

Takings, Public Trust, Unhappy  
Truths, and Helpless Giants:  
A Review of Professor Joseph Sax's  
Defense of the Environment  
Through Academic Scholarship,  
FOREWORD

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Legal academics could no doubt generate a significant debate regarding the criteria relevant to assessing the significance of academic scholarship. There would inevitably be a surprising divergence of views (as tends to happen with law professors regardless of the subject and its relative importance). And there would be hours of discussion with much talking, little listening, and virtually no consensus.

I am equally confident, though, that if one were to ask legal scholars to name the two or three most significant natural resources law scholars of modern times, Professor Joseph Sax's name would be the name on everyone's list. Extraordinarily engaging in person, he is even more so in his legal scholarship. Joe Sax presents a rare combination of passion and intellect. He has in his own work, both as a teacher and a scholar, demonstrated the potential for bridging academic scholarship and law reform. He has been a mentor, model, and indeed inspiration of many of those who teach and practice natural resources law today.

During the past four decades, Joe Sax has remained one of the constant, eloquent voices in the public policy arena, promoting doctrinal reform responsive to the needs for resource conservation and preservation and environmental protection. It is hard to conceive of another scholar who has so much influenced and prompted not only further legal scholarship, but also changes in the law itself—through

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judicial decisions, legislative enactments, and executive branch actions.

This is not, of course, to suggest that Sax's scholarship is without controversy, or without critics. There are both acolytes and detractors. Nor is this surprising. Sax's work can itself be sharply critical of the ideas of others, as well as settled legal principles upon which many have long relied.

Joining us in this issue of the Ecology Law Quarterly to review and assess Professor Joe Sax's legal scholarship are five significant scholars in their own right. Thomas Merrill, John Paul Stevens Professor of Law at Northwestern University School of Law, has reviewed Sax's takings scholarship. Carol Rose, Gordon Bradford Tweedy Professor of Law and Organization at Yale Law School, has reviewed Sax's public trust scholarship. Barton Thompson, Robert E. Paradise Professor of Natural Resources Law at Stanford University School of Law, has reviewed Professor Sax's water law scholarship. Sally K. Fairfax, Professor of Resource Policy and Law at the University of California (Berkeley) Department of Forestry and Resource Management, has reviewed Sax's scholarship pertaining to national parks. And Zygmunt Plater, Professor of Law at Boston College School of Law, has reviewed Sax's endangered species protection scholarship and, inspired by Sax's work, has written more broadly for this symposium on what he refers to as "The Three Economies" relating the marketplace and nature.

It is an incredible gathering of scholars and their participation is in itself a statement of the significance of Joe Sax's work. As befits the nature of Sax's own work, none of these participants has sought to provide a mere testament to his writings. The authors bring their own diverse views on natural resources law and policy. They each seek to engage Sax's work, to take his ideas seriously, to understand how and why his views may have evolved over time, and both to challenge and criticize his conclusions. Their joint work product is a remarkable series of essays, both laudatory and critical, regarding the frequently pragmatic and often evocative scholarship of a remarkable individual.