

## IN THIS EDITION

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As the *Golden Gate University Environmental Law Journal* enters its third year of publication, our *Pacific Region Edition* continues to focus on environmental issues affecting the Pacific Rim and the western United States.<sup>1</sup> In some respects, though, much in the world of environmental law has shifted since the last edition was published. After just a few months in office, the Obama administration has begun to modify U.S. environmental policy in several areas, including climate change, oil and gas leasing, air and water quality, and mountaintop mining. These changes have stirred hope that environmental issues will soon take their rightful place in our nation's priorities.

The first article of this edition, *The Ninth Circuit's "Clarifications" in Lands Council v. McNair: Much Ado About Nothing?*, by Keith G. Bauerele, addresses the potential ramifications of a 2008 Ninth Circuit panel decision regarding court deference to governmental agency science.<sup>2</sup> After taking the case en banc to clarify some of its environmental jurisprudence with respect to reviewing actions of the United States Forest Service,<sup>3</sup> the court expressly overruled an earlier decision, and appeared to have returned to a more deferential standard of review. Bauerele argues the en banc decision constitutes a course correction, rather than a sea change, in Ninth Circuit jurisprudence. He acknowledges that the decision contains language that courts could use to avoid careful scrutiny of administrative decisions. However, his analysis

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<sup>1</sup> From this point forward, the *Pacific Region Edition* will be published in the spring, and the *Symposium Edition* will be published in the fall. Due to the change, we published only one edition in 2008, rather than two.

<sup>2</sup> *Lands Council v. McNair*, 537 F.3d 981 (9th Cir. 2008) (en banc).

<sup>3</sup> *Id.* at 984.

leads him to conclude that *McNair* has not signaled any significant change in the circuit's precedent or standard of review thus far.

Our second article is *From Fear of Crime to Fear of Nature: The Problem with Permitting Loaded, Concealed Firearms in National Parks*, by Avi Brisman and Alison Rau. The authors describe efforts to change Department of Interior rules to allow park visitors to carry loaded, concealed weapons. While the NRA has framed the issue as one of personal safety, this article invites the reader to consider the long-term consequences of such a change and the tactics used to promote it. The authors argue that "proponents of changes to the current regulations have stoked the fear of crime in nature to the point where individuals may fear venturing into national parks and wilderness areas as a whole."<sup>4</sup> The result may be to "prevent individuals from forming the type of bonds with nature that often provide the impetus for environmental protection."<sup>5</sup>

This edition closes with *A Knot in the Line: Sea Turtle Bycatch Reduction Problems in the Atlantic Pelagic Longline Fishery*, by Alicia Pradas-Monné. Each year, the U.S. Atlantic pelagic longline fishery catches a staggering number of endangered sea turtles incidentally, as "bycatch." Ineffective laws and poor reporting present substantial barriers to reducing these often deadly encounters. Pradas-Monné offers several recommendations toward addressing sea turtle bycatch, including implementing better data collection, strengthening legal protections, and expanding the on-board observer program.

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<sup>4</sup> Avi Brisman & Alison Rau, *From Fear of Crime to Fear of Nature: The Problem with Permitting Loaded, Concealed Firearms in National Parks*, 2 GOLDEN GATE U. ENVTL. L.J. 255, 270 (2009).

<sup>5</sup> *Id.* at 260.