

Volume 28, Issue 3
Fall 1998

REMARK

Overcoming the Seven Myths of Columbia River Salmon Recovery

William Stelle, Jr.

In an attempt to be both provocative and constructive, Mr. Stelle provides frank commentary exposing the less-than-clear truth behind several stated assumptions commonly repeated by the many interests involved in salmon recovery in the Columbia River Basin.

ARTICLES

Return to the River: An Ecological Vision for the Recovery of the Columbia River Salmon

The Independent Scientific Group

The Independent Scientific Group recommends the adoption of a salmon life history ecosystem concept as a guiding foundation to foster recovery of depressed salmon stocks in the Columbia River Basin.

Local Regulation of Natural Resources: Efficiency, Effectiveness, and Fairness of Wetlands Permitting in Massachusetts

Cymie Payne

Ms. Payne analyzes the Massachusetts system of wetlands regulation by conservation commissions. By describing the commissions' history and functions, and evaluating their effectiveness, Ms. Payne concludes the commissions are an effective means of slowing wetlands destruction and managing natural resources.

1997 NINTH CIRCUIT ENVIRONMENTAL REVIEW

Is Equity for Fish and Wildlife a Real Possibility under the Northwest Power Act?

Amy J. MacKenzie

Ms. MacKenzie discusses the Northwest Power Act and its requirement that the Bonneville Power Administration (BPA) treat fish and wildlife equitably when allocating water. Ms. MacKenzie discusses the meaning and role of equitable treatment, and suggests mechanisms by which BPA and the courts can determine whether the equitable treatment mandate is being met.

Critical Habitat Designation under the Endangered Species Act: A Road to Recovery?

Jack McDonald

Mr. McDonald discusses a recent Ninth Circuit ruling setting a higher standard for the Fish and Wildlife Service in determining if critical habitat should be designated upon listing a species under the Endangered Species Act. Mr. McDonald argues that critical habitat designation is not only required by the ESA in all but the rarest circumstances, but is an important component of recovery under the Act.

***In re the Exxon Valdez Alaska Native Class v. Exxon Corp.:* Cultural Resources, Subsistence Living, and the Special Injury Rule**

Christopher V. Panoff

Mr. Panoff examines the special injury rule and its application in the context of Alaska Natives claiming damage to their subsistence way of life. Mr. Panoff argues that although the Ninth Circuit's decision to dismiss the claim was supported by precedent, the court passed on a clear opportunity to abandon the troubled special injury rule.

The Whittier Road Case: The Demise of Section 4(f) Since *Overton Park* and Its Implications for Alternatives Analysis in Environmental Law

Matthew Singer

Section 4(f) of the Transportation Act prohibits federal funding of road construction through parks and recreation areas unless there are no feasible alternatives. In recent years, courts have carved an exception to section 4(f), by permitting agencies to reject alternatives because they do not meet the stated purpose for a project, instead of forcing agencies to show that avoidance alternatives present unique problems or truly unusual factors, as the Supreme Court did in *Overton Park*.

Classifying CERCLA Claims: A Critique of *Pinal Creek v. Newmont Mining*

Tamara A. Taylor

Ms. Taylor examines the propriety of allowing potentially responsible parties (PRPs) under CERCLA to bring cost recovery actions against other PRPs. Ms. Taylor argues that in its recent decision, *Pinal Creek v. Newmont Mining Corp.*, the Ninth Circuit should have followed the lead of other circuits and allowed the plaintiff PRP to bring suit for cost recovery under section 107 of CERCLA.