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ESSAY

When Congress enacted major environmental statutes in the late 1960s and early 1970s, these laws defied the conventional logic of public choice theory, which contends that legislation benefiting the general public against the special interests will seldom succeed. The persistent federal stalemate on environmental policy innovation during many of the intervening years is much more consistent with this public choice logic. Today we are facing the need for significant environmental policy innovation once again, especially with regard to the problem of global warming and climate change. The questions worth asking are whether we can identify the factors that once made policy innovation possible in the late 1960s and early 1970s and if those factors can be produced once again. This Essay identifies the important factors that create conditions conducive to the required policy innovation, and argues that conditions are not yet comparable, although that may change.

ARTICLES

The debate over environmental policy is increasingly conducted in language with strong religious overtones and religious imagery pervades many environmental debates. In this Article, the authors engage in a thought experiment, arguing that there are valuable lessons to be learned from treating environmentalism as if it were subject to the First Amendment's prohibition on laws "respecting the establishment of religion." In particular, the consideration of the economics of the Establishment Clause offers insights into how to structure environmental policies to improve environmental quality.

This Article examines a recent New Mexico Supreme Court decision holding that the New Mexico Environment Department must consider environmental

COMMENTS