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## Environmental Law Trivia

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## ENVIRONMENTAL LAW TRIVIA TEST NO. 2

William H. Rodgers, Jr.\*

Environmental law has a rich tradition of large numbers, convoluted consequence, and capacities that shock and surprise. The trivia test that follows was put together with no particular theme in mind although several themes emerge:

First, the vagaries of human nature are everywhere in evidence in the world of environmental law and policy, manifested by displays of status (Question 1), pursuits of passion (Question 2), and the benevolent and not-so-benevolent deceptions that show up in the use of language. Resort to acronyms (Questions 11, 24) is consistently amusing, and the same might be said for the colorful monikers of the mining world (Question 20). But what does one make of the drift in meaning that attends “small hydro” (Question 17), “clearcutting” (Question 16), and even the *Exxon Valdez* (Question 9)?

Second, the theme of complexity is a popular one, and it shows up in these pages in the form of malevolent process (Question 2), insulting delays (Question 18), intimidating detail (Questions 21, 23), and extensive pollution (Question 26). Lawyers now signing documents with compliance dates stretching out to the middle of the twenty-first century (Question 27) are entering either a new age of legal complexity or a new mode of self-deception.

Third, irony may be a byproduct of complex systems, but it is a consistently prominent feature of the environmental laws. It is useful to recall that the House of Representatives that is now poised to pounce on the Endangered Species Act voted a few short years ago to place endangered species habitat ahead of human life (Question 19). And why are we surprised about hearing that Joseph Hazelwood

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\* William H. Rodgers, Jr., Professor of Law, University of Washington, Seattle, Wash., March, 1995. See William H. Rodgers, Jr., *A Superfund Trivia Test: A Comment on the Complexity of the Environmental Laws*, 22 ENVTL. L. 417 (1992).

served as a navigation instructor at a maritime academy (Question 8)? The tricks of legal practice (Question 11) and the small imperfections of history (Question 6) extending even to the invention of a new word (Question 29) show environmental law as a quirky, imperfect product of history.

Fourth, environmental law is constantly colliding with technological ambition, which is illustrated nicely by the questions about the grotesque proposals (Question 5), the grotesque proposal that became the practice (Question 14, on salmon-barging), and the “state-of-the-art, 1948” (Question 25). The problems of technological assessment and management are hinted at by the question about bacterial evolution (Question 10) and Bill McKibben’s deflation of what it means to have access to enormous amounts of information (Question 7).

Fifth, as Congress rushes to embrace the methodology of risk assessment it is appropriate to raise questions about the arrogance inherent in the lead-poisoning calculations (Question 4), the magic of the discount rate (Question 15), the differences bound up in the assumption about who has the right (Question 22), and the psychology of risk expression (Question 13).

But a useful trivia test is measured not by its weighty themes but by whether it is fun to play (Question 3, “dial 8”). Test your skills on the following questions:

1. A 1994 Chinese regulation requires government ministers to replace their foreign luxury cars with Chinese-made ones. On the subject of auto-caused air pollution, the rules:
  - a. are silent.
  - b. allow vice-ministers and vice-governors to pollute more than ministers or governors.
  - c. allow ministers and governors to pollute more than vice-ministers and vice-governors.
  - d. require equal treatment of ministers and governors with vice-ministers and vice-governors.
  
2. The Allen-Warney Valley project (a major coal-burning proposal in Utah and Nevada) was abandoned by the Pacific Gas & Electric Company in the early 1980s after extensive hearings before the California Public Utility Commission orchestrated by Environmental Defense Fund staffers. The hearings covered \_\_\_\_ days of testimony with \_\_\_\_ formal exhibits and are recorded in \_\_\_\_ pages of official transcript.
  - a. 25; 101; 3036.
  - b. 344; 912; 14,398.

- c. 3; 10; 212.
- d. 105; 276; 10,099.

3. In what Superfund context, did Judge Evans of the Eastern District of Wisconsin pause to explain that “dial 8” means to hit a home run in baseball?

- a. successor liability.
- b. salary caps that might affect “operator” liability.
- c. whether the accumulation of spittoons at the ballpark are “hazardous substances.”
- d. whether a groundskeeper at a baseball park could be held as an “operator” for dumping pesticide containers into an adjoining empty lot.

4. What are the “benefits” of reducing lead poisoning in children?

- a. \$12,081 per lowered IQ point, which is the present value of lost earnings.
- b. \$10,000, an arbitrary figure assigned for the avoidance of any single “clinically pertinent” exposure.
- c. \$7,411 per lowered IQ point, but with an IQ cutoff of 70 because the victim has become “too dumb to matter.”
- d. \$4,588 per lowered IQ point, but with costs of supplemental education added if IQ is lowered below 70.

5. What project does *not* appear on the list of the ten worst environmental ideas in U.S. history?

- a. Project Chariot, which would use nuclear explosives in the Arctic to blast open a giant shipping harbor.
- b. the towing of icebergs across the Pacific Ocean (powered by a floating nuclear power plant) to serve drought-stricken California.
- c. the shooting of high-level radioactive wastes into the sun from the space shuttle.
- d. the eradication of all North American bison to protect cattle from brucellosis.

6. How are the Forest Service’s nine regions numbered?

- a. 1–10.
- b. 1–9.
- c. 0–8.
- d. 1, 3, 5, 7, 9, 11, 13, 15, 17.

7. Bill McKibben’s, *The Age of Missing Information* (1992), offers a review of videotape of over a thousand hours of T.V. programs played

in one day (May 3, 1990) across the enormous (93-channel) Fairfax, Virginia Cable System. Identify the two programs in which Thoreau's name was mentioned:

- a. *Mash and Barney Miller*.
- b. *Bullwinkle and Matlock*.
- c. *Tic Tac Dough and Falconcrest*.
- d. *Banacek and NASCAR Grand National Auto Racing*.

8. What jobs were not held by Captain Joseph Hazelwood in the five years following the wreck of the *Exxon Valdez*?

- a. maritime consultant to Chalos and Brown, the New York law firm that represented him during his legal trial.
- b. navigation instructor at the New York University Maritime Academy.
- c. lobster fisherman.
- d. short-order cook at Long John Silver's.

9. What name has not been used by the *Exxon Valdez* in the five years following the catastrophic spill in Prince William Sound?

- a. the *Exxon Valdez*.
- b. the *Exxon Mediterranean*.
- c. the *Sea River Mediterranean*.
- d. the *Love Boat*.

10. Bacteria dosed with antibiotics can develop drug resistance if a few hardy ones survive. It is all a numbers game involving the rapidity of reproduction. How many offspring can a bacteria give rise to in twenty-four hours?

- a. 16,777,220.
- b. 848.
- c.  $12^6$ .
- d. 7,409.

11. What term does EPA use to describe truly tiny (Potentially Responsible Parties) PRPs?

- a. TTPRPs.
- b. TIPS.
- c. DWARFS.
- d. De Micromis Parties.

12. On what basis did the McDonald's restaurant in Naugatuck, Connecticut win dismissal from the ongoing CERCLA litigation at the Beacon Heights and Laurel Park sites?

- a. service failure.
- b. attorney misconduct.
- c. Big Macs and fries are not “hazardous substances.”
- d. there is no “McDonald’s Corporation” existing under Connecticut law and registered to do business in the state.

13. What is the preferred way to express the following risk?

- a. the lifetime risk is 0.0014.
- b. the lifetime risk is 0.14 percent.
- c. the lifetime risk is 1 in 710.
- d. in a community of 1,000 people, we could expect 1.4 to die as a result of exposure.
- e. there is no preferred way.

14. What is the annual budget for the Corps of Engineers’ “salmon barging” program in the Pacific Northwest (to move juveniles around lethal dams) and facilitate migration to the sea from the Salmon and Snake Rivers?

- a. \$5 million.
- b. \$17 million.
- c. \$240 million.
- d. \$36 million.

15. Using the OMB discount rate of eight percent per year, what is the cost per life saved of a \$100-million groundwater clean-up rule for pesticide manufacturers that will save 1,000 lives 150 years hence?

- a. \$16.7 billion per life saved.
- b. \$5.7 trillion per life saved.
- c. \$997 million per life saved.
- d. \$90 million per life saved.

16. What term has *not* been used by the Forest Service to describe clearcutting?

- a. even-age management.
- b. seed-tree cut.
- c. wildlife openings.
- d. meadow restoration.
- e. cross-country ski-trail enhancement.
- f. patch cutting.
- g. timber stand improvement.
- h. linear wildlife opening.

17. How small is the small-hydro project proposed for the Coquille River in Oregon?
- 10 feet high and 30 feet wide.
  - 210 feet high and 740 feet wide.
  - 300 feet high and 600 feet wide.
  - approximately the same configuration as Hoover Dam.
18. How long did it take FERC to adopt regulations implementing NEPA?
- 4 years.
  - 11 years.
  - 17 years.
  - it has never happened.
19. What was the vote in the House (100th Cong., 1st Sess.) on an amendment offered by Representative Packard that would empower the Secretary of Interior to waive the restrictions of Section 7 of the Endangered Species Act (ESA) when necessary to protect human life and safety?
- 404–4, in favor.
  - 4–404, against.
  - 151–266, in favor.
  - 266–151, against.
20. What is the name of the open-pit uranium mine twenty miles from any town on the western edge of the Navajo Reservation that has become a trash dump populated by beer bottles, paint and oil cans, old tires, feral cats, and contaminated water?
- Max Johnson No. 9.
  - Juan Horse No. 4.
  - The “dog hole.”
  - Yazzie 312.
  - Montezuma No. 7C.
  - Jeepster.
21. How many formal rules and how many pages of informal guidance have been issued by EPA in its RCRA regulations?
- 56; 450.
  - 194; 1,002.
  - 340; 11,497.
  - 697; 19,500.

22. What is the observed disparity between “willing to accept” contingent valuation questions and “willing to pay?” WTA questions generate values from \_\_\_\_\_ to \_\_\_\_\_ times greater than those elicited by WTP inquiries.
- 3; 19.
  - 2; 4.
  - 11; 146.
  - 1.4; 1.7.
23. The twenty-year State Implementation Plan of the South Coast Air Quality Management District to clean up Los Angeles’ air is \_\_\_\_\_ pages long and \_\_\_\_\_ feet high.
- 2,800; one and one-half.
  - 5,500; three.
  - 10,987; six.
  - 27,684; the height has never been measured for safety reasons.
24. Identify an acronym *not* used in EPA’s Guidelines on Air Quality Models.
- CTDMPLUS.
  - CTSCREEN.
  - COMPLEX-I.
  - RTDM.
  - LONGZ/SHORTZ.
  - all of the above.
25. What facility is described in the case law as “State-of-the-art, 1948?”
- Oak Ridge, Tennessee, Y-12 plant.
  - Blue Plains Sewage Treatment Plant, Washington, D.C.
  - ASARCO smelter, El Paso, Texas.
  - Life Sciences kepone facility, Hopewell, Virginia.
  - Pigeon River pulp mill, North Carolina.
26. How many unexploded artillery shells are found at the Army’s Jefferson Proving Ground in Indiana, which was used to test artillery ammunition?
- zero; they will all be cleaned up through an innovative technology program.
  - unknown; technology does not exist to make a count.
  - 200,000, fifty-four percent of all those that were fired.
  - more than 1 million rounds, six percent of those fired.



27. The Tri-Party Agreement (EPA, DOE, Washington Department of Ecology) of May 15, 1989, calls for a thirty-year completion date for bringing the Hanford reservation into compliance with the environmental laws. As of May 1994, what is the completion date for the clean-up activities?

- a. May, 2019.
- b. May, 2024.
- c. May, 2004.
- d. May, 2034.

28. What is the world's largest dam?

- a. New Cornelia Tailings Dam, U.S.
- b. Syncrude Tailings Dam, Canada.
- c. Aswan High Dam.
- d. Fort Peck Reservoir.

29. The word "exceedance" is not recognized in the English language. How many times is the word used in the opinion in *Allen County Citizens for the Environment, Inc. v. BP Oil Co.*, 762 F. Supp. 733 (N.D. Ohio 1991)?

- a. 11.
- b. 44.
- c. 111.
- d. zero times, but "exceedence" is used 14 times.

30. Identify the motto, printed next to Joseph Hazelwood's yearbook picture at the New York Maritime College, where he graduated with honors:

- a. "It can't happen to me."
- b. "Hit em where they ain't."
- c. "Nothing ventured, nothing gained."
- d. "All for one, and one for all."
- e. "Give me liberty, or give me death."

### ANSWERS

1(c). Ministers and governors can use government cars with an exhaust volume of up to three liters, while vice-ministers and vice-governors must be content with a 2.5 liter engine. Personal communication with author from Professor Donald Clarke, University of Washington School of Law (Oct. 18, 1994).

- 2(d). See DAVID ROE, *DYNAMOS AND VIRGINS* 192 (1984).
- 3(a). See *Hunt's Generator Comm. v. Babcock & Wilcox Co.*, 863 F. Supp. 879 (E.D. Wis. 1994) (in an opinion teeming with baseball lore).
- 4(d). Cited in SIERRA CLUB LEGAL DEFENSE FUND, *HOW TO DEFEND OUR ENVIRONMENTAL LAWS: A CITIZEN ACTION GUIDE* (1994) (discussing calculations in the recent CBA on water pollution rules for oil and gas drilling wastes).
- 5(d). See *Tim Redmond & Marc Mowrey, Unnatural Disasters: The Ten Worst Environmental Ideas in U.S. History*, OMNI, Sept. 1994, at 14.
- 6(a). See RANDAL O'TOOLE, *REFORMING THE FOREST SERVICE* 18 (1988) (Region 7 disappeared because of a merger with Region 9).
- 7(c). BILL MCKIBBEN, *THE AGE OF MISSING INFORMATION* 10 (1992) ("Once, he was an answer on *Tic Tac Dough* in the category of 'Bearded Men' and later that evening, in the back of a limousine, a man toasted his fiancée with champagne and said, 'You know how we've always talked about finding our Walden Pond, our own little utopia? Well, here it is. This is *Falconcrest*.'").
- 8(d). See Bill Dietrich, *What's Better, What's Not in Oil Shipping*, SEATTLE TIMES, Mar. 20, 1994, at A16.
- 9(d). See Bill Dietrich, *Most Players in the Big Spill Have Moved On*, SEATTLE TIMES, Mar. 20, 1994, at A16.
- 10(a). See generally RACHEL'S ENVTL & HEALTH WKLY, Aug. 11, 1994.
- 11(d). See 140 Cong. Rec. S3965-69 (daily ed. Mar. 25, 1994).
- 12(d). See *B.F. Goodrich Co. v. Murtha*, 840 F. Supp. 180 (D. Conn. 1993).
- 13(e). See V.T. Covello, P.M. Sandman & P. Slovic, *Guidelines for Communicating Information About Chemical Risks Effectively and Responsibly*, in ACCEPTABLE EVIDENCE: SCIENCE AND VALUES IN RISK MANAGEMENT 66, 76 (Deborah G. Mayo ed., 1991) (the alterna-

tives are equivalent; how they are expressed depends upon policy and value choices).

14(d). See ENVIRONMENTAL & ENERGY STUDY INST., SPECIAL REPORT: PRESIDENT CLINTON'S FISCAL 1995 BUDGET PROPOSAL (1994) (the \$36 million figure exceeds the entire \$31.3 million devoted to all recovery programs under the ESA; and the \$31.3 million figure represented a 54% increase over earlier appropriations).

15(a). See RACHEL'S HAZARDOUS WASTE NEWS, Mar. 3, 1994 (providing calculations and reporting that Keith Schneider of the *New York Times* used this analysis to develop the figure of \$5.7 trillion dollars per life saved for clean-up rules imposed on the wood-preserving industry).

16(h). A "linear wildlife opening" is a road. See Paul Rauber, *Improving on Nature*, SIERRA, Mar./Apr., 1995, at 45-46.

17(b). See Dale D. Goble, *Introduction to the Symposium on Legal Structures for Managing the Pacific Northwest Salmon and Steelhead: The Biological and Historical Context*, 22 IDAHO L. REV. 417, 440 (1986).

18(c). See Michael C. Blumm, *Federalism, Hydroelectric Licensing and the Future of Minimum Streamflows After California v. Federal Energy Regulatory Comm'n*, 21 ENVTL. L. 113, 115 n.8 (1991).

19(d). See Donald J. Barry, *Amending the Endangered Species Act, The Ransom of Red Chief, and Other Related Topics*, 21 ENVTL. L. 587, 590 (1991).

20(a). See PETER H. EICHSTAEDT, IF YOU POISON US: URANIUM AND NATIVE AMERICANS 138-39 (1994); *id.* at 127 (an estimated 1,200 mines were dug on reservations) (the names used in the question are nonfictional).

21(d). See James T. Hamilton & Christopher H. Schroeder, *Strategic Regulators and the Choice of Rulemaking Procedures: The Selection of Formal Vs. Informal Rules in Regulating Hazardous Waste*, 57 LAW & CONTEMP. PROBS. 111 (1994).

22(a). See Daniel S. Levy & David Friedman, *The Revenge of the Redwoods? Reconsidering Property Rights and the Economic Allocation of Natural Resources*, 61 U. CHI. L. REV. 493, 506-07 (1994).

23(b). See JAMES HOWARD KUNSTER, *THE GEOGRAPHY OF NOWHERE: THE RISE AND DECLINE OF AMERICA'S MAN-MADE LANDSCAPE* 213-16 (1993).

24(f). See John R. Martin, *The Revised EPA Air Quality Modeling Guideline—What It Means for Air Permitting*, 3 J. ENVTL. PERMITTING 199 (1994) (CTDMPLUS means Complex Terrain Model Plus Algorithms for Unstable Situations).

25(a). See STEPHEN DYCUS, *ENVIRONMENTAL SECURITY: NATIONAL DEFENSE & ENVIRONMENTAL PROTECTION AFTER THE COLD WAR* 3-28 (1995) (in press).

26(d). See STEPHEN DYCUS, *ENVIRONMENTAL SECURITY: NATIONAL DEFENSE & ENVIRONMENTAL PROTECTION AFTER THE COLD WAR* 4-21 (1995) (in press).

27(d). See E. Porter, *Hanford Nuclear Facility: RCRA, the TPA, and Lust* 20 n.38 (May 1994) (unpublished manuscript, on file with author) (the TPA is a "living document").

28(b). See *WATER IN CRISIS: A GUIDE TO THE WORLD'S FRESH WATER RESOURCES* 352 (Peter H. Gleick ed., 1993) (Table G.7) (these are the world's largest dams: Syncrude Tailings, holding back a volume of 540,000,000 cubic meters of water; New Cornelia, holding back a volume of 209,000,000 cubic meters of water; Fort Peck Reservoir, holding back a volume of 96,050,000 cubic meters of water; and Aswan High Dam, holding back a mere 44,300,000 cubic meters of water).

29(c). According to the *Allen* opinion. As of December 30, 1994, here is the count in Clean Water Act citizen suit cases: "exceedance" is used 371 times in 30 cases, including West headnotes, 319 times in opinion text; "exceedence" is used 59 times in 11 cases, including West headnotes, 56 times in opinion texts. For the leading commentary on "exceedance," see *Sierra Club v. Colorado Refining Co.*, 838 F. Supp. 1428, 1430 n.3 (D. Colo. 1993).

30(a). See TOM HORTON & WILLIAM M. EICHBAUM, *TURNING THE TIDE: SAVING THE CHESAPEAKE BAY* 87 (1991).