Appendix B1.
Index of Law Review Articles About the Public Trust Doctrine Since 1996

This appendix is for the use by members of the Instream Flow Council (IFC) and parent agencies only. It should not be republished or distributed external to the agency, as it involves copyrighted materials.

Author	Title	Synopsis
Rebecca Abeln	"Instream Flows, Recreation as Beneficial Use, and The Public Interest in Colorado Water Law," *8 U. Denv. Water L. Rev.* 517 (2005)	Colorado is the leading prior appropriation state of the American West. In contrast to the riparian states of the East and the hybrid prior appropriation states of the West, Colorado remains loyal in its adherence to a common-law doctrine of water rights that emerged from the mining and irrigation practices in place at the time of statehood. However, as the population and economy of the West becomes increasingly urbanized and less agricultural, effective management of water rights will test Colorado water law. In particular, the growth of gateway communities in the Colorado Rocky Mountains-- and their increasing economic and political clout--could pose challenges to the state's pronounced rejection of the public trust doctrine. The recent decision of the Colorado Supreme Court to affirm water court decisions granting instream flows to the cities of Golden, Breckenridge, and Vail, and the legislative acknowledgment of local government influence on water development, foreshadow this proposition.
William Araiza	"The Public Trust Doctrine as an Interpretive Canon," *45 U. of Calif., Davis 693* (2012)	This Article considers whether these antagonistic characteristics of the doctrine can be partially harmonized by envisioning an expanded version of the doctrine as a canon of construction rather than a freestanding, legally binding, legal principle. Under this proposal, the protected status of public trust values, and government obligation to protect those values, would take the form of a background principle against which positive legislation and administrative actions are construed and reviewed.

Author	Title	Synopsis
Michael Blumm et al.	"Internationalizing the Public Trust Doctrine: Natural Law and Constitutional and Statutory Approaches to Fulfilling the Saxion Vision," *45 U. of Calif., Davis 741* (2012)	[I]n the last two decades, several countries in South Asia, Africa, and the Western Hemisphere have discovered that the public trust doctrine is fundamental to their jurisprudence, due to natural law or to constitutional or statutory interpretation. In these twelve countries, the doctrine is likely to supply environmental protection for all natural resources, not just public access to navigable waters. This international public trust case law also incorporates principles of precaution, sustainable development, and intergenerational equity; accords plaintiffs liberalized public standing; and reflects a judicial willingness to oversee complex remedies. These developments make the non-U.S. public trust case law a much better reflection of Professor Sax's vision of the doctrine than the case law of the American states.
Michael Blumm (ed.)	"The Public Trust Doctrine in Forty-Five States," *Lewis & Clark Law School Legal Studies Research Paper* (2014)	This compendium examines the public trust doctrine in 45 different states, discussing various approaches of the states to the origins and basis of the doctrine as well as to the natural resources burdened, the purposes served, and the ability of the public to enforce the doctrine. Indiana, Kentucky, Tennessee, Ohio, and West Virginia are excluded.
Karrigan S. Börk et al.	"The Rebirth of California Fish & Game Code Section 5937: Water for Fish," *45 U. of Calif., Davis 809* (2012)	[T]his Article analyzes the role of 5937 in the context of California water law through a detailed historical examination of the law followed by a normative discussion of its current interpretation. Part I provides a historical analysis of 5937 and discusses long-standing efforts by the California Legislature to provide a legal framework for minimum flow protection. Part II scrutinizes the reasons underlying early 5937 enforcement and implementation failures. Part III explores the rebirth of the minimum flow requirement by revisiting all court cases and most Water Board hearings that address 5937. Finally, Part IV provides suggestions

Author	Title	Synopsis
		for the proper interpretation of 5937 in a question-and-answer format.
Bradford Bowman	"Instream Flow Regulation: Plugging the Holes in Maine's Water Law," *54 Me. L. Rev. 287* (2002)	Part I of this paper analyzes the need to develop a water management system that controls consumptive uses of Maine's fresh surface waters, first, in terms of ecological necessity; and second, in relation to the effectiveness of existing state water law. Part II assesses and compares the effectiveness of creating that management system by promulgating regulations under preexisting water quality statutes, a method proposed by the state, with the need for enacting comprehensive legislation. Various aspects of water allocation schemes adopted by other states are proposed as a means of plugging the holes in Maine's water law.
Oliver M. Brandes et al.	"The Public Trust and a Modern BC Water Act," *POLIS Water Sustainability Project: The Future of Water Law & Governance (Legal Issues Brief 2010-1)*	This briefing note outlines how the concept of the Public Trust Doctrine (PTD) can be applied in British Columbia with specific recommendations and advice in reference to current efforts to modernize the framework for water law in British Columbia. The analysis emphasizes that many of the key attributes of the public trust are already in place in the province, and stresses that the public trust does not constitute a significant departure from existing policies and practice.
Lauren Bushong	"How Colorado's Prior Appropriation System Addresses Environmental And Recreational Concerns Without A Public Trust Doctrine," *18 U. Denv. Water L. Rev. 462* (2015)	The public trust doctrine ("PTD"), moldable to each state's individual needs, follows the central premise that the state, as trustee, holds natural resources such as water in trust for the benefit of its citizens. The United States Supreme Court has opined that the doctrine's definition and parameters are a matter of state law and that each state can choose to create a public trust or not. Unlike California and various other states, Colorado has never adopted the doctrine, instead relying on its system of prior appropriation to protect public interests. The Colorado Constitution declares surface water (and

Author	Title	Synopsis
		tributary groundwater) "to be the property of the public" that is "dedicated to the use of the people of the state." The right to divert water for beneficial use "shall never be denied," the state constitution continues. Colorado courts have consistently held that the state's constitution fails to provide a foundation for the implementation of a public trust for water. Despite the lack of a PTD in Colorado, the state has made efforts to work within the prior appropriation system to preserve the natural environment, fish, and wildlife, and to protect recreational uses.
J. Peter Byrne	"The Public Trust Doctrine, Legislation, and Green Property: A Future Convergence?," *45 U. of Calif., Davis 915* (2012)	This Essay argues that the future of the public trust doctrine should provide a pervasive ground for rejecting regulatory takings challenges to reasonable environmental regulation of land use. Specifically, the public trust doctrine should be used to protect environmental regulation from regulatory takings barriers for two reasons. First, it provides a normative legal answer to recent libertarian innovations in regulatory takings doctrine, which distort the relation of people to nature. In this respect, the doctrine builds on ideas first developed in an essay on "Green Property." Second, it addresses the public trust doctrine's problematic reliance on judicial activism by employing the doctrine to sustain environmental legislation against judicial hostility. The complexity of modern society's relationship with the natural world requires numerous legislative judgments at all levels of government, which expert agencies implement. Judicial review can require legislatures and agencies to carefully consider the balancing between development and preservation. However, only popularly accountable bodies can make decisions that incorporate scientific understandings and enjoy democratic legitimacy.

Author	Title	Synopsis
Climate Change Litigation, University of Victoria	"The Public Trust Doctrine in Canada" *(online, updated in 2021)*	In the Canadian legal system, the Supreme Court of Canada is the "court of last resort" for appeals from any appellate court in Canada. In other words, the nature of the public trust doctrine in Canada is not as varied as the United States and is thus easier to pinpoint. There are three key differences between the US and Canadian Public Trust Doctrine: 1. The public trust doctrine in Canada focuses more on incorporating classical trust law concepts 2. The Canadian public trust law is based heavily and drawn from fiduciary obligations 3. Canadian litigants tend to use the public trust doctrine to challenge substantive merits rather than procedure of governmental actions
Consumers Association of Canada	"Lake Winnipeg Regulation Appendix 7: The Public Trust Doctrine" (2015)	This document provides a general overview of the Public Trust Doctrine, a summary of how U.S. case law has interpreted and applied it and how it has been treated in Canada. In addition, it provides examples of how the doctrine has been expressly adopted into state constitutions or environmental/water rights legislation.
Robin Kundis Craig	"A Comparative Guide to the Western States' Public Trust Doctrines: Public Values, Private Rights, and the Evolution Toward an Ecological Public Trust," *37 Ecology L.Q. 53* (2010)	[T]his Article seeks to make the larger point that, while the broad contours of the public trust doctrine have a federal law basis, especially regarding state ownership of the beds and banks of navigable waters, the details of how public trust principles actually apply vary considerably from state to state. Public trust law, in other words, is very much a species of state common law. Moreover, as with other forms of common law, states have evolved their public trust doctrines in light of the particular histories and the perceived needs and problems of each state.

Author	Title	Synopsis
Robin Kundis Craig	"Public Trust and Public Necessity Defenses to Takings Liability for Sea Level Rise Responses on the Gulf Coast," *26 J. Land Use & Envtl. L. 395* (2011)	This Article examines two of these "background principles" of state property law-state public trust doctrines and the doctrine of public necessity-to assess their abilities to insulate state and local coastal regulation from landowner claims of regulatory takings. It begins in Part I by providing the federal constitutional framework for the "background principles" analysis, focusing on the U.S. Supreme Court's 1992 decision in Lucas v. South Carolina Coastal Council. In Part II, this Article examines the Gulf states' public trust doctrines as potential defenses to constitutional takings claims, noting that several Gulf states have already found their public trust doctrines to provide an adequate legal basis for uncompensated regulation for coastal protection and restoration. Part III, in turn, examines the lesser-known "background principle" of the public necessity doctrine, which may become of increasing importance to state and local regulation in a climate change era. The Article concludes that state and local governments generally have more tools to protect the coast than are generally acknowledged and that their defenses to coastal takings claims will increasingly strengthen as sea level rise and coastal deterioration become true emergencies and public crises.
Stephen A. DeLeo	"Phillips Petroleum Co. v. Mississippi and the Public Trust Doctrine: Strengthening Sovereign Interest in Tidal Property," *38 Cath. U. L. Rev. 571* (1989)	This Note examines the development of the public trust doctrine in Roman law, English common law, and American Law. It then examines the continued application of the doctrine in the United States with examples of its varied interpretations by different states and in the large body of Supreme Court case law. The Note analyzes the *Phillips* decision in light of its consistent use of case law and as a balance between legitimate private interests and long-recognized public rights. The Note concludes by suggesting that a proper application of the public trust doctrine will serve as an important economic

Author	Title	Synopsis
		and environmental tool for state control over tidal property.
Joseph W. Dellapenna	"Changing State Water Allocation Laws To Protect The Great Lakes," *24 Ind. Int'l & Comp. L. Rev. 9* (2014)	In this Article, I briefly outline the water law regimes generally throughout the United States and for each state, with a particular view towards the regime's effectiveness at limiting or precluding water exports from the Great Lakes watershed. I begin with the extent to which common law doctrines relating to water usage served to limit the export of water from the Lakes-namely, riparian rights, regulated riparianism, and the public trust doctrine. Then I explore the statutes enacted in most Great Lakes states in the 1980s to block the export of water from the Lakes. Finally, I explore the statutes enacted after 2008 to implement the Great Lakes-St. Lawrence River Water Resources Compact. I do not discuss the interstate compact, which I have analyzed elsewhere, or the International Joint Commission between Canada and the United States, which I have also analyzed elsewhere.
Harrison C. Dunning	"California Instream Flow Protection Law: Then and Now," *36 McGeorge L. Rev. 363* (2005)	Throughout the first half of the twentieth century, water development projects had dominated California water policy, and the state's water policy in general had strongly supported such projects. In 1912, the Conservation Commission had recommended the elimination of riparian rights, which were seen as an obstacle to water development. Such a bold move was not supported by the California Legislature, and even the two limitations on riparian rights adopted by the Legislature in 1913 were struck down in the courts. But a 1926 judicial decision upholding the right of a downstream riparian to annual spring flood flow on the San Joaquin River led to a strong backlash and to the approval of a thoroughly pro-development amendment to the California Constitution. The amendment prohibited the "waste" of water – at the

Author	Title	Synopsis
		time, "waste to the sea" of fresh water was the bête noir of pro-development interests. The amendment also called for the state's water resources to be "put to beneficial use to the fullest extent of which they are capable."
John D. Echeverria	"The Public Trust Doctrine as a Background Principles Defense in Takings Litigation," *45 U. of Calif., Davis 931* (2012)	This Article addresses whether the public trust doctrine should operate as a defense to claims for compensation under the Takings Clause of the Fifth Amendment, particularly takings claims arising from regulatory restrictions on the use of water designed to protect fish and other public trust resources. Two controversial takings cases that arose in California involving regulatory restrictions under the federal Endangered Species Act ("ESA") represent the bookends of the modern debate over this issue: *Tulare Lake Basin Water Storage District v. United States* and *Casitas Municipal Water District v. United States*.
Keala C. Ede	"He Kanawai Pono No Ka Wai (A Just Law For Water): The Application and Implications of The Public Trust Doctrine in In Re Water Use Permit Applications," *29 Ecology L.Q. 283* (2002)	The development of the Public Trust Doctrine in the United States has led to varying state obligations with regard to water and other natural resources. The State of Hawaii's Public Trust Doctrine jurisprudence recognizes an unusually broad range of public interests in water. The Hawaii State Supreme Court's decision In re Water Use Permit Applications (Waiahole) stands as a milestone in the long legal battle over water on O'ahu, and has resulted in a broad articulation of the Public Trust Doctrine. In Waiahole, the Court applied the doctrine to all fresh waters, including ground water, and furthermore required the State to account for domestic and native uses in administering the water trust. Although this decision does mandate a doctrine with a greater reach than in any other jurisdiction, and is distinguishable from other jurisdictions because of its basis in Hawaii's unique legal history, Waiahole does not radically deviate from Hawaii's Public Trust Doctrine jurisprudence,

Author	Title	Synopsis
		and may influence the Public Trust Doctrine in other states.
Jesse Fear et al.	"Extending the Public Trust Doctrine's Application to Alberta Parkland," *University of Alberta Independent Research Project* (2021)	Parks as a trust resource may avoid many of the pitfalls observed in other environmental resources argued to make up the public trust… Due to their clear physical nature and statutory dedication, concerns surrounding indeterminate liability associated with expanding the doctrine can be mitigated. The provincial government as the trustee of parks would only, "according to equity, manage the public space in order to ensure that the public use for which the property was dedicated can continue"; something these are already held to do under the Parks Act. The resulting impact of expanding the doctrine would be rather limited; it would simply empower private actors to challenge any deficiencies in protecting the public trust. In the context of delisting parks, it would hold the government accountable to begin the delisting process with transparent, accountable, and procedural steps in mind; something which was undoubtedly lacking during the last attempted divestiture. Finally, it would also give the government an additional tool to hold tortfeasors accountable for environmental damage to the public trust.
Richard M. Frank	"The Public Trust Doctrine: Assessing Its Recent Past & Charting Its Future," *45 U. of Calif., Davis 665* (2012)	Much has been written about the public trust doctrine, and the articles in this volume explore many of its nuances and implications. Simply stated, however, the doctrine provides that certain natural resources are held by the government in a special status — in "trust" — for current and future generations. Government officials may neither alienate those resources into private ownership nor permit their injury or destruction. To the contrary, those officials have an affirmative, ongoing duty to

Author	Title	Synopsis
		safeguard the long-term preservation of those resources for the benefit of the general public.
Larry W. George	"Public Rights in West Virginia Watercourses: A Unique Legacy of Virginia Common Lands and the jus publicum of the English Crown," *101 W. Va. L. Rev. 407* (1998)	Today, the common lands (a.k.a. as "submerged" or "subaqueous lands") are vested by statute in the West Virginia Public Land Corporation which estimates that they exceed one hundred thousand acres (100,000 ac.). The sovereign powers of *jus publicum* (protected public uses) are vested in the West Virginia Legislature as successor to the English Crown. These public resources have received scant attention from the judicial or legislative branches for over a century, and the Public Land Corporation has managed them in relative obscurity. However, the growing popularity and economic importance of outdoor recreation and increasing concern for public access issues could easily result in greater attention by state government. In the transactional context, conveyances and leases of riparian lands and/or mineral rights are commonly consummated without considering the potential property interests of the State. Such public interests should be considered by attorneys rendering title opinions and closing real estate transactions involving riparian lands.
Brian E. Gray	"Ensuring the Public Trust," *45 U. of Calif., Davis* 973 (2012)	In this Article, I describe the early cases that interpreted the public trust doctrine following the California Supreme Court's *Audubon* decision and then explain how the environmental baseline directives of the public trust have been neglected in more recent planning decisions that have profoundly influenced the administration of the state's most important water resource — the Sacramento–San Joaquin River and Delta ecosystem. I conclude by proposing a decisionmaking methodology that would better ensure that the public trust is more seriously considered and better protected in all facets of California water management.

Author	Title	Synopsis
Paul Stanton Kibel	"California Rushes in – Keeping Water Instream for Fisheries without Federal Law," *42 Wm. & Mary Envtl. L. & Pol'y Rev. 477* (2018)	This Article examines the ways that federal law and federal agencies currently provide a legal basis to keep water instream for California fisheries, and the ways that California water law may be in a position to fill the regulatory gap that may be left if federal water law and federal agencies recede.
Alexandra B. Klass	"Renewable Energy and the Public Trust Doctrine," *45 U. of Calif., Davis 1021* (2012)	This Article explores the role of the public trust doctrine in current efforts to site large-scale wind and solar projects on public and private lands. Notably, both proponents and opponents of such renewable energy projects have looked to the public trust doctrine to advance their goals…. [T]his Article discusses the extent to which the public trust doctrine applies to onshore and offshore renewable energy projects on private, state, and federal lands and waters. It then discusses the potential role state and federal legislation can play in codifying or expanding the application of the public trust doctrine with regard to state and federal lands and waters. It concludes by suggesting ways in which existing statutes and new, renewable energy-specific statutes can attempt to build on the public trust doctrine to encourage renewable energy development without compromising competing public trust values.
Arlene J. Kwasniak	"Water Scarcity and Aquatic Sustainability: Moving Beyond Policy Limitations," *13 U. Denv. Water L. Rev. 321* (2010)	This paper demonstrates how western North American water rights and management laws and policies are, in many ways, abrasive towards the implementation of various approaches to restore and protect instream flow. This paper argues that when this is the case, a government has a range of choices from sitting back and allowing water rights and management laws and policies to continue, thereby maintaining the status quo for instream values, to tinkering with water rights frameworks, to aggressively stepping in and modifying water rights and management laws and policies to better enable

Author	Title	Synopsis
		and facilitate the implementation of water management approaches that can lead to a better aquatic environment. This paper takes a comparative law approach, comparing the legal and policy water rights frameworks in western Canada, as typified by the province of Alberta, with various western U.S. states. Additionally, this paper contrasts both western North American approaches with those of South Africa and Australia.
Albert C. Lin	"Public Trust and Public Nuisance: Common Law Peas in a Pod?," *45 U. of Calif., Davis 1075* (2012)	Public trust and public nuisance are doctrines with contrasting origins: the public trust doctrine is rooted in property law, whereas public nuisance is rooted in tort law. Yet, as common law doctrines in an age dominated by statutes and regulations, public trust and public nuisance also have much in common. In recent years, advocates have advanced both theories with growing frequency as means of protecting the environment and natural resources. A comparison of these doctrines, their scope, and purposes reveals instructive similarities and differences that can inform their application to climate change, biodiversity protection, scarce water supplies, and other contemporary challenges.
Kirt Mayland	"Navigating the Murky Waters of Connecticut's Water Allocation Scheme," *24 Quinnipiac L. Rev. 685* (2006)	This article seeks to highlight the varied causes of these low flow problems and to address the significant gray areas and gaps in Connecticut's water allocation policy. It also seeks to address other potential obstacles to its formation of a comprehensive, statewide water allocation policy. This article deals primarily with the state environmental laws and water "quantity" and withdrawal issues, and it focuses on the more notable confusions in Connecticut's state water policy.
Timothy M. Mulvaney	"Instream Flows and the Public Trust," *22 Tul.*	Hawai'i, in a landmark 2000 decision by the state's supreme court in In re Water Use Permit Applications (Wai'ahole I), became the first

Author	Title	Synopsis
	Envtl. L.J. 315 (2009)	regulated riparian state to recognize explicitly that the public trust doctrine operates independently of the state's legislatively pronounced water code. Since that time, several commentators have suggested that Hawai'i's approach could assist mainland states facing an urgent need to move proactively, rather than waiting to react to imminent water conflicts and crises….However, there is little evidence that the Wai'ahole I decision has played any appreciable role in addressing water quantity issues in the many regulated riparian jurisdictions in the eastern United States, where, as in Hawai'i, state governments administer comprehensive water withdrawal and water management programs that allow diversions for certain uses. This Article suggests that the Hawai'i high court's decision can function as the foundation for a conceptual framework in which the public trust doctrine serves as an independent operative in instream flow protection in select regulated riparian states.
Dave Owen	"The Mono Lake Case, the Public Trust Doctrine, and the Administrative State," *45 U. of Calif., Davis 1099* (2012)	Much of the public trust doctrine scholarship emphasizes the judicial role in implementing the doctrine and argues that the doctrine should assume central importance to environmental protection, not just as a broad governance principle, but also as binding and enforceable law. The post-*Mono Lake Case* record shows that California has not adopted that approach, and instead has treated the doctrine as a complementary and modestly important component of a statute-based, agency-driven environmental law system. Although this Article supports calls for a more influential public trust doctrine, it concludes that such integration with administrative environmental law is desirable, not problematic. It proposes several reforms that would bolster the role of the public trust doctrine within that administrative regulatory system.

Author	Title	Synopsis
Shampa A. Panda	"On Fish and Farms: The Future of Water in California's Central Valley After San Luis & Delta-Mendota Water Authority V. Jewell," *42 Ecology L.Q. 397* (2015)	This Note argues that procrastination acts as a significant behavioral barrier to effective environmental decision making. To prove this, this Note compares how irrigation districts in the Central Valley responded to three different conservation components of the groundbreaking California Water Conservation Act of 2009: the adoption of volumetric water pricing, investment in efficient irrigation technology, and mitigation measures against anthropogenic climate change. The results of the analysis provide strong evidence that those irrigation districts that have senior water rights are more likely to have inefficient irrigation systems and slower adoption of volumetric pricing than their junior counterparts. However, both junior and senior irrigation districts show procrastination in planning for the detrimental effects of climate change.
Jesse Reiblich et al.	"Climate Change and Water Transfers," *41 Pepp. L. Rev. 439* (2014)	[W]e offer what we believe is the first comprehensive, fifty-state survey of water allocation law and its efforts to ensure an adequate water supply in the face of a changing climate. In particular, we focus on one specific allocation mechanism-- "water transfer" --because it is both widely considered and broadly controversial as a climate adaptation strategy. Through this Article, we seek to make three unique contributions to the literature. First, we parse the opaque usage of the phrase "water transfer" and construct a typology of its three most prominent meanings. Second, we have conducted an empirical review of water transfer statutes, and present our raw data in table form, grouped by state and by transfer type. Finally, we have categorized state transfer statutes along a continuum, from measures that restrict transfers, to those that mitigate transfer impacts, to those that encourage transfers. Overall, we offer to legislators a "toolkit" of options, arrayed along a logical continuum.

Author	Title	Synopsis
Ronald B. Robie	"Effective Implementation of the Public Trust Doctrine in California Water Resources Decision-Making: A View From the Bench," *45 U. of Calif., Davis 1155* (2012)	[W]e will examine how certain standards and rules that apply to the judicial branch limit the judiciary's ability to fulfill all of the expectations of environmentalists and the general public who seek to use the courts to achieve more than they have achieved in the legislative and administrative arenas. This examination leads to the conclusion that, while the courts provide an invaluable forum for protecting public trust values, the administrative arena, particularly before the State Water Resources Control Board, remains the front line in the eternal struggle to balance the public's insatiable appetite for water in California with the equally important interest in protecting the nonconsumptive uses embodied in the public trust.
Carol M. Rose	"Joseph Sax and the Idea of the Public Trust," *Faculty Scholarship Series, Paper 1805* (1998)	"Public trust": what an arresting phrase. Perhaps it is not quite the equal of "the tragedy of the commons," but it catches the attention in a far more positive way, with its intimations of guardianship, responsibility, and community. My task here is to show how Joseph Sax deployed this evocative phrase, and expanded the concepts behind it, to challenge our ideas about natural resource management. For reasons that I hope will become clear, I find that I cannot deal with this task independently of the other topics on the panel-public lands policy to some degree, the takings question to a greater degree, but most of all water law, where the public trust is, if I may use the phrase, deeply immersed.
Erin Ryan	"A Short History of the Public Trust Doctrine and Its Intersection with Private Water Law," *38 Va. Envtl. L.J. 135* (2020)	This Article provides a short history of the development of public trust principles from early Roman and British law through modern U.S. law, and then analyzes the tension between the public commons approach underlying the public trust regulation of waterways and the privatization

Author	Title	Synopsis
		premises of American laws that regulate private use of the water within them.
Joseph L. Sax	"The Public Trust Doctrine in Natural Resources Law: Effective Judicial Intervention," *68 Mich. L. Rev. 471* (1970)	[A] proliferation of lawsuits in which citizens, demanding judicial recognition of their rights as members of the public, sue the very governmental agencies which are supposed to be protecting the public interest… present legal theories which are as diverse as lawyers' imaginations are fertile… [I]nconsistency has promoted a search for some broad legal approach which would make the opportunity to obtain effective judicial intervention more likely… Of all the concepts known to American law, only the public trust doctrine seems to have the breadth and substantive content which might make it useful as a tool of general application for citizens seeking to develop a comprehensive legal approach to resource management problems. If that doctrine is to provide a satisfactory tool, it must meet three criteria. It must contain some concept of a legal right in the general public; it must be enforceable against the government; and it must be capable of an interpretation consistent with contemporary concerns for environmental quality.
Scott B. Simpson	"Forging Connecticut's Water Policy Future: Registered Diversions, Riparian Rights and the Courts After Waterbury V. Washington," *8 Conn. Pub. Int. L.J. 255* (2009)	This Note proposes state courts as actors capable of forging a practical, effective solution to Connecticut's water policy impasse. The Note's central assertion is that judicial recognition of riparian rights as a limit to the scope of registered diversions could strike the balance necessary for an effective statewide water allocation scheme by appropriately protecting the interests of all legitimate uses, including those of registered diverters.
Kate P. Smallwood	"Coming out of Hibernation: The Canadian Public Trust Doctrine,"	…Canadian courts **have** recognized a public trust with respect to navigation and fishing as well as highways. Although the public trust concerning navigation and fishing has lain dormant since the

Author	Title	Synopsis
	Masters Thesis, University of British Columbia (1993)	late nineteenth century, the distinctive features of the public rights of navigation and fishing which led both American and Canadian courts to declare a public trust, have been mirrored in Canadian law. Coupled with the initial Canadian recognition of the public trust, the foundations therefore exist for a modern common law revival of the public trust doctrine in Canada. The likely consequences of recognition of the public trust as Canadian common law are: (1) the recognition of substantive right, and therefore legal standing, in members of the public to vindicate public trust issues; (2) the imposition of an affirmative fiduciary obligation on government with respect to trust resources; (3) the imposition of an administrative process on government with respect to supervision and disposition of public trust resources; (4) restrictions on alienation of trust resources, in particular the restriction that legislation is required to modify or extinguish public trust resources and, (5) in an environmental context, recognition of the importance of the natural environment and the special and inter-related nature of trust resources.
Ann Y. Vonde et al.	"Understanding the Snake River Basin Adjudication," *52 Idaho L. Rev. 53* (2016)	This article is intended to serve as a roadmap for those seeking to understand the [Snake River Basin Adjudication (SRBA)]. It documents the SRBA adjudication process and how major substantive issues were resolved. The authors learned the hard way that failure to adequately document past conflicts inevitably leads to future conflicts over the same issues. Indeed, the most contentious issues in the SRBA were primarily arguments over interpretation of past decisions and agreements.
Jane Kimball Warren et al.	"Learning to Share: Water Allocation in the Eastern United States," *32 No. 3*	In *Waterbury*, the Shepaug River "won" the long battle against the city of Waterbury through the combined resources of multiple towns and land trusts whose property abutted the river and private organizations of dedicated river advocates. The

Author	Title	Synopsis
	ABA Trends 4 (2001)	findings and recommendations of the Connecticut Department of Environmental Protection certainly added to the credibility of the Shepaug River advocates and gave emphasis to the public support of the river. At least in the East, where water rights are not controlled by "first in time, first in right" doctrines, municipalities and commercial users of water must learn to share these invaluable resources with riparian landowners and environmental advocates alike.
Jason A. Weiner	"The Insufficiency of New Hampshire's Instream Flow Regulation to Ensure the Viability of Its Rivers as Economic, Environmental, and Social Assets," *12 U. Denv. Water L. Rev. 377* (2009)	Part I of this article explains why the maintenance of natural instream flow regimes is critical to the ecological integrity of New Hampshire's riparian habitats. Part II details New Hampshire's economic interest in sufficiently protecting its rivers' natural flow regimes. Part III explains and identifies the anthropogenic threats to New Hampshire's natural flow regimes. Part IV describes why instream flow regulations, in addition to common law and statutes, are needed to adequately protect New Hampshire's rivers' flow regimes. Part V details the three inadequacies of New Hampshire's instream flow regulations in protecting the ecological integrity of its riparian habitat, including its disjointed and limited administrative structure, its limited ecological scope, and its failure to provide its streams with interim protections while the State determines and implements protected flows. Part VI concludes by offering suggestions to improve the instream flow regulations to better protect the outstanding characteristics and public uses of New Hampshire's streams.