

Research Scholar Paper Projects, 2010-11
(Professor Michael Blumm)

These five projects, briefly described below, are for 3rd and 4th year students. All would all involve considerable oversight from me, with the idea that the project would eventually produce a co-authored article. A prerequisite is that you must have completed at least one upper-class writing requirement. All of these projects are two-semester, three-credit projects that require a draft paper by the end of the first semester and a final by either February 15 or March 1. All would satisfy either of the upper class writing requirements.

You must understand and rigorously adhere to my Paper Writing Commandments, available outside my office or from my assistant, Stacey Pacheco. You must also fill out a Research Scholar application no later than September 10 (and earlier if you have a specific project that attracts you). I must accept the application before you can register for academic credit.

Here are the projects I will supervise in 2010-11:

1. *Property As a Cultural Artifact*—This is a pet project of mine. The project is to survey and expand upon concepts in the first-year property course that reflect the changing “felt necessities” of the time. The paper would survey a good deal of the case law in the first-year Property class to show that Property is a dynamic, socially sensitive set of concepts, not a static, fixed idea. I will favor someone for this project who did well in the Property class.
2. *“Background Principles” of Property Law*—This is an update project, a follow-up of a 2005 article (29 Harv. Envtl. L. Rev. 321) in which we explored eight or ten “background principles” of property law under the Supreme Court’s *Lucas v. South Carolina Coastal Comm’n*, where the Court indicated that these principles were defenses to takings claims, even where regulations produce a complete economic wipeout. This project would update the 2005 article’s findings with case law results over the last five years to see if that article’s conclusions are still valid or are in need of qualification.
3. *Columbia River Salmon in the Courts*—This project would be the latest in a series of articles on Columbia River salmon under the Endangered Species Act (36 Envtl. L. 709 (2006) + 38 Envtl L. 47 (2008)). It would feature Judge James Redden’s latest decisions, and examine in particular the effect of a settlement agreement between the Bonneville Power Administration and several Indian tribes in which the signatory tribes withdrew from the litigation in return for a lot of money for salmon habitat projects.
4. *The Effect of Comment Agencies on NEPA Compliance*—This is another update project, although involving a 20-year period. In 1990 (14 Harv. Envtl. L. Rev. 277), we published an article suggesting that comments submitted by governmental agencies during the NEPA process had a material effect on court’s determinations of whether action agencies satisfied the National Environmental Policy Act. This project would survey NEPA litigation in the ensuing two decades, concentrating mostly on circuit court decisions, to determine whether our 1990 conclusions still hold up.

5. *Dam Removal in the Pacific Northwest: A Progress Report*—In the last decade, there has been determined efforts by river advocates to promote riparian ecosystems by removing dams. Some efforts, like that concerning the lower Snake River dams, have been still-born. But others have succeeded, like the removal of the Marmot Dam on the Sandy River and the Savage Rapids Dam on the Rogue River, have succeeded. And removal of another Rogue River dam, the Gold Ray Dam is underway. Still other dams have been slated for removal but await regulatory approvals and further study, like the Condit Dam on the White Salmon River, two Elway River dams on the Olympic Peninsula, and four Klamath River dams owned by PacifiCorp. This project would survey the results of the dam removal campaign so far and would attempt to what succeeded and what did not. The results should be useful for dam removal proponents in the future.