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DISTINGUISHED VISTOR ESSAY

The Whale Who Danced the Blues: Some Thoughts on Saving
the World’s Ocean.....1
Rob Verchick

This Lecture uses the story of Tahlequah, a Southern Resident orca who carried her dead calf for seventeen days across the Salish Sea, as a narrative entry point into a broader inquiry about the vulnerability and resilience of the world’s marine habitats.

The world’s oceans and coastal waters—on which we depend for food, oxygen, and climate control—are in desperate shape because of poorly managed human activity, namely pollution, overfishing, and unwise development and extraction. As if that is not enough, climate breakdown has now turbocharged the ocean’s unravelling. Existing ocean governance regimes have failed us. They are too fragmented, fixed, and detached from both ecological reality and coastal communities to meet today’s challenge.

This Lecture proposes an alternative approach, one that is deep, dynamic, and engaged. This approach emphasizes ecosystem-scale management, adaptive legal tools capable of responding to rapid ecological change, and meaningful participation by local and Indigenous communities. Using examples of marine protected areas, mobile conservation zones, dam removal in the Pacific Northwest, and emerging “rights of nature” movements, this Lecture shows how law can be reimagined to support ocean resilience and climate justice. Ultimately, it argues that effective ocean protection is not only a scientific or legal necessity, but a moral project—one that transforms grief and empathy into collective action to sustain the ocean systems on which human and nonhuman life depend.

ARTICLE

Of Fires and Floods: Why Courts Should Adopt a Flood-Based
Analysis to Evaluate Fire-Based Fifth Amendment Claims ...
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William J. Shapiro

In the last several years, litigants have filed numerous Fifth Amendment takings claims arising out of the federal government’s

wildfire suppression activities. These claims collectively seek billions of dollars in compensation, and future claims will almost certainly seek billions more. This Article contends that courts should modify how they evaluate the merits of these claims. Using the 2017 Chetco Bar Fire as a case study to show the factual complexities of modern firefighting, this Article argues that the current analytical framework applicable to fire-based Fifth Amendment claims is muddled and does not consider all the factors needed to disentangle government-caused impacts from nature-caused harms. This Article argues that courts evaluating fire-based Fifth Amendment claims should abandon the current merits test and instead adopt the multi-factor test used in modern temporary flood-based Fifth Amendment claims. Adoption of a consistent merits test would provide much-needed clarity and coherence in this area, particularly as litigation related to wildfires continues to increase.

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<i>Abigail A. Dodd</i>	

Alaska’s constitution embeds a fiduciary public trust obligation to manage wild salmon for the benefit of present and future generations through the common use and sustained yield mandates of Article VIII. This Note argues that the Alaska Department of Fish & Game (ADF&G) and the Board of Fisheries have breached those duties by 1) authorizing and subsidizing large-scale ocean-release hatchery programs—especially in Prince William Sound—that dilute wild genetics and depress productivity; 2) permitting harvest levels that chronically miss escapement targets; and 3) declining to timely designate and rebuild “stocks of concern.” Synthesizing independent, peer-reviewed science with Alaska Supreme Court precedent on “best available information,” precautionary management, and hard-look review, this Note shows that ADF&G’s selective treatment of hatchery and overharvest evidence cannot be squared with constitutional trust responsibilities. This Note further explains why recent decisions recognizing agency discretion do not insulate ADF&G when the withheld or discounted science is materially relevant to sustained yield regulation.

This Note’s doctrinal contribution is twofold: first, reframing sustained yield as an enforceable fiduciary standard that requires conservative action amid uncertainty, and second, clarifying avenues for judicial enforcement under the self-executing provisions of Article VIII and the Alaska Administrative Procedure Act (APA), including broad standing for subsistence users, tribes, non-governmental organizations (NGOs), and commercial stakeholders. This Note concludes by outlining targeted remedies—declaratory relief, precautionary caps on hatchery releases, scientifically defensible escapement goals, and time-bound hard-look reassessments—that realign management with constitutional trust duties and safeguard Alaska’s wild salmon, ecosystems, and communities.

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<i>David Fusco</i>	

The industrialization of food production in America has created a dire threat to the nation's water quality. Concentrated Animal Feeding Operations (CAFOs) produce massive amounts of food, and similarly huge quantities of animal waste, much of which flows into our water systems. This Note surveys the issue of water pollution caused by CAFOs, exploring the federal regulatory failures that have allowed this environmental and public health hazard to persist. The Note also highlights several state-level efforts that have attempted to fill the gap, and concludes by advocating for these and other changes that could provide a solution.