

Environmental Law

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Final Examination

December 15, 1998

Instructions

1. This is an open book examination. You may refer to your own notes and the materials provided by the instructors, but may not consult anything or anyone else between the time you receive the exam and the time you turn it in. You may not use a computer for any purpose during the exam. You are on your honor and are subject to the rules of the Law School Honor Code.
2. The exam consists of **8 pages** numbered consecutively. Make sure no pages are missing.
3. There are 18 short answer questions, each worth 2 to 15 points, for a total of 100.
4. You have **3 hours** to complete the exam.
5. You should answer each question based solely on the reading materials, lectures, and discussions in the course. When a question calls for a true-false or yes-no response, you must choose one or the other and circle it. You can then justify or qualify your choice in the explanatory part of your answer.
6. Answer each question within the space provided. It would be a good idea to work out your answer before you start writing.
7. Good luck!

11. CEQ has promulgated regulations governing NEPA compliance by federal agencies. Because CEQ's authority to promulgate those regulations is based on an Executive Order rather than on legislation, however, its regulations receive little deference from courts reviewing agency actions under NEPA. True or False, and Why? (5 points.)

12. In applying the Endangered Species Act, the courts in effect follow the "harmless error" rule, overlooking procedural violations when they conclude that following proper procedures would not have altered the agency decision. True or False, and Why? (3 points.)

13. Federal agencies may delegate the preparation of EISs to private parties so long as those private parties have a record of independence and impartiality. True or False, and Why? (3 points)

14. Although the Native Americans living in the Columbia River Basin before European Americans arrived in the region had an ordered set of relationships to the river and its resources, they did not really have a system of environmental law. (Hint: answering this question adequately will require you to define environmental law.) True or False, and Why? (10 points)

15. Federal agencies can consider the policies and laws applicable to other federal agencies in establishing their own environmental policies. True or False, and Why? (3 points.)

16. The rule of "prior appropriation" as applied in Washington state water law means that an appropriator may take any and all water that is not being used by humans at the time of appropriation, so long as the appropriator puts the water to beneficial use. True or False, and Why? (3 points.)

17. The movement to adopt watershed-based Total Maximum Daily Load limits is likely to lead to arbitrary and possibly corrupt administration, because TMDLs will ultimately allow administrators to decide who gets to discharge how much pollution into watersheds. True or False, and Why? (10 points.)

18. The Endangered Species Act authorizes the Secretary of Interior to designate not only species, but also subspecies and distinct populations of species, as endangered. True or False? (2 points)

End of Exam