

# ENVIRONMENTAL LAW

Northwestern School of Law  
of Lewis & Clark College

---

VOLUME 30

FALL 2000

NUMBER 4

---

## ARTICLES

- Endangered Species Act Enforcement and Western Water Law ..... 735  
*Jennie L. Bricker and David E. Filippi*

Ms. Bricker and Mr. Filippi examine the intersection between the federal Endangered Species Act and western state water law. While the federal fish agencies are calling on water users to contribute to “proportionate share” of their water rights to meet instream flow needs for listed fish populations, the authors contend that a more precise, predictable, and fair approach is one that adheres to the basic principles of the prior appropriation doctrine.

[View this document on Westlaw](#)

- Quartering Species: The “Living Constitution,” the Third Amendment, and the Endangered Species Act ..... 769  
*Andrew P. Morriss and Richard L. Stroup*

Mr. Morriss and Mr. Stroup argue that the Endangered Species Act (ESA) violates the Third Amendment by forcing landowners to quarter endangered species. They further claim that the ESA fails to protect endangered species by misallocating the burdens of that quartering.

[View this document on Westlaw](#)

- International Disregard: Remedies for the Toxic Workplace..... 811  
*Michelle Gorton*

Ms. Gorton examines the failure of various worker protection schemes—the civil and criminal systems, workers’ compensation, and federal statutory laws—to protect workers from increasing exposures to toxic substances in the workplace. Together these schemes make it most cost effective for employers to send their workers into hazardous working situations without adequate protection. The author argues that to address this problem, courts and legislatures should consider a limited expansion of their understanding of workers’ compensation law.

[View this document on Westlaw](#)

Teeth for a Paper Tiger: Redressing the Deficiencies of the Recovery Provisions of the Endangered Species Act.....	843
<i>Eric Helmy</i>	

The recovery planning provisions of the Endangered Species Act suffer from two notable defects: the Secretaries of the Interior and Commerce need not promulgate recovery plans within any specified time frames, and such plans are not enforceable. In this comment, Mr. Helmy illustrates the ecological consequences and legal inadequacies of these defects. He then suggests how legislatures, administrative agencies, and practitioners may rectify or circumvent these defects to affect species recovery.

[View this document on Westlaw](#)

The Spirit of the Salmon: How the Tribal Restoration Plan Could Restore Columbia Basin Salmon .....	867
<i>Melissa Powers</i>	

Columbia River salmon have undergone significant losses in populations due to habitat degradation and destruction. In the face of continued salmon population declines and the real threat of extinction, several fish management entities have developed various salmon recovery plans over the years. Ms. Powers argues for state and federal agencies to adopt the Columbia River Inter-Tribal Fish Commission's "Spirit of the Salmon" tribal restoration plan. She contends that the tribal restoration plan is the best hope for salmon recovery in the Columbia River Basin. Ms. Powers details the plan's main elements, how the plan could lead to salmon recovery, and the significance of the plan as a unique exercise of tribal sovereignty.

[View this document on Westlaw](#)

<b>BOOKS RECEIVED .....</b>	911
<b>EDITOR'S NOTE .....</b>	917