

## ABSTRACTS

A. Dan Tarlock, *Is There a There There in Environmental Law?*, 19 J. LAND USE & ENVTL. LAW 214 (2004).

The main question the author poses is: what have environmentalism and environmental regulation contributed to the law? In other words, is environmental law a legitimate field of law? The author answers these questions by discussing the origins and legal foundations of environmental law. However, he still questions whether environmental law will someday be extinct. In discussing the jurisprudential sources of environmental law he focuses on legal positivism; sociological jurisprudence; and the legal revolution that focuses on ecosystem integrity concerns of future generations. The discussion continues about the birth of environmental law as a way to compel administrative agencies, private industry and local governments to adopt a new process of making decisions. The article next challenges the contention of environmental law that nature will remain in balance if not disturbed. The article ends by the author identifying five principles to guide environmental law decision processes in the future.

Joseph Van Rooy, *The Development of Regional Impact in Florida's Growth Management Scheme: The Changing Role in Regionalism*, 19 J. LAND USE & ENVTL. L. 255 (2004).

This paper examines whether regionalism has been eroded from Florida's DRI program, and whether the DRI program should be replaced with a system of regional governance. This paper will analyze the evolution and development of Florida's growth management legislation generally, and focus on the development of regional impact (DRI) program specifically, through the lenses of the theories of regionalism and localism. Key findings resulting from this analysis include: 1) regionalism has not played an important role in Florida's growth management scheme; 2) regionalism's small role within Florida's growth management scheme has declined; 3) the DRI is duplicitous of other permitting programs as well as comprehensive planning; and 4) the DRI over-regulates the wrong developments — those that are large scale and highly capitalized, while under-regulating undercapitalized incremental growth. Therefore, the DRI program should be terminated in favor of a system of regional governance to address these problems. The regional

governance system that is ultimately proposed is modeled after the regional governance structure found in Portland, Oregon, and utilizes the eleven Regional Planning Councils (RPCs) already existing within Florida. The RPCs, in order to address the failures of the DRI and bring a regionalist perspective to Florida's growth management scheme, must be: 1) empowered with regulatory authority; 2) influential in decisions concerning infrastructure; 3) directly elected; and 4) freed from political influence stemming from funding. While challenges exist to the implementation of this proposal, it would greatly increase the effectiveness of regional planning by reducing the fragmentation within local governments and by addressing all developments, not only large, highly capitalized developments.

Donald C. Guy & James E. Holloway, *Finding the Development Value of Wetlands and Other Environmentally Sensitive Lands under the Extent of Interference with Reasonable Investment-Backed Expectations*, 19 J. LAND USE & ENVTL. L. 298 (2004)

This article takes an in-depth look the Supreme Court's decision in *Palazzolo v. Rhode Island*. The article focuses on the effect the decision has on the determination of liability and the proper remedy for an unconstitutional interference with reasonable investment-backed expectations under the Takings Clause, and it discusses the competing social equity and economics analyses of Justice Scalia and Justice O'Connor. With respect to wetlands and environmentally sensitive lands, the article explains the takings analysis and the issues regarding land valuation methods for such lands. The authors explain that social, business and market principles are important considerations in the analysis, and they demand the use of real estate appraisal and investment expertise to determine market value.

Cynthia Norgart, *Florida's Impaired Waters Rule: Is There a "Method" To The Madness?*, 19 J. Land Use & Env'tl. L. 347 (2004).

This article examines Florida's approach to the Total Maximum Daily Load (TMDL) program provided for under the Clean Water Act. In 2001, Florida enacted its methodology for identifying impaired water bodies for which TMDLs will be established. The rule was met with much criticism, including arguments that its methodology was flawed and that it unlawfully modified Florida's existing water quality standards.

The purpose of this paper is not only to analyze the issues that have been raised in litigation challenging Florida's new rule, but also to explore the bigger question of how to deal with scientific uncertainty when it comes to environmental issues.

J. Celeste Sakowicz, *Urban Sprawl: Florida's and Maryland's Approaches*, 19 J. LAND USE & ENVTL. L. 378 (2004)

This note reviews the characteristics, causes and negative impacts created in metropolitan areas plagued by "urban sprawl." Discussed is the history of the changes in land use planning, which reached its zenith in the 1970's, up until today, where urban planners are striving for a balance between urban growth and environmental protection. The Florida Growth Management Act of 1985 ("GMA") is analyzed, particularly with respect to loopholes and lack of cooperation between local and regional entities, which render the GMAs policies ineffective to prevent urban sprawl. Contrasted with the GMA is Maryland's Smart Growth and Neighborhood Conservation Initiative ("Maryland Smart Growth"), which promises to combat urban sprawl through economic incentives for developers, rather than increased regulation. The author discusses whether Maryland's Smart Growth program would be effective, if utilized in Florida, and the possible impediments to its implementation.

Greg Goelzhauser, Book Review: *The Economic Analysis of Environmental Policy and Law: An Introduction*, by Michael Faure & Goran Skogh 19 J. LAND USE & ENVTL. L. 597 (2004).

In "The Economic Analysis of Environmental Policy and Law," Michael Faure and Goran Skogh attempt to fill the gap between environmental economics and environmental law with a study on environmental law and economics. Within this framework, Professors Faure and Skogh employ a comparative case study approach. "The Economic Analysis of Environmental Policy and Law" is a lucid and comprehensive treatment of an area that has become of fundamental importance to the study of environmental law. The book is designed as an introductory text to the study of the economic analysis of environmental law. Both economic and environmental law principles are introduced in a way that assumes no previous knowledge. Considering this objective, the authors have done well to maximize content and sophistication in limited space.