Volume 25, Issue 2
Spring 1995

ARTICLES

COLLOQUIUM: WHO RUNS THE RIVER?

Sponsored by the Northwest Water Law and Policy Project of Northwestern School of Law of Lewis & Clark College

On November 4, 1994, the Northwest Water Law and Policy Project of Northwestern School of Law of Lewis & Clark College held a colloquium on issues affecting Columbia River salmon. The focal points of the colloquium were two decisions, *Northwest Resource Information Center v. Northwest Power Planning Council* and *Idaho Department of Fish and Game v. National Marine Fisheries Service,* that held that the federal agencies responsible for running the river had violated the Northwest Power Act and the Endangered Species Act. Participants in the conference included attorneys who argues both sides of these cases and other interested parties. These Articles are adaptations of remarks delivered at the colloquium.

COMMENTS

Ms. Somervell reviews the legislative history and analyzes the practical effects of Oregon's Bill 61. She concludes that, although Senate Bill 61 provides Oregon tribes with greater control over the preservation and disposition of their cultural resources, serious flaws remain which will continue to undermine cultural resource protection in Oregon.

NOTES

Problems of Punitive Damages for Political Protest and Civil Disobedience
Kaarin L. Axelsen

Ms. Axelsen examines *Huffman & Wright Logging Co. v. Wade,* a recent Oregon case in which members of Earth First! were assessed punitive damages for trespassing on private property to protest a logging operation. She concludes that the freedom of expression provisions of the U.S. and Oregon Constitutions make punitive damages inappropriate in cases of political protest and civil disobedience.

Animal Habitats in Harm's Way: *Sweet Home Chapter of Communities for a Great Oregon v. Babbitt*
Starla K. Dill

Ms. Dill criticizes the majority opinion in *Sweet Home III.* She argues that, pursuant to the *Chevron* doctrine, the majority should have held the Fish and Wildlife Service interpretation of harm as habitat modification, a reasonable interpretation of the Endangered Species Act and concludes that the Supreme Court should reverse *Sweet Home III* and declare the Fish and Wildlife Service regulation valid.

FIFRA Preemption of Common-Law Tort Claims After *Cipollone*
Sandi L. Pellikaan

Ms. Pellikaan analyzes *Cipollone v. Liggett Group*, applies its two-part test for determining the preemptive domain of a federal act to FIFRA, discusses how post-*Cipollone* decisions have applied to preemption test, and concludes that FIFRA should not preempt common-law tort claims.