

# ENVIRONMENTAL LAW

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- Tales of French Fries and Bottled Water: The Environmental Consequences of Groundwater Pumping..... 3  
*Robert Glennon*

Robert Glennon, Professor of Law and Public Policy at the University of Arizona Rogers College of Law and author of *Water Follies: Ground Water Pumping and the Fate of America's Fresh Waters*, presented several humorous, but serious, tales of groundwater mismanagement in the United States as the 19th Annual Natural Resources Law Distinguished Visitor at Lewis & Clark Law School. Professor Glennon's research for *Water Follies* took him across the nation, cataloguing private, corporate, and government excesses, and here he shares some of his favorite stories demonstrating the disconnect between the law governing this precious resource and the science which counsels a more balanced approach.

## ARTICLES

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Analysis of the Railroad Commission of Texas' use of site and risk assessment in a neighborhood built over crude oil storage tanks known as Kennedy Heights demonstrates how purportedly scientific processes can fail to embody the kinds of rational analytical approaches on which regulatory agencies publicly claim they depend. Primary documents outlining the various efforts of the state agency, in coordination with a regulated entity, suggest that these processes were shaped in different ways, used divergent assumptions, and ultimately yielded findings that more closely resembled arguments than results.

Mediating Sustainability: The Public Interest Mediator in the New Zealand Environment Court .....	61
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The New Zealand Environment Court is a unique institution that adjudicates disputes arising under the country's sustainability-based legislation. In addition to rendering decisions, the Court maintains an innovative mediation service where its own technically-oriented commissioners serve as mediators to help parties explore potential settlements to their disputes. This Article highlights the structure of the mediation program and discusses how these commissioners are well positioned to protect the public interest during confidential environmental mediations.

Remembering Rain.....	105
<i>Troy L. Payne &amp; Janet Neuman</i>	

The story of drought is common and old. Civilizations have come and gone in its wake. This is a story of survival—a story of rain.

Many have forgotten,  
but rain remembers.

## ESSAY

What Are Lobbyists Saying on Capitol Hill? Climate Change Legislation as a Case Study for Reform.....	137
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This Essay presents an examination of the lobbying positions taken by ten large companies with a direct stake in climate change legislation by Congress. The Lobbying Disclosure Act does not require firms to report their positions on pending legislation and the result is a serious gap in public accountability. The study shows this variability by contrasting the amount that each company voluntarily chooses to reveal about its positions on nine key issues under active debate. The Essay concludes that to close this gap, Congress must reform the Lobbying Disclosure Act to require “truth in lobbying.”

## COMMENTS

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<i>Monique Lee Hawthorne</i>	

As one of the world's faster growing economies, China is experiencing growing pains in all different varieties. Ms. Hawthorne examines the environmental ramifications of the rapidly expanding manufacturing industry and specifically focuses on the consequences of toxic work exposure. She identifies reasons why the Chinese should not pattern their occupational health standards after the United States, and proposes that the Chinese government should instead apply concepts from the precautionary principle in deal with toxic work exposure.

The Politics of Preemption: An Application of Preemption Jurisprudence and Policy to California Assembly Bill 1493 .....	175
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*Sara A. Colangelo*

In this Comment, Ms. Colangelo examines the nature of AB 1493’s greenhouse gas emissions reduction mandate and the potential application of modern preemption challenges under the Clean Air Act and Energy Policy and Conservation Act. She explores whether a recent confluence of policy, politics, and science may serve to reframe or redefine the arguments related to preemption in this particular case. The Comment concludes by discussing possible outcomes of the challenge to AB 1493 resulting from preemption analysis, the recent confluence, related court decisions, and the tension between statutes with intersecting federal authority over automobile regulations.

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*Troy L. Payne*

The last two hundred years worth of human experimentation with energy have had a very real impact on this planet—*two hundred* years spawned technology powerful enough to end life here. That time span is a galactic blink. Some changes, which seemed small at first, threaten to undo a delicate balance four billion years in the making. The impacts of just a few degrees difference in average surface temperatures begin small, in the water with plankton and algae, but reverberate up the chain. The greater heat energy in the system turns into something: more storms of greater strength, less ice, more water along coastlines, more aridity and expansion of deserts north and south from the equator. Just a few more degrees and things could get right down apocalyptic. That isn’t radical ecology.

The world is fragile, and so are we, but our consciousness is quite an adaptive tool.

Nature has this way of designing modifications over time which best suit balance and stability. Left to its own devices it strives for equilibrium. So, perhaps our awareness—a miraculous gift from Time—can and should be put to the idea of balance and to the work of harmony.

Perspective = Humble.

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