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ESSAY

- Law and the Fourth Estate: Endangered Nature, the Press, and the
Dicey Game of Democratic Governance..... 1
Zygmunt J.B. Plater

Professor Plater discusses his “war story” of the infamous Endangered Species Act case, *TVA v. Hill*, and offers lessons learned about the importance of the public’s perception of a case. He concludes with three suggestions for the public interest lawyer: exhort the press to its high civic duty, become “press savvy,” and create a public interest information archive in cyberspace.

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ARTICLES

- Priority: The Most Misunderstood Stick in the Bundle..... 37
Gregory J. Hobbs, Jr.

Justice Hobbs discusses the continuing role of prior appropriation in western water law and policy. He posits that priority is the most misunderstood and important stick in the bundle of a water right and that the accelerating growth of the West makes fair and efficient administration of water rights, both state-created and federal, the single most deserving feature of twenty-first century water policy.

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- Valuing the Environment: Courts’ Struggles with Natural Resource
Damages..... 57
Dale B. Thompson

Professor Thompson analyzes how courts have handled the problem of calculating natural resource damage (NRD) in the twelve years following the *Exxon Valdez* disaster and the *Ohio v. Department of Interior* decision. The Article focuses on the courts’ use of two principles of calculating NRD identified by the *Ohio* court, and suggests that emphasis on valuation of the environment should be replaced by an emphasis on restoring

damaged resources.

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COMMENTS

The Application of the Endangered Species Act to the Protection of Freshwater Mussels: A Case Study	91
<i>Eric Biber</i>	

Mr. Biber begins with an overview of the biology and status of freshwater mussels and provides a detailed survey of the current human threats to the survival of freshwater mussel species. He examines the tools of protection offered by the Endangered Species Act (ESA) and discusses possible reasons for the success or failure of the ESA in the context of freshwater mussels.

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Endangered Species' Slippery Slope Back to the States: Existing Regulatory Mechanisms and Ongoing Conservation Efforts Under the Endangered Species Act	175
<i>Kevin Cassidy</i>	

Mr. Cassidy analyzes in detail the role that existing regulatory mechanisms and "ongoing conservation efforts" play in listing decisions, and determines that the agencies' interpretation and implementation of these factors is inconsistent with the language of the Endangered Species Act (ESA). The Comment concludes that, unless states and localities can demonstrate that their conservation efforts are actually effective in halting species' decline, the standard of protection afforded by the ESA should be the listing agencies' guidepost when evaluating conservation efforts in listing determinations.

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All Mixed Up About Mixed Waste	219
<i>Rebecca Leonard</i>	

Ms. Leonard discusses EPA's low-level mixed waste rule, which allows generators to store waste subject only to the standards of the Nuclear Regulatory Commission (NRC). She asserts that NRC's regulation is insufficient to protect health and force technology, and that EPA's rule results in an exemption for low-level waste generators that is invalid under the Resource Conservation and Recovery Act.

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BOOKS RECEIVED	239
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