

Ocean and Coastal Law Journal

Volume 3
Number 1 *Numbers 1 & 2 (1997)*

Article 2

1997

Symposium On Recent Developments In Living Marine Resources Law: Editors' Foreword

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Recommended Citation

William K. Terrill Editor-in-Chief, *Symposium On Recent Developments In Living Marine Resources Law: Editors' Foreword*, 3 *Ocean & Coastal L.J.* (1997).
Available at: <http://digitalcommons.maineraw.maine.edu/oclj/vol3/iss1/2>

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SYMPOSIUM ON RECENT DEVELOPMENTS IN LIVING MARINE RESOURCES LAW: EDITORS' FOREWORD

Over the course of the past year, living marine resources have become a source of increasing public interest and debate. Headlines such as *The Fish Crisis*¹ and *Chicken of the Sea?: A "Dolphin-Safe" Tuna Flap Makes the U.S. Squirm*,² aptly portray the current plight of living marine resources management. The reauthorization and amendments to both the Magnuson-Stevens Fishery Conservation and Management Act and the Marine Mammal Protection Act, as well as U.S. involvement in negotiation of the Panama Declaration and the debate over the Straddling Stocks Convention, further demonstrate that providing enhanced protection for living marine resources is becoming an increasing concern at both the domestic and international levels. This Symposium volume of the *Ocean and Coastal Law Journal* contributes to this increasingly complex debate by reviewing and analyzing recent legislative enactments, international treaties and declarations, court decisions, regulations, and other legal mechanisms that affect living marine resources.

On October 4, 1996, at the University of Maine School of Law in Portland, Maine, individuals from the legal community, scientists, and other members of the interested public gathered for a Symposium on recent developments in living marine resources law. This issue is a compilation of the papers presented at this Symposium.

The Symposium features four Articles. George Mannina, a partner with O'Conner and Hannan in Washington, D.C., writes the first Article, entitled *Is There a Legal and Conservation Basis for Individual Fishing Quotas?* Mr. Mannina examines the legal and conservation bases for Individual Fishing Quotas (IFQs) by analyzing the relevant provisions of

1. Madeline Nash, *The Fish Crisis*, TIME, Aug. 11, 1997, at 65.

2. Eugene Linden, *Chicken of the Sea?: A "Dolphin-Safe" Tuna Flap Makes the U.S. Squirm*, TIME, Mar. 4, 1996, at 57.

the Magnuson-Stevens Fishery Conservation and Management Act, federal regulations, legislative history, and IFQ and Individual Transferable Quota (ITQ) plan jurisprudence. The Article also reviews empirical data from the multiple IFQ and ITQ plans currently in effect, and concludes that there is a legal foundation for quotas, and that IFQ programs may be a useful management tool for some fisheries.

The second Article, entitled *The Flipper Phenomenon: Perspectives on the Panama Declaration and the "Dolphin Safe" Label*, is written by Nina Young, Marine Mammalogist for the Center for Marine Conservation, Wm. Robert Irvin, Deputy Vice President for Marine Wildlife and Fisheries Conservation for the Center for Marine Conservation, and Meredith McLean, an intern with the Center for Marine Conservation. This Article traces the evolution of the U.S. international dolphin protection policies, culminating with involvement in the negotiation of the Panama Declaration. The Authors argue that the U.S. Senate should have adopted the Panama Declaration during the 104th Congress, and that its failure to do so may jeopardize the effectiveness of the existing voluntary international regime.

The third feature Article of the Symposium, *Deep Ecology and the Antarctic Marine Living Resources: Lessons From the Antarctic*, conducts a review of international efforts to protect the integrity of the Antarctic ecosystem. Dr. Sudhir Chopra, Professor of International Relations at the Central European University in Budapest, Hungary, and Craig Hansen, a 1995 graduate of Valparaiso University School of Law in Indiana, argue that the evolving system of treaties and other legal instruments designed to protect the fragile Antarctic environment reflect a trend of increasing sensitivity to the deep ecology philosophy. This philosophy asserts that all living organisms possess an inherent value which cannot be measured or managed in human economic terms such as maximum yield of a stock, and that living resources must instead be managed in a holistic manner which accounts for the unique ecological value of every species in the ecosystem, regardless of whether they possess economic value for current or anticipated human enterprises.

The final Article of the Symposium, *Blueprint for Whale Conservation: Implementing the Marine Mammal Protection Act*, was written by Nina Young, Marine Mammalogist for the Center for Marine Conservation, and Suzanne Iudicello, Special Counsel for the Center for Marine Conservation. This Article considers the history and implementation of the Marine Mammal Protection Act (MMPA), including the recent 1994 amendments to the MMPA, and analyzes the effectiveness of using take

reduction teams to reduce marine mammal mortality and injury due to fishing activities. The Authors assert that the cooperative approach embodied in the MMPA holds promise as a tool for marine mammal conservation, and concludes by identifying potential conflict areas between fishers and the conservation community with respect to the next reauthorization of the MMPA.

The editorial Research Material, entitled *An Annotated Guide to the Major Provisions of the Sustainable Fisheries Act*, provides annotated versions of the Statement of Senator Kerry to the Senate floor in support of the Sustainable Fisheries Act of 1996, and of the Summary of the Manager's Amendment to S.39. The documents themselves are reprints of *Congressional Record* entries, and the annotations were provided by the editorial staff of the *Ocean and Coastal Law Journal*. This guide is intended to provide a research tool for those concerned with the development and implementation of U.S. fisheries policy and law.

With this Symposium, the *Ocean and Coastal Law Journal* seeks to furnish a valuable resource for continuing research in the area of living marine resources law, and to draw attention to some of the recent developments in this rapidly developing field of legal scholarship.

