowners can manifest their investment-backed expectations for recently proscribed land uses. The interim also produces uncertainty, which may lead to suboptimal landowner decisions. If state law is put in place soon, the government will minimize the possibility of costly compensation for regulatory takings and minimize the degradation of isolated wetlands. One possible solution to the difficulties in crafting swift legislation is the use of moratoria.

Karen Smith, Book Review: LAND CLAIMS IN EAST TIMOR, by Daniel Fitzpatrick, 18 J. LAND USE & ENVTL. L. 467 (2003).

In "Land Claims," Daniel Fitzpatrick presents a comprehensive and interesting view of the challenges facing the fledgling East Timorese government. He reviews the variety of competing land claims, from those of traditional occupiers of land in East Timor to the claims of Indonesian nationals following East Timor's bid for independence. In addition to giving a broad picture of the competing land claims situation, Mr. Fitzpatrick also illustrates individual situations, humanizing the problem for his readers. "Land Claims" is an interesting read for those interested not only in international law, including the laws of property and occupation, but also for those interested in the human issues arising from conflicts under those laws.

Cynthia Norgart, Recommended Web Sites For Watershed Management, 18 J. LAND USE & ENVTL. L. 471 (2003).

Most practitioners have become very familiar with researching the internet's vast quantity of information with the convenient click of the mouse. In the past several years, the *Journal of Land Use and Environmental Law* has attempted to simplify the overwhelming sea of information through its annual website review. Past reviews have provided outlines on websites focusing on Wetlands law, Oceans and Coastal law, and Endangered Species.

This section provides an outline of useful websites on Watershed Management.

Ben Bush, *Recent Developments in Land Use & Environmental Law*, 18 J. LAND USE & ENVTL. L. 477 (2002).

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