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Missouri Environmental Law and Policy Review

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EDITOR'S PERSPECTIVE

Greetings from the University of Missouri School of Law.

First, Professor Johnathan Adler addresses the continuing debate over the meaning of "waters of the United States" based on his testimony to the U.S. Senate Subcommittee on Fisheries, Wildlife, and Water on August 1, 2006 in response to *Rapanos v. United States*.

Second, the Supreme Court recently granted certiorari for *Defenders of Wildlife v. United States Environmental Protection Agency*. That decision raises the issue of whether section 7(a)(2) of the Endangered Species Act applies only to actions of federal administrative agencies where discretionary federal involvement or control is retained. Professor Steven Davison's article argues that application of section 7(a)(2) should be limited to affirmative agency actions where discretionary authority is present. The article maintains the Endangered Species Act should not be applicable to the ministerial actions of an agency under another statute.

Third, Professor Victoria Dawson's article focuses on the development of environmental dispute resolution mechanisms using the Niger Delta region as a case study. Her article suggests combining settlement mechanisms for transnational enforcement of international environmental disputes in order to develop sustainable development objectives under one jurisdiction.

Finally, Michael Wietecki's article presents suggested language to amend the Minnesota Environmental Rights Act to include a provision allowing recovery of attorney's fees where citizens bring claims acting as private attorneys general. His article suggests such an amendment would provide greater access to the court to protect Minnesota's resources.

The case notes in this issue address two 9th Circuit decisions and one 10th Circuit decision. The first note evaluates the *Defenders of Wildlife* case addressed by Professor Davison's lead article. Erik Holland argues that the *Defenders* decision is in conflict with Congressional intent and eliminates the mandatory transfer requirement of section 1342(b).

Eric Oelrich's article analyzes the standing doctrine as it relates to *San Juan County v. United States*. His article contends that because standing and intervention are based largely on discretionary judgments by specific courts, evaluation of a jurisdiction's precedent on both intervention and standing is necessary to determine an intervening party's likelihood of success.

Finally, the note by Amy Ohnemus discusses the largest award in Superfund history, *United States v. W.R. Grace & Co*. Her note argues the decision gives the EPA too much authority by granting the agency the power to classify any action as a removal action.

I hope the issue serves the legal and academic communities well.

Very Best,

Travis A. Elliott
Editor-In-Chief