

Strategies for Environmental Success in an Uncertain Judicial Climate

Table of Contents

CONTRIBUTORS	ix
LIST OF ACRONYMS	xv
INTRODUCTION	
A New Realism About Environmental Law	1
<i>Michael Allan Wolf</i>	
RESPONDING TO THE COURT'S MISAPPREHENSION OF ENVIRONMENTAL LAW MAKING	
Chapter I:	
The Nature of Environmental Law and the U.S.	
Supreme Court	9
<i>Richard J. Lazarus</i>	
Chapter II:	
"They Endured": Mining the Supreme Court's Serviceable Past	41
<i>Michael Allan Wolf</i>	
ASSESSING THE CURRENT POLITICAL AND LEGAL QUANDARY	
Chapter III:	
Conservationists in the Wilderness: The Decline of Environmental Law Making and the Reported	

Death of Environmentalism	65
<i>Sean H. Donahue</i>	
Chapter IV:	
Think Less Like a Mountain, and More	
Like a Realist	115
<i>Paul Boudreaux</i>	

CONFRONTING NEW REGULATORY STRATEGIES

Chapter V:	
Regulatory Underkill in an Era of Anti-Environmental	
Majorities	141
<i>William W. Buzbee</i>	
Chapter VI:	
Securing Judicial Review of Agency Inaction (and Action)	
in the Wake of <i>Norton v. Southern Utah Wilderness</i>	
Alliance	163
<i>Robert L. Glicksman</i>	
Chapter VII:	
Following the Court Off-Road in <i>Norton v. Southern Utah</i>	
Wilderness Alliance	215
<i>Alyson C. Flournoy</i>	

RECONSIDERING THE NATURE OF FEDERALISM

Chapter VIII:	
Federalism's Values in Programs to Protect the	
Environment	247
<i>Christopher H. Schroeder</i>	
Chapter IX:	
Redefining Federalism	259
<i>Douglas T. Kendall</i>	

FOSTERING STATE EXPERIMENTATION

Chapter X:

- State-Based Alternatives for Protecting Wildlife** 307
Susan George

Chapter XI:

- Cooperative Federalism and the Endangered Species
Act—Is There Hope for Something More?** 325
J.B. Ruhl

REACTING TO A CHANGING LITIGATION LANDSCAPE

Chapter XII:

- Thoughts on the Role of the Government Lawyer as
Amicus Curiae** 339
Donald W. Stever

Chapter XIII:

- Crouching Textualist, Hidden Intentionalist: Reclaiming
Our Stolen “Green Destiny” Out of the Judicial Sparring
Over the Interpretation of Environmental Statutes . . .** 347
Mary Jane Angelo