
PREFACE TO SEVENTH EDITION

When George Coggins and Charles Wilkinson first introduced these materials in 1980, their preface justified the departure from the private-law orientation of prior natural resources casebooks, especially the seminal one by Clyde Martz. The rise of the public interest as the central principle animating judicial opinions, legislation, and extensive regulation is no longer breaking news. It has now withstood decades of challenge, and continues to serve as the foundation for this book.

In expanding the scope of coverage and revising materials to focus attention on more recent cases and current issues, such as renewable energy development and climate change, we have resisted the temptation to make the notes in this casebook encyclopedic. Professors Coggins and Glicksman already succeed as thorough compilers in their treatise on PUBLIC NATURAL RESOURCES LAW.

Instead of burdening the casebook with more excerpts and ancillary materials, we have established a web site on which we post a rich assortment of supplemental materials. A research guide for each chapter provides numerous citations to secondary sources and updates on cases. Maps, images, and extended discussions of materials in the book all find a home on the web site. Please visit it at: www.law.indiana.edu/publicland.

This updated edition reflects some reorganization. In general, our aim is to allow classes to cover the foundational material in chapters 1-5 efficiently before getting to the resource-specific chapters (6-13). Chapter 1 contains fewer excerpts and more narrative discussion of the ideas influencing public natural resources management. Chapter 2 concisely explores history through many of the current conflicts influenced by old decisions. The discussion of various trust doctrines reflects new caselaw and principal cases.

Chapter 3 addresses the ubiquitous concern of state-federal relations, with special emphasis on constitutional law. We have selected new preemption cases. The delegation section now introduces students to stewardship agreements as an example of modern delegation of land management away from federal agencies. Chapter 4 addresses four overarching legal issues that pervade natural resources law along with many other subjects of public administration. It employs several new principal cases. We have added cases to illustrate the importance of mitigated FONSI in NEPA practice and to illustrate the role of climate change in species listing and delisting. Chapter 5 closes in on issues peculiar to federal land management, including access to and across public lands. We have expanded the discussion of right-of-way permitting under ANILCA and FLPMA. A new case updates FLPMA land exchange issues.

Chapters 6-13 address the law resource by resource. While we expect all courses to cover at least parts of each of the first five chapters, we have designed the book so that teachers may pick and choose which resources to cover in the final eight chapters. This book works equally well as a survey to touch upon many resource issues, or as an in-depth exploration of three or four resources.

The most significant change in the resource-specific chapters is the addition of a new chapter on energy. It addresses disposition of

resources under the Mineral Leasing Act, hydraulic fracturing (“fracking”), the problems of split estates (particularly oil/gas development under acquired federal lands), solar and wind energy production, and hydropower licensing.

We transformed the old timber resource chapter into a new forest resource chapter, which we believe more accurately portrays the issues at stake in national forest management. The new material addresses directly the issues emerging from the 2013 planning rule and the 2011 decision upholding the 2001 roadless rule. The wildlife resource chapter now grapples with the use of genetically modified crops in national wildlife refuges. Finally, the preservation resource chapter has a new section on marine conservation.

The Seventh Edition Statutory Supplement is a useful accompaniment to this casebook for courses that seek to stress the skills of statutory interpretation. It collects relatively complete versions of just about all of the laws discussed in the principal cases and notes.

Overall, we strive to provide teaching materials that challenge students while conveying the sense of human drama and place that attracted each of us to this legal specialty.

A word about the editing form and style used throughout. We have sought to be rigorous in eliminating irrelevant or tangential matters. Discussions of repetitive procedural defenses, common statements of law (particularly boilerplate recitations on the scope of judicial review), and string citations are generally excluded. Most original footnotes have also been omitted. Where footnotes are retained, they still bear the court’s or author’s original number. Footnotes inserted by the editors are preceded by an asterisk instead of a number. Textual deletions are indicated by “* * *,” but omissions of authorities have not been signaled.

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We of course accept full responsibility for the inevitable errors and omissions commonly associated with these ventures.

As always we welcome feedback from users (send to rfischma@indiana.edu).

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