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## NINTH CIRCUIT REVIEW EDITOR'S NOTE

I am proud to present the 2010–11 Ninth Circuit Environmental Review. This review contains summaries of thirty-three Ninth Circuit Court of Appeals decisions on environmental and natural resource topics, issued between March 2010 and March 2011. The review also presents two chapters authored by Ninth Circuit Review members, closely examining issues raised in several of the summarized Ninth Circuit decisions.

In the first chapter, Toby McCartt examines the issue of non-settling potentially responsible parties (PRPs) seeking intervention in CERCLA actions where the government is pursuing entry of a consent decree between it and settling PRPs. Comparing past case law to the Ninth Circuit's recent decision in *Aerojet General Corp. v. United States*, Mr. McCartt concludes that courts have failed to clearly define the contribution interest non-settling PRPs hold that would allow for intervention under CERCLA and FRCP Rule 24(a), and that a non-settling PRP does not have a significantly protectable interest in a contribution claim until that PRP has been sued or has settled its liability to the government.

In the second chapter, Nolan Shutler discusses the impacts on tribal sovereignty of the Ninth Circuit's decision in *United States v. Confederated Tribes of the Colville Indian Reservation*, which determined that the Wenatchi and Yakama tribes both hold non-exclusive fishing rights in common with the state of Washington. Mr. Shutler begins with an historical examination of the treaty negotiations and subsequent litigation regarding tribal fishing rights at the Wenatshapam Fishery, and concludes that the Ninth Circuit's recent decision altered the analysis of primary rights and failed to restore the Wenatchi's ancient fishery.

The five members of the Ninth Circuit Environmental Review wrote and edited this collection of thirty-three summaries. These members were selected based on their strong writing, analytical abilities, and attention to detail—skills essential to summarizing the Ninth Circuit's complex and technical environmental opinions. The team performed diligently under a demanding schedule, producing this collection of summaries in addition to their regular sourcechecking duties as members of *Environmental Law*. The resulting case summaries accurately present the varied and dynamic environmental opinions most recently decided by the Ninth Circuit.

I would like to thank this year's Ninth Circuit members for their dedication, thoroughness, and enthusiasm. We hope that these summaries and chapters provide a useful legal resource for students and legal practitioners in the area of environmental and natural resource law.

Adrienne DelCotto  
2010 Ninth Circuit Review Editor