

Volume 25, Issue 4 Fall 1995

ANNIVERSARY REMARKS

On May 18, 1995, the Environmental and Natural Resources Law Program of Northwestern School of Law of Lewis & Clark College celebrated its twenty-fifth anniversary. The celebration featured two individuals who play prominent roles formulating environmental and natural resources policy for the United States. These Remarks are adaptations of speeches delivered at the anniversary celebration.

Environmental Law and Millennial Politics

Denis Hayes

Mr. Hayes served as National Coordinator of the first Earth Day in 1970 and International Chairman of the twentieth anniversary of Earth Day in 1990. Reflecting upon the decline of the environmental movement during the past few years, Mr. Hayes challenges movement leaders to acknowledge their weaknesses and offers a strategy for rebuilding public support for environmental protection.

Challenges to Environmental Law

John D. Lesly

Mr. Lesly is the Solicitor of the United States Department of the Interior. Pointing to current efforts by congressional Republicans to weaken many existing environmental laws, Mr. Lesly emphasizes the urgent need for continued scholarship and public service in the fields of environmental and natural resources law.

ARTICLES

Addressing Barriers to Watershed Protection

Robert W. Adler

Professor Adler engages in a comprehensive review of the history of watershed programs in the United States and discusses the underlying issues preventing those programs from succeeding. Recognizing the need for comprehensive watershed-based protections, Professor Adler concludes with a thorough analysis of recommendations for future watershed programs.

Section 7(a)(1) of the "New" Endangered Species Act: Rediscovering and Redefining the Untapped Power of Federal Agencies' Duty to Conserve Species

J.B. Ruhl

Professor Ruhl discusses the history of section 7(a)(1) of the Endangered Species Act, which imposes a duty to conserve species on all federal agencies, and explores the recent administrative and congressional actions affecting this duty. He argues that the provision should be interpreted to require federal agencies to implement programs for the recovery of endangered species.

The Dilemma of Mental State in Federal Regulatory Crimes: The Environmental Example

Susan F. Mandiberg

Professor Mandiberg draws upon Supreme Court case law and traditional common-law principles to suggest a framework for interpreting the mental state provisions of environmental and other regulatory crimes. Unlike other

commentators, she suggests that mental-state analysis be grounded in notions of moral wrongdoing, understood from a modern perspective. Professor Mandiberg then applies this framework to the Resource Conservation and Recovery Act, the Clean Water Act, and the Migratory Bird Treaty Act to resolve some outstanding issues and illuminate others that have not yet been widely addressed by courts.

COMMENT

Wheelchair Accessibility in Wilderness Areas: The Nexus Between the ADA and the Wilderness Act

Jennie Bricker

Ms. Bricker explores the interaction of the Americans with Disabilities Act and the Wilderness Act to determine whether wilderness areas can be made more accessible to individuals with disabilities while simultaneously protecting "wilderness character" in those areas. She concludes that greater access is allowable under the Wilderness Act, though not reflected in currently proposed ADA regulations.

BOOK REVIEWS

Pooling Our Resources: A Review of *Northwest Passage: The Great Columbia River*

Leslie A. Carlough

Mr. Carlough finds this book to be an insightful and entertaining historical analysis of the Columbia River. This Review, like the book, adds perspective to our changing attitudes toward the Columbia River and our treatment of the environment.

The Law and Policy of the Endangered Species Act Reauthorization: Noah's Choices and Ecological Mandarins

Donald A. Carr & William L. Thomas

In this Review of *Noah's Choice: The Future of Endangered Species*, Messrs. Carr and Thomas highlight the potential role of this book in the current congressional debate over reauthorization of the Endangered Species Act. Although critical at times, this Review applauds *Noah's Choice* for recognizing the need to keep species recovery efforts in perspective.

A Moment of Truth: Correcting the Scientific Errors in Gregg Easterbrook's *A Moment on the Earth* *Environmental Defense Fund*

In this detailed and scientifically supported Review, the Environmental Defense Fund finds Easterbrook's portrayal of environmentalists as "doomsayers" to be highly inaccurate and based on a poor understanding of scientific principles. By pointing out specific flaws in Easterbrook's analysis, this Review warns against relying on Easterbrook's work for answers to tough policy questions.

CLEAR THE AIR

A Case History of EPA Overkill

Norman J. Weiner, Clifford B. Olsen & Jerry B. Hodson

The authors represented Taylor Lumber and Treating, Inc., which owns and operates a sawmill and wood treating plant, in a CERCLA enforcement action. Before settling, Taylor suffered an expensive ride through a maze of state and federal regulations that arguably provided little public benefit. Drawing upon the Taylor experience, the authors contend that the current environmental regulatory

system should be overhauled to provide local authorities with more power and flexibility.