ENVIRONMENTAL LAW
Lewis & Clark Law School

VOLUME 41 SUMMER 2011 NUMBER 3

ARTICLES

Unnatural Foundations: Legal Education's Ecologically-Dismissive Subtexts 681
Don Ellinghausen, Jr.

This Article examines how law school's philosophical, cultural, and ethical subtexts inhibit students' development of environmental consciousness. A pedagogical process that rewards no-holds-barred competitive individualism presents an unlikely milieu for fostering understanding of an interconnection-rooted ecological paradigm. Legal education abets contemporary environmental "misunderstanding" through its continuing adherence to an anachronistic, anthropocentric curriculum, which nurtures a historically-discredited and ideologically-driven perspective on property, and by condoning an amoral careerism which defines ethics within self-serving professional—as opposed to planetary—parameters.

Transitioning to a Sustainable Energy Economy: The Call for National Cooperative Watershed Planning 707
Ann E. Drobot

Climate change and national security concerns that arise from America's dependence on foreign fuels are causing policymakers to call for the transformation of the U.S. energy economy to a "sustainable energy economy"—one that relies less on fossil fuels and foreign resources and more on water-intensive forms of domestic renewable energy and nuclear power. This Article explores what this transformation will mean for the nation's water resources given the critical role that water plays in energy generation and fuel production. In light of the interdependency that exists between energy and water—often referred to as the "energy–water nexus"—the Article suggests that a successful transformation of the U.S. energy economy requires the integration, by policymakers, of the historically compartmentalized water and energy policy arenas. The article concludes that a cooperative watershed planning effort will be necessary to ensure availability of the water resources necessary to support and sustain the transformation of the energy sector to a "sustainable energy economy."

The Clean Development Mechanism and the Poverty Issue 777
Marie Blévin

Clean Development Mechanisms are part of the Kyoto Protocol flexible mechanisms, and aim both at reducing the greenhouse gas emissions in a host country and at improving sustainable development in that country. But are Clean Development Mechanisms really efficient when it comes to fighting poverty in host countries? What is the real impact of this mechanism? This study shows the past failures, institutional as well as practical, of the system and considers several possible remedies, among them is the creation of a green fund to help Non-Annex 1 countries achieve their goal of poverty alleviation.

2010 NINTH CIRCUIT ENVIRONMENTAL REVIEW

INTRODUCTION 807

CASE SUMMARIES 813

CHAPTERS

Intervention by Non-Settling PRPs in CERCLA Actions 957
Toby A. McCartt

This Chapter examines the issue of non-settling PRPs moving to intervene in CERCLA actions where the government is seeking entry of a consent decree between it and settling PRPs. The Chapter examines one such case in particular, the Ninth Circuit's recent decision in *Aerojet General Corp. v. United States*, and with reference to other cases, examines the most salient issue in these cases—whether a non-settling PRP's interest in a contribution claim against the settling PRPs is a significantly protectable interest sufficient to support intervention under CERCLA Section 113(i) and Rule 24(a)(2) of the Federal Rules of Civil Procedure. The conclusion reached is that a PRP has a significantly protectable interest in a contribution claim only after it has been sued or has settled its liability to the government.

Taking the Bitter with the Sweet: Wenatchi Fishing Rights..... 987
Nolan Shutler

This Chapter examines the Ninth Circuit's 2010 Decision in *United States v. Colville*, which provides the latest in the American Indian fishing rights saga of the Northwest that began in 1855. The court addresses the long and sordid history of contract relations between the United States Government and the Wenatchi Tribe, which now resides on the Colville Reservation. The Wenatchi appealed lower court decisions in pursuit of primary rights—the authority to regulate take—at the Wenatshapam fishery where they have caught salmon since time immemorial. The court concluded that the Wenatchi share fishing rights in common with the Yakama Tribe and Washington State, in a decision which veers from precedent but may, nonetheless, promote tribal sovereignty.

NINTH CIRCUIT INDEX 1027