ENVIRONMENTAL LAW’S LAND USE MANAGEMENT

DISCUSSION QUESTIONS FOR MARCH 7, 2006

1. In terms of accuracy and honesty, is it not more accurate and honest to footnote rather than endnote? Volokh uses endnotes almost exclusively in his book.

2. Regarding web site use, Volokh notes that web material “is no more reliable than its authors.” Why should a page, “maintained by an individual”, not generally be “seen as reliable by itself…” when a book written by an individual containing their original thoughts, be viewed as reliable?

3. Should it be up to the author citing a survey, to explain to readers potential problems with survey results, even if there is no evidence to support such problems? For example, there is always a risk that respondents might give incorrect answers, but there is little one can do to ensure accurate answers. Is it the job of the author who is using someone’s survey to make readers aware of this potential problem, even though it exists in all surveys?

4. Public lands are those lands owned in common by the American people. The BLM manages those lands under the concept “for the general benefit of the public.” Increasingly, rural areas have become booming economies because the open space and scenery provide the setting for a healthy tourist industry combined with an influx of people who want to live in such a spectacular setting. In the years to come, will our desire to preserve national parks and other wilderness areas decrease as people find sustainable economic opportunities for these lands? Will it be hard to argue not to develop these lands as more Americans wish to use these lands? If Americans do ask to develop these lands, will it be hard to argue that such developments “benefit the general public?”

5. Many conservative and libertarian critics propose privatizing the federally-owned public lands. The CATO Institute, for example, believes federally-owned lands should be auctioned off, on the theory that conservation groups can purchase and maintain ecologically-important parcels, whereas those parcels containing significant recreational, mineral, or water resources should be exploited for profit. CATO argues sales of public land to commercial entities can be consistent with preserving the ecology and wilderness of the land if restrictive covenants requiring the owner to prevent significant deterioration of the land are attached to the property at the time of sale.

6. Although not as far-reaching as total privatization, President Bush’s 2006 budget calls for selling federally-owned land with “little scenic, environmental, or resource value,” in order to raise revenue for rural roads and schools in counties hurt by cutbacks in access to logging on federal lands. Environmentalists fear such efforts will lead to the division of public lands into smaller parcels less useful for both conservation and recreation, as well as the loss of important habitats and recreational sites to commercial developers. For example, part of the Green River in Labyrinth Canyon, Utah, a popular stop for river rafting, is being auctioned due to its deposits of oil and natural gas, as is a portion of the San Rafael Desert, a remote area of sculpted rock and miles of roadless wilderness.
7. “The action and tone of his statement leads me to conclude that [Interior] Secretary [James G.] Watt’s idea of wilderness is a parking lot without lines.”

   “The wilderness and the idea of wilderness is one of the permanent homes of the human spirit.”
   -Joseph Wood Krutch, Today and All Its Yesterdays, 1958

What is “wilderness” and why is it important? I’d like each person to answer this question.

8. The egg-collection/hatchery operation was ruled to be “commercial” and therefore incompatible with and/or prohibited by the Wilderness Act. Where does that leave non-commercial operations? For example, many salmon stock are endangered and listed under the ESA. There may be no commercial fisheries of these listed populations, but a recovery plan might depend upon egg-collection/hatchery operations. Would such an operation be exempt from the Wilderness Act and therefore allowable. Is there difference to a wilderness hiker walking along the pristine riverbank and stumbling upon the CIAA ‘commercial’ operation and the FWS recovery plan operation. Are both the same intrusion upon wilderness?