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- Water Wrongs: Why Can't We Get it Right the First Time?..... 1
David Getches

This Essay by Dean David Getches is adapted from his presentation as the Natural Resource Law Distinguished Visitor at Lewis and Clark Law School on October 2, 2003. The Essay examines the mistakes we have made in the history of water policy and makes recommendations on how we can get it right in the future.

- From Pick and Shovel to Mountaintop Removal: Environmental Injustice in the Appalachian Coalfields..... 21
Patrick C. McGinley

In this Essay, Professor McGinley examines a century of conflicts between coal companies and the people of the "billion dollar coalfield" communities of central Appalachia. The Essay identifies a troubling paradox: Highly efficient new mining technologies, including so-called "mountaintop removal" strip mining, have resulted in the loss of tens of thousands of well paying jobs while coal production has reached record levels and many coalfield communities remain mired in economic stagnation and poverty. The Essay concludes that state and federal regulatory failures and corporate plans to maximize profits by eliminating coalfield communities have combined to continue the historic deprivation of environmental, economic, and social justice long experienced by coalfield citizens.

ARTICLES

- Living Marine Resources Management: A Proposal for Integration of United States Management Regimes 107
Donna R. Christie

In this Article, Professor Christie provides a comparative analysis of the management regimes of the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act and the Marine Mammal Protection Act—the primary statutes governing the management of living marine resources. The Article then proposes a framework for a comprehensive management regime for living marine resources incorporating an ecosystem-based approach.

A New Time for Denominators: Toward a Dynamic Theory of
Property in the Regulatory Takings Relevant Parcel Analysis 175
Danaya C. Wright

In this Article, Professor Wright addresses the current state of Supreme Court jurisprudence on regulatory takings under the just compensation clause. She explores the problems with looking at the denominator of the equation statically, where the depreciation in value due to regulation is weighed against the value of the property the instant before the regulation. After pointing out some of the inconsistencies in this method, she advocates a more fluid view of the relevant parcel—a dynamic denominator—where the courts would take into account some of the landowner’s actions taken prior to the regulation.

COMMENT

Conservation Easements: Now More Than Ever—Overcoming
Obstacles to Protect Private Lands..... 247
Adam E. Draper

In this Comment, Mr. Draper examines various barriers to the effective use of conservation easements in protecting private lands. After providing a history of conservation easements and discussing the continuing proliferation of urban sprawl, the Comment analyzes various legal and policy obstacles that potentially discourage increased use of conservation easements. The Comment proffers several ways by which landowners can mitigate concerns and ensure that conservation easements provide the benefits and security they seek. The Comment concludes that conservation easements must assume an even larger role in protecting private lands in coming years as more land changes hands; increasing tax incentives and ensuring that landowners are well informed about potential risks and obstacles will only increase use of this valuable land protection instrument.

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