

ENVIRONMENTAL LAW
Lewis & Clark Law School

VOLUME 32

SUMMER 2002

NUMBER 3

ARTICLE

The *Tulare* Case: Water Rights, the Endangered Species Act, and the Fifth Amendment 551
Melinda Harm Benson

Ms. Benson discusses the United States Court of Federal Claims' decision in *Tulare Lake Basin Water Storage District v. United States*. The author critiques the court's finding that the plaintiffs' water contracts constituted protectable property interests and argues that the court improperly applied a physical—as opposed to regulatory—takings analysis. The Article concludes that had the court conducted a regulatory takings analysis, it would have found that the de minimis actual impact on the plaintiffs' rights, as well as the limited nature of the plaintiffs' reasonable expectations to exercise those water rights in a manner that harmed threatened species, prevent any successful compensation claim under the Fifth Amendment.

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CLEAR THE AIR

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Pacific Coast Federation of Fishermen's Associations v. NMFS: A Case Study on Successes and Failures in Challenging Logging Activities with Adverse Cumulative Effects on Fish and Wildlife..... 671

Laura Hartt

Ms. Hartt discusses the implications of *Pacific Coast Federation of Fishermen's Associations, Inc. v. National Marine Fisheries Service*, which affirmed the mandate of the Northwest Forest Plan to protect salmonid habitat at multiple scales. The author explains that the case hold important lessons for environmentalists challenging logging activities with adverse cumulative effects on protected species and their habitats. Ms. Hartt also discusses the decline of biodiversity in forests of the southeastern United States, and concludes that the inadequacies of the National Environmental Policy Act and National Forest Management Act demand regional plans that may better be able to conserve those species threatened by logging's detrimental cumulative effects.

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The Continuing Violations Doctrine and the Clean Water Act: Untenable Solutions and a Need for Reform..... 717

David S. Foster

In his Chapter, Mr. Foster discusses the continuing violations doctrine of the Clean Water Act, which maintains that a discharge occurs each day illegal fill remains in a wetland. The author argues that the Clean Water Act neither expressly nor impliedly authorizes the continuing violations doctrine, but that the Act's failure to hold many potential violators accountable for illegal activities is at odds with the purpose of the statute. Mr. Foster concludes that an amendment incorporating the continuing violations doctrine is necessary to the achievement of Congress's goals in passing the Clean Water Act.

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