

**ASSUMED CORPUS AND PRESUMED
CORPUS TO SAVE THE
ENVIRONMENT: WHEN *URINE*
GREEN SPOTS, ON NATURE TRAILS,
AND SLOPPING THROUGH SOIL**

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I. INTRODUCTION

April is at Yellowstone National Park and thinking about walking on a nature trail for the first time.¹ She has an apprehension about using the bathroom while on a nature trail.² She does not want to overthink it, get caught-up, or become emotional.³ She runs through a feigned scenario in which she has to use the bathroom, but cannot immediately look-up the law.⁴ She remembers that Garchy walked to the trail bathroom.⁵ In her mind, she decides to take the

* Acknowledgment of support is given to Christmas Morning.

¹ *Infra* Sections III (*i.e.*, presumed corpus).

² *Id.*

³ *Infra* Sections IV-VI.

⁴ *Infra* Sections II and III.

⁵ *Infra* Sections II (*i.e.*, assumed corpus).

trail in the other direction to the ranger station and use that bathroom instead of excreting in the woods.⁶ She follows unposted rules; and she does not walk into the woods to relieve herself during a non-emergency.⁷ She assumed that her friend's success could be her own and presumed that she could walk the trail comfortably and that the bathroom would meet her needs.⁸ Before heading to the trail, she looks up the park's specific rules, which may be silent about emergency use of off-trail areas for urination and defecation, and refreshes her memory about general rules.⁹ April deduces that her choice was appropriate and acceptable.¹⁰ She did not overestimate herself or downplay the dangers of disrobing and going to the bathroom in nature.¹¹ She was correct to follow Garchy's lead.¹² April uses the trail in the manner that she presumed she could, and

⁶ *Infra* Sections II and III (i.e., presumed corpus).

⁷ *Infra* Sections VII-IX.

⁸ *Infra* Sections II and III.

⁹ *Infra* Sections VII-IX.

¹⁰ *Infra* Section X.

¹¹ *Infra* Section IX.

¹² *Infra* Sections II and VII.

believed that Garchy had.¹³ She saved the environment because using a nature trail is good for the environment.¹⁴ This is but one example of actions people can take to save the environment.¹⁵

This Article advises that assumed corpus¹⁶ and presumed corpus¹⁷ are replacements for empathy and sympathy; collective effervescence, collective conscience, and superego; and fight or flight.¹⁸ They may be used to save the environment.¹⁹ Section II states that assumed corpus is the belief that one has experienced others' triumphs.²⁰ It supposes the details and assumes that one has embodied or may embody those experiences.²¹ Therefore, one is or will be successful.²² Section III states that presumed corpus is when the details and the embodiment are imagined.²³ The person is inexperienced and

¹³ *Infra* Sections II and III.

¹⁴ *Infra* Sections IV-VI.

¹⁵ *Infra* Sections IV and VII.

¹⁶ *Infra* Section II.

¹⁷ *Infra* Section III.

¹⁸ *Infra* Sections IV-VI.

¹⁹ *Infra* Section IX.

²⁰ *Infra* Section II.

²¹ *Id.*

²² *Id.*

²³ *Infra* Section III.

presumes to be safe.²⁴ Sections IV through VI respectively discuss empathy and sympathy; collective effervescence, collective conscience, and superego; and fight or flight.²⁵ An act as basic as strolling down a nature trail may help to save the environment.²⁶ Section VII discusses legislative history and issues; and Section VIII discusses environmental law enforcement strategies.²⁷ Two thoughts may impede a clear understanding of a nature trail, which is required to save the environment.²⁸ Discussed in Section IX covering enjoyment of nature, these are the thought of oneself as being invincible; and the thought of oneself as being capable of coexisting without saving nature.²⁹ The Article concludes in Section X.³⁰

²⁴ *Id.*

²⁵ *Infra* Sections IV-VI.

²⁶ *Infra* Section VII.

²⁷ *Infra* Sections VII and VIII.

²⁸ *Infra* Section IX.

²⁹ *Id.*

³⁰ *Infra* Section X.

II. ASSUMED CORPUS

Assumptions are made by perusing, attempting to process, absorbing, and remembering other individuals' (e.g., humans', insects', and animals') experiences.³¹ One comes to believe that his or her body is similarly experienced, equipped, or ready.³² Beliefs about one's capabilities, relationships to specific variables, accuracy, and fortitude are developed with regard to beliefs about what another person or other persons experience or experienced.³³ Assumptions about one's body's prospects, position, and potential are made with enthusiasm for another's supposed triumphs.³⁴

³¹ Lawrence C. Becker, *Elements of Liberal Equality: Introduction to Kirp, Hochschild, and Strauss*, 34 WM. & MARY L. REV. 89 (1992).

³² *Boumediene v. Bush*, 553 U.S. 723 (2008).

³³ *Id.*

³⁴ *Cf.* W.E.B. Du Bois, *The Souls of Black Folk* (1903). *Contra* Mark A. Lemley & Bryan Casey, *Remedies for Robots*, 86 UNIV. CHI. L. R. 1311 (2019). The creation of a patriarchal line of responsibility between creator and robot does not give way to the validation of the bad actor decision-making scheme. Economic reasoning cannot be juxtaposed to law. Crime defying the spirit of the law is nearly always outside the economy. Machines cannot be programmed to be rational bad actors.

Triumphant details are inferred, supposed, or imagined.³⁵ The assumed corpus embodies the triumphant experiences, which in reality may have occurred in a fashion partially undisclosed or undescribed.³⁶ The person feels as if though those experiences qualify trust; invite reliance from other individuals; and basically predetermine success.³⁷ Success demonstrates the persons' aptitudes embodied in a single person.³⁸ Expectations of success seem acceptable.³⁹ A successful outlook causes the person to undertake remote activities, risky conduct, and nearly unprecedented courses of action.⁴⁰ An instance of success may be the basis of the next attempt to repeat the same experience.⁴¹

³⁵ Robert G. Natelson, *A Reminder: The Constitutional Values of Sympathy and Independence*, 91 KY L. J. 353 (2002).

³⁶ Colo. Rev. Stat. § 13-25-135 (2019). Flauren Fagadau Bender, "I'm Sorry" Laws and Medical Liability, AMA J. ETHICS (2007).

³⁷ Silverman v. Motorola Solutions, 739 F. 3d 956 (2013).

³⁸ H. William Ihrig, *A Better Esprit De Corps*, 12 MARQ. L. REV. 162 (1928).

³⁹ Charles Delafuente, *Which Law Firm Is the Oldest in the United States?*, ABA J. (Feb. 1, 2014), https://www.abajournal.com/magazine/article/which_law_firm_is_the_oldest_in_the_united_states.

⁴⁰ Alex Liu, *Making Joy a Priority at Work*, HARV. BUS. REV. (July 17, 2019), <https://hbr.org/2019/07/making-joy-a-priority-at-work>.

⁴¹ Chandrakanta Hiremath, *Impact of Sports on Mental Health*, 4 INTL. J. PHYSIOLOGY, NUTRITION, & PHYSICAL EDUC. 14 (2009).

III. PRESUMED CORPUS

Presumed corpus results when a person has no firsthand details or almost no information upon which to base imagined capacities.⁴² Embodiment of another's alleged, possible, or reported experiences is conjured.⁴³ When the experience and details are imagined, embodiment is also imagined.⁴⁴ The person who presumes forfeits or forsakes experience.⁴⁵ The experience is deemed as being unessential.⁴⁶ A likelihood of failure is recognized.⁴⁷ Without guaranteed or likely triumph, the person presumes that he or she is safe.⁴⁸ Presumed corpus is thought to be safer than experience.⁴⁹

⁴² William Bradford, et al., *Mayflower Compact* (1620).

⁴³ Nina Varsava, *How to Realize the Value of Stare Decisis: Options for Following Precedent*, 30 *YALE J. L. & HUMANITIES* 62 (2018).

⁴⁴ *Patterson v. McLean Credit Union*, 491 U.S. 164 (1989).

⁴⁵ See Ted Sampsel-Jones, *Mens Rea in Minnesota and the Model Penal Code*, 39 *WILLIAM MITCHELL L. REV.* 1457 (2013).

⁴⁶ *Contra* J. M. Balkin, *The Footnote*, 83 *NORTHWESTERN U. L. REV.* 275 (1989). "Here the opinion mocks itself, reserving the discussion of the marginal to the margin." *Id.* at 284.

⁴⁷ *Id.* "If this causes a problem of infinite regress, improvise." Balkin, 83 *NORTHWESTERN U. L. REV.* 275, 320 n.4.

⁴⁸ David Hamer, *Presumptions, Standards and Burdens: Managing the Cost of Error*, 13 *L., PROBABILITY & RISK* 221 (2014).

⁴⁹ Blaise Pierrehumbert, et al., *Oxytocin Response to an Experimental Psychosocial Challenge in Adults Exposed to Traumatic Experiences During Childhood or Adolescence*, 166 *NEUROSCIENCE* 168 (2010).

IV. EMPATHY AND SYMPATHY

Empathy and sympathy are inner expressions of relationships.⁵⁰ Inner expressions may be feelings or thoughts.⁵¹ They may correlate with internal controls; social norms; and learned behavior.⁵² They are expressed to oneself and another person.⁵³ They communicate and maintain a relationship or, possibly, culminate relationships.⁵⁴

A. Empathy

Empathy expresses a belief that another's suffering is experienceable.⁵⁵ The experience may be

⁵⁰ Jody L. Madeira, *Regarding Pained Sympathy and Sympathy Pains: Reason, Morality, and Empathy in the Civil Adjudication of Pain*, 58 S. C. L. REV. 415 (2006).

⁵¹ "Call it the heart or the spirit or the inner person, there are in each of us perceptions and convictions that cannot be reduced to rules external to us." John T. Noonan, Jr., *The Foxboro Referee, the Boston Judge, the County Juror, and the Conscience of the Court*, 2003 U. ILL. L. REV. 1403, 1406 (2003).

⁵² Leandra Lederman, *The Fraud Triangle and Tax Evasion*, 106 IOWA L. REV. 1153 (2021).

⁵³ Susan A. Bandes, *Empathy and Article III: Judge Weinstein, Cases and Controversies*, 64 DEPAUL L. REV. 317 (2015).

⁵⁴ LRS § 13:3715.5 (2021).

⁵⁵ Edmondson, Dr. Michael H.; condolences, HR 247, 2021-2022 Regular Session (Georgia) (2021).

relative to one's past or present circumstances.⁵⁶ The empathizer feels or thinks that another's circumstances are relatable.⁵⁷ Suffering may feel shared.⁵⁸ The empathizer may think that by sharing painful feelings the sufferer's suffering may partially or totally be alleviated.⁵⁹

⁵⁶ Professional Art Therapy, RSA § 326-L:1(II)(d)(6) (2018).
“Increase coping skills, self-esteem, awareness of self, and empathy for others.” *Id.* Del. C. § 3060(2) (2021).

‘Art therapy services’ means all of the following services:

- d. Employing art media, the creative process, and the resulting artwork to assist clients to do all of the following:....
3. Cope with symptoms of stress, anxiety, traumatic experiences, and grief.
4. Explore feelings, gain insight into behaviors, and reconcile emotional conflicts.
5. Improve or restore functioning and a sense of personal well-being.
6. Increase coping skills, self-esteem, awareness of self, and empathy for others.
7. Improve healthy channeling of anger and guilt. *Id.*

⁵⁷ *Guide to the Delaware Rules of Legal Citation: In the Superior Court of Delaware* (2nd ed.), 24 (2004), https://courts.delaware.gov/Superior/pdf/citation_guide.pdf citing Note, *Being Atticus Finch: The Professional Role of Empathy in To Kill a Mockingbird*, 117 HARV. L. REV. 1682 (2004).

⁵⁸ Lee Norton, Ph.D., M.S.W., Jennifer Johnson, Esq., & George Woods, M.D., *Burnout and Compassion Fatigue: What Lawyers Need to Know*, 84 UMKC L. REV. 988 (2016).

⁵⁹ Thomas G. Kelch, *The Role of the Rational and the Emotive in a Theory of Animal Rights*, 27 B.C. ENVTL. AFF. L. REV. 1 (1999).

B. Sympathy

Sympathy is a gesture.⁶⁰ It informs one that a circumstance is undesirable.⁶¹ The sympathizer extends sympathy to express inner awareness of another's undesirable experiences.⁶² Expression of sympathy is meant to satisfy social expectations, demonstrate civility, and maintain human connection with another person.⁶³

V. COLLECTIVE THOUGHTS

Collective thoughts are supportive.⁶⁴ Scholars and researchers have described collective thoughts.⁶⁵

⁶⁰ *Willets Point Asphalt Corp. v. United Plant & Production Workers*, Confirmation Arbitration Award, No. 603777-08 (N.Y. App. Div., January 12, 2009).

⁶¹ CPLR § 170.40 (2021).

⁶² Tex. Code Crim. Proc. Art. 36.14 (2021).

⁶³ In the Matter of the Application of Barabara Paolucci & Madeline Paolucci v. The City of New York, The Department of Finance (DOF), & Parking Violations Bureau (PVB), No. 16795/03 (N.Y. App. Div., January 15, 2004).

⁶⁴ See e.g., Outer Continental Shelf Lands Act of 1953, 43 U.S.C. § 1331 (2017); Submerged Lands Act of 1953, 43 U.S.C. § 1301, *et seq.* (2021); *United States v. California*, 332 U.S. 19 (1947); *United States v. Texas*, 339 U.S. 707 (1950); and *United States v. Louisiana*, 339 U.S. 699 (1950). 43 U.S.C. § 1301 (2007).

⁶⁵ Mark Seidenfeld, *Cognitive Loafing, Social Conformity, and Judicial Review of Agency Rulemaking*, 87 CORNELL L. REV. 486

Émile Durkheim, Carl Jung, and Sigmund Freud all described collective thoughts.⁶⁶ Durkheim discussed collective effervescence.⁶⁷ Jung discussed a

(2002). “From the perspective of agency staff members, however, hard-look review provides the only oversight that focuses on the validity of their input into the rulemaking process—the detailed analysis and arguments based on the data in the record.” *Id.* at 515.

The hard-look test requires the court to scrutinize the agency’s reasoning to make certain that the agency carefully deliberated about the issues raised by its decision. Harold Levant, *Environmental Decisionmaking and the Role of the Courts*, 122 U. PA. L. REV. 509, 511 (1974). This test was first enunciated as an approach for assessing whether an agency decision is arbitrary and capricious in *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 851 (D.C. Cir. 1970). Although the Supreme Court has not used the talismanic phrase “hard look,” its decision in *Motor Vehicle Manufacturers Ass’n v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 43-44 (1983), which requires an agency to examine relevant data, articulate a satisfactory explanation connecting facts found to the agency’s regulatory choice, and consider all important aspects of problems addressed by the agency decision, is widely regarded as having adopted something akin to the hard-look standard. *Id.*

But see, Justice Antonin Scalia’s delivery of a unanimous opinion that concluded with a remand to the lower court in *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55 (2004) citing Federal Land Policy and Management Act of 1976 (FLPMA), 90 Stat. 2744, 43 U.S.C. § 1701, *et seq.* (1976). This case took a hard look.

⁶⁶ Robert S. Redmount, *Psychological Views in Jurisprudential Theories*, 107 PSYCHOL. VIEWS JURIS. 472 (1959).

⁶⁷ *See*, Nadia B. Ahmad, *The Tropics Exploited: Risk Preparedness and Corporate Social Responsibility in Offshore Energy Development*, 1 TEX. A&M L. REV. 335 (2013) (discussing corporate mentalities).

collective unconscious.⁶⁸ Freud honed-in on a superego.⁶⁹

A. Collective Effervescence

Durkheim described a feeling that connects people.⁷⁰ It is a shared sense of excitement.⁷¹ The sentiment passed among members of a group is

⁶⁸ Bruce C. Hafen & Jonathan O. Hafen, *The Hazelwood Progeny: Autonomy and Student Expression in the 1990's*, 69 ST. JOHN'S L. REV. 379 (1995).

Thomas Jefferson began with this assumption in writing the Declaration of Independence: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness.' Immanuel Kant powerfully articulated the idea that each person is born with a discoverable, inner set of moral standards. Similar ideas are found in the more recent work of psychologist Carl Jung, who discovered what he called 'the collective unconscious,' a universal sense of humankind's collective 'Self' reflected in the common patterns and images of world religions and mythologies. *Id* at 381 (internal citation omitted).

⁶⁹ See, Marleen A. O'Connor, *Women Executives in Gladiator Corporate Cultures: The Behavioral Dynamics of Gender, Ego, and Power*, 65 MD. L. REV. 465 (2006). "We need to let our egos fade to work collectively as problem-solvers to...promote individual, organizational, and societal well-being." *Id.* at 503 n. 211.

⁷⁰ Émile Durkheim, *SUICIDE: A STUDY IN SOCIOLOGY* (1951).

⁷¹ See, Ari Ezra Waldman, *A Breach of Trust: Fighting Nonconsensual Pornography*, 102 IOWA L. REV. 709 (2016).

contagious.⁷² It symbolizes a spiritual dimension.⁷³ Emotions are augmented by the contributions of the members.⁷⁴ Power is experienced as or through emotions.⁷⁵ His work on collective effervescence relates to his studies and discoveries of totemism and anomie.⁷⁶ In both cases, group faith leads to action.⁷⁷

B. Collective Unconscious

Jung encircled the regard owed to the collective unconscious.⁷⁸ He complained in his research that respect for the collective unconscious had waned.⁷⁹ The public and specialists in the field explored it

⁷² Jasse Suonperä Liebst, *Exploring the Sources of Collective Effervescence: A Multilevel Study*, 6 SOC. SCI. 27 (2019).

⁷³ David M. Trubek, *Max Weber on Law and the Rise of Capitalism*, 1972 WIS. L. REV. 743 (1972).

⁷⁴ ÉMILE DURKHEIM, *THE ELEMENTARY FORMS OF THE RELIGIOUS LIFE* (1912).

⁷⁵ Richard Abel, *Forecasting Civil Litigation*, 58 DEPAUL L. REV. 425 (2009).

⁷⁶ Sandro Serpa & Carlos Miguel Ferreira, *Anomie in the Sociological Perspective of Émile Durkheim*, 2 SOCIOLOG. INT. J. 689 (2018).

⁷⁷ ROBERT ALUN JONES, *EMILE DURKHEIM: AN INTRODUCTION TO FOUR MAJOR WORKS* (1986).

⁷⁸ CARL G. JUNG, *THE ARCHETYPES AND THE COLLECTIVE UNCONSCIOUS* (1969).

⁷⁹ *Id.*

periodically.⁸⁰ He described a unifying mind.⁸¹ The deeply connected realization of awareness could not be separated from humans.⁸² It relates to his work on cycles and circles; archetypes; levels of being; and higher ideals.⁸³

C. Superego

Freud flagged a spacio-mental field in which society could take note of preeminent qualities.⁸⁴ The superego is a shared, invisible place that governs judgment.⁸⁵ The id is like an opposite impulse

⁸⁰ Alp Bal, *New Perspectives on The Unconscious Mind and Their Comparison with Carl Jung's Theory of The Archetypes and The Collective Unconscious: A Literature Review*, Istanbul Commerce University (2017).

⁸¹ C. G. JUNG, *AION: RESEARCHES INTO THE PHENOMENOLOGY OF THE SELF* (1959).

⁸² Felix S. Cohen, *The Problems of a Functional Jurisprudence*, 1 MOD. L. REV. 5 (1937).

⁸³ C.G. JUNG, *COLLECTED WORKS OF C.G. JUNG (VOL. 4): FREUD & PSYCHOANALYSIS*, 456-57 (1961).

⁸⁴ Arnon Ben-Israel, "This Road Is in My Space-Map - Highway 31 As a Place in the Israeli Negev," *The 5th International Conference on Drylands, Deserts and Desertification Healthy Lands - Healthy People*, 51 (Nov. 17-20, 2014).

⁸⁵ C. G. Schoenfeld, *The Superego's Influence on the Law*, 14 DEPAUL L. REV. 299 (1965).

driving individual desires.⁸⁶ The ego is a valve that protects a person from being dispersed and lessened by the superego.⁸⁷ The ego restrains lower drives by demanding satisfaction.⁸⁸ Freud's superego is not merely a civic composite but a whole serving the interests of many.⁸⁹

VI. FIGHT OR FLIGHT

“Fight or Flight” synthesizes how animals may resolve conflict in extremely constricted spaces.⁹⁰ When two creatures, including humans, believe that they need a finite space, resource, emotion, or some

⁸⁶ Anu Norrgrann, *Symbolically Embedded: Essays on the Creation and Use of Symbolic Resources in Furniture Networks*, University of Vaasa (2015).

⁸⁷ SIGMUND FREUD, *TOTEM AND TABOO* (1919).

⁸⁸ Charles E. Clark, *The Function of Law in a Democratic Society*, 9 *UNIV. CHI. L. REV.* 393 (1942).

⁸⁹ José Brunner, *Freud and the Rule of Law: From Totem and Taboo to Psychoanalytic Jurisprudence*, in Michael Levine (ed.), *THE ANALYTIC FREUD: PHILOSOPHY AND PSYCHOANALYSIS* (2000) (describing transcendent auras emanating from the rule of law that lower judges from creators to interpreters and placing lawmakers in a position to be given authority).

⁹⁰ Laura Caty, *The Social Effects of Detention on Undocumented Children*, *IMMIGR. & HUM. RTS. L. REV.* (Feb. 25, 2019), <https://lawblogs.uc.edu/ihr/r/2019/02/25/the-social-effects-of-detention-on-undocumented-children/>.

other prospect, they may take one of two courses of action: fight or flight.⁹¹

A. Fight

Fighting is combat, a zero-sum negotiation, competition, or conclusive rivalry.⁹² Combat may be actual physical fighting.⁹³ Fighting may correlate with injury, weakness, or possibly death.⁹⁴ Zero-sum negotiation may result in the assignment of a prospect to one party, but not to the other.⁹⁵ Competition could be a contest with rules, outcomes, and prizes; or a contesting spirit that defies fair play, friendliness, or collaboration.⁹⁶ A conclusive rivalry may result when a prospect is equally inclined to be delegated to either party; or a belief of attainability is

⁹¹ Alison Wood Brooks, *Emotion and the Art of Negotiation*, HARV. BUS. REV. 56 (Dec. 2015) <https://hbr.org/2015/12/emotion-and-the-art-of-negotiation>.

⁹² Fla. Stat. § 768.28(9)(a) (2020).

⁹³ Federal Torts Claims Act, 28 U.S.C. § 1346 (2020).

⁹⁴ Don S. Smith, *Battery in Medical Torts*, 16 CLEV.-MARSHALL L. REV. 22 (1967).

⁹⁵ Cheney C. Joseph Jr., *The Assignment of Error*, 35 LA. L. REV. (1975).

⁹⁶ Okla. Stat. 21 § 431 (2019).

shared by the rivals.⁹⁷ The prospect may self-assign, instigate assignment, or require barter, remuneration, etc.⁹⁸ Fighting may encourage others to fight.⁹⁹

B. Flight

Flight is loss of interest, leaving the bargaining table, escaping with one's life, or abandoning a collaborative.¹⁰⁰ Loss of interest may result from fatigue or demonstrate diminished value (e.g., intrigue).¹⁰¹ Leaving the bargaining table may be a short-term or long-term strategy to reposition.¹⁰² It may deny progress or demonstrate an opponent's heavy-handedness.¹⁰³ Escape is described as "flight"

⁹⁷ Joel Jay Finer, *Ineffective Assistance of Counsel*, 58 CORNELL L. REV. 1077 (1973).

⁹⁸ *Truths About Violent-Crime Recidivism*, Michigan Justice Advocacy (Mar. 9, 2021), <https://mijjustice.org/2021/03/09/truths-about-violent-crime-recidivism/>.

⁹⁹ *Gideon v. Wainwright*, 372 U.S. 335 (1963).

¹⁰⁰ 8 U.S.C. § 1158 (2021).

¹⁰¹ Victoria Neilson & Aaron Morris, *The Gay Bar: The Effect of the One-Year Filing Deadline on Lesbian, Gay, Bisexual, Transgender, and HIV-Positive Foreign Nationals Seeking Asylum or Withholding of Removal*, 8 N.Y. CITY L. REV. 233 (2005).

¹⁰² Irwin P. Stotzky, *The Fragile Bloom of Democracy*, 44 U. MIAMI L. REV. 105 (1989).

¹⁰³ Misha Seay, *Better Late than Never: A Critique of the United States' Asylum Filing Deadline from International and Comparative Law Perspectives*, 34 HASTINGS INT'L & COMP. L. REV. 407 (2011).

when a creature avoids demise by surrendering turf.¹⁰⁴ It is also a description of how a creature could behave when pressured by a creature attempting to end his or her life or wellbeing.¹⁰⁵ Resigning from a group effort may disappoint a group, but save one participant from failure.¹⁰⁶ It may shift failure from a fraction of the group onto other members.¹⁰⁷ In animals' circumstance, this may be an attempt to cut losses, salvage a reputation, and end a conspiracy or syndicate.¹⁰⁸ Flight may encourage others to take flight.¹⁰⁹

¹⁰⁴ See e.g., 8 U.S.C. § 1641(b)(7) (2021).

¹⁰⁵ Lauryn P. Gouldin, *Disentangling Flight Risk from Dangerousness*, 2016 BYU L. REV. 837 (2016).

¹⁰⁶ *Hernandez-Montiel v. INS*, 225 F.3d 1084 (9th Cir. 2000).

¹⁰⁷ Stephen Paskey, *Telling Refugee Stories: Trauma, Credibility and the Adversarial Adjudication of Claims for Asylum*, 56 SANTA CLARA L. REV. 457 (2016).

¹⁰⁸ Fla. Stat. § 944.40 (2020).

¹⁰⁹ Daeja Pemberton, *United States v. Lozoya: The Turbulence of Establishing Venue for In-Flight Offenses*, 8 TEX. A&M L. REV. ARGUENDO 1 (2020).

VII. SAVING THE ENVIRONMENT

A. History

Legislation has protected the environment.¹¹⁰ More effort is required.¹¹¹ It is important for people to understand the law and accept how others have experienced nature to be able to utilize natural areas.¹¹² A major piece of legislation was enacted in 1872.¹¹³ It established the parameters of Yellowstone National Park and the uses of the park.¹¹⁴ Yellowstone National Park Protection Act designated “the tract of land in the Territories of Montana and Wyoming, lying near the headwaters of the Yellowstone River.”¹¹⁵

[At] the headwaters of the Yellowstone River....commencing at the junction of Gardiner’s river with the Yellowstone river, and running east to the meridian passing ten miles to the eastward of the most eastern point of Yellowstone lake;

¹¹⁰ Yellowstone National Park Protection Act, 42nd Cong. § 2 (1872).

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

thence south along said meridian to the parallel of latitude passing ten miles south of the most southern point of Yellowstone lake; thence west along said parallel to the meridian passing fifteen miles west of the most western point of Madison lake; thence north along said meridian to the latitude of the junction of Yellowstone and Gardiner's rivers; thence east to the place of beginning.¹¹⁶

The space was “reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart as a public park.”¹¹⁷ Other uses include “pleasuring-ground for the benefit and enjoyment of the people.”¹¹⁸ “Trespassers” include “all persons who shall locate or settle upon or occupy the same, or any part thereof.”¹¹⁹

Section Two grants “exclusive control” to “the Secretary of the Interior, whose duty it shall be....to make and publish such rules and regulations as he

¹¹⁶ *Id.*

¹¹⁷ Yellowstone National Park Protection Act.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

may deem necessary or proper for the care and management of the same.”¹²⁰

Such regulations shall provide for the preservation, from injury or spoliation, of all timber, mineral deposits, natural curiosities, or wonders within said park, and their retention in their natural condition. The Secretary may in his discretion, grant leases for building purposes for terms not exceeding ten years, of small parcels of ground, at such places in said park as shall require the erection of buildings for the accommodation of visitors; all of the proceeds of said leases, and all other revenues that may be derived from any source connected with said park, to be expended under his direction in the management of the same, and the construction of roads and bridle- paths therein. He shall provide against the wanton destruction of the fish and game found within said park, and against their capture or destruction for the purposes of merchandise or profit. He shall also cause all persons trespassing upon the same after the passage of this act to be removed therefrom.¹²¹

¹²⁰ Yellowstone National Park Protection Act § 2.

¹²¹ *Id.*

Today, the park is also governed by National Park Service Organic Act of 1916.¹²² The National Park Service was established to “promote and regulate the use of the Federal areas known as national parks, monuments, and reservations...specified by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein.”¹²³ The National Park Service shall “provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”¹²⁴ Section Two assigns to the Secretary of the Interior jurisdiction of parks and monuments and other areas, such as the Hot Springs Reservation in the State of Arkansas.¹²⁵ “That in the supervision, management, and control of national monuments

¹²² National Park Service Organic Act, 16 U.S.C. § 1 (1916). National Park Service General Authorities Act of 1970, 54 U.S.C. § 100101 (1970).

¹²³ National Park Service Organic Act.

¹²⁴ *Id.*

¹²⁵ *Id.* at § 2.

contiguous to national forests the Secretary of Agriculture may cooperate with said National Park Service to such extent as may be requested by the Secretary of the Interior.”¹²⁶ National parks became, and continue to be, popular sociopolitical tools leading President Lyndon B. Johnson to concentrate environmental concern and effort on the expansion of the park system.¹²⁷ He backed the addition of 50 new federalized lands with several key pieces of environmental legislation, such as the Wilderness Act,¹²⁸ National Historic Preservation Act,¹²⁹ Endangered Species Act,¹³⁰ National Park Foundation,¹³¹ National Trails System,¹³² Wild and

¹²⁶ *Id.* Quoting Yellowstone National Park, “National Park Service Organic Act (1916),” National Park Service, <https://www.nps.gov/yell/learn/management/national-park-service-organic-act-1916.htm>, *but see*, 16 U.S.C. § 2 (2013) “In the supervision, management, and control of national monuments contiguous to national forests the [*sic*] Secretary of Agriculture may cooperate with said National Park Service to such extent as may be requested by the Secretary of the Interior.” *Id.*

¹²⁷ Lyndon B. Johnson, “Lyndon B. Johnson and the Environment,” National Park Service, <https://www.nps.gov/lyjo/planyourvisit/upload/environmentcs2.pdf>.

¹²⁸ 16 U.S.C. § 1131 (2021).

¹²⁹ 54 U.S.C. § 300101, *et seq.* (2021).

¹³⁰ Endangered Species Act of 1973, 16 U.S.C. § 1531 (2021).

¹³¹ 16 U.S.C. § 19, *et seq.* (2014); Pub. L. 90-209 (1967); 7 U.S.C. § 1838 (1967).

¹³² 16 U.S.C. § 1242 (2021).

Scenic Rivers System,¹³³ and Wetlands Preservation Bill.¹³⁴ Yellowstone National Park is just one of many examples.¹³⁵

B. Issues

The issues are whether assumed corpus and presumed corpus may be used to help people comfortably and safely use nature trails; and whether people who understand others' abilities and their own limitations can help to save the environment by using nature trails. Presently, some problems that have survived since the creation of the national park system continue to face park guests and inhabitants.¹³⁶ They include misconceptions about the use, enforcement, and expected use of land within communities.¹³⁷

¹³³ 16 U.S.C. § 1271, *et seq.* (2021).

¹³⁴ "Lyndon B. Johnson and the Environment."

¹³⁵ *Id.*

¹³⁶ *Id.* at § 3.

¹³⁷ *Id.*

The National Park Service Organic Act
authorized destructive purposes.¹³⁸

¹³⁸ National Park Service Organic Act § 3 (repealed Dec. 19, 2014). The purposes and spirit of this provision have been applied elsewhere, *see e.g.* 16 U.S.C. § 64 (2021); 7 C.F.R. § 1000.52 (2021); C.F.R. 36 § 7.22(c) (2021); and Endangered Species Act of 1973, 16 U.S.C. ch. 35 § 1531, *et seq.* (2021). In Yellowstone National Park, the applicable laws are expansive and some have been repealed or reworded, *see e.g.*, 16 U.S.C. ch. 1 §§ 30, 33, 39 (2021). 16 U.S.C. § 36 (2021).

The Secretary of the Interior is authorized, in his discretion and under regulations to be prescribed by him, to give surplus elk, buffalo, bear, beaver, and predatory animals inhabiting Yellowstone National Park to Federal, State, county, and municipal authorities for preserves, zoos, zoological gardens, and parks. He may sell or otherwise dispose of the surplus buffalo of the Yellowstone National Park herd, and all moneys received from the sale of any such surplus buffalo shall be deposited in the Treasury of the United States as miscellaneous receipts. (Jan. 24, 1923, ch. 42, 42 Stat. 1214.). *Id.*

16 U.S.C. § 36a (2021).

The Secretary of the Interior is authorized in his discretion, and under regulations to be prescribed by him, to sell or otherwise dispose of the surplus elk from the Yellowstone National Park herd, and all moneys received from the sale of any such surplus elk shall be deposited in the Treasury of the United States as miscellaneous receipts. *Id.*

16 U.S.C. § 35 (2021).

Private parties or companies doing business in the Yellowstone National Park under authority from the Government may be permitted, in the discretion of the Secretary of the Army, to use electricity furnished by the electric lighting and power plant of Fort Yellowstone and Mammoth Hot Springs at actual cost to the Government for operation, maintenance, and depreciation of the plant and 10 per centum additional, under such regulations as may be prescribed by the Secretary of the Army. (Mar. 3, 1903, ch. 1007, § 1, 32 Stat. 1130; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.). *Id.*

That the Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service, and any violations of any of the rules and regulations authorized by this Act shall be punished as provided for in section fifty of the Act entitled “An Act to codify and amend the penal laws of the United States,” approved March fourth, nineteen hundred and nine, as amended by section six of the Act of June twenty-fifth, nineteen hundred and ten (Thirty-sixth United States Statutes at Large,

See also, 16 U.S.C. § 40a (2021).

Under such regulations as may be prescribed by the Secretary of the Interior, payments may be made, as provided in sections 40a to 40c of this title, in advance or otherwise, from any revenues received by the United States from visitors to Yellowstone National Park, to the appropriate school district or districts serving that park, as reimbursement for educational facilities (including, where appropriate, transportation to and from school) furnished by the said district or districts to pupils who are dependents of persons engaged in the administration, operation, and maintenance of the park, and living at or near the park upon real property of the United States not subject to taxation by the State or local agencies and upon which payments in lieu of taxes are not made by the United States: Provided, That the payments for any school year for the aforesaid purpose shall not exceed that part of the cost of operating and maintaining such facilities which the number of pupils, in average daily attendance during that year, bears to the whole number of pupils in average daily attendance at those schools for that year. *Id.*

page eight hundred and fifty-seven). He may also, upon terms and conditions to be fixed by him, sell or dispose of timber in those cases where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park, monument, or reservation. He may also provide in his discretion for the destruction of such animals and of such plant life as may be detrimental to the use of any of said parks, monuments, or reservations. He may also grant privileges, leases, and permits for the use of land for the accommodation of visitors in the various parks, monuments, or other reservations herein provided for, but for periods not exceeding twenty years; and no natural curiosities, wonders, or objects of interest shall be leased, rented, or granted to anyone on such terms as to interfere with free access to them by the public: Provided, however, That the Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze live stock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or

reservation was created, except that this provision shall not apply to the Yellowstone National Park.¹³⁹

Yellowstone National Park sends hundreds of organic inhabitants, such as indigenous buffaloes, to die at once.¹⁴⁰ The reduction in herd size may be a strategy used by bison to help cows.¹⁴¹ Farmed cows suffering deplorable mistreatment have been present and may be present in or near the Yellowstone park.¹⁴² The buffaloes carry to them an infection that causes them to abort and experience infertility and reduced byproduct production.¹⁴³ The herds' meat is allegedly salvaged and their organs, bones, and sinew are harvested.¹⁴⁴ This may reduce the demand for cows in the areas, if not impactfully, then minimally.¹⁴⁵ It also may send loud messages to environmentalists in the area that help is on the

¹³⁹ National Park Service Organic Act § 3.

¹⁴⁰ 16 U.S.C. § 36 (2021).

¹⁴¹ Endangered Species Act.

¹⁴² WY Stat. § 6-3-203 (2021) (applying to pigs and other animals).

¹⁴³ 16 U.S.C. § 36 (2021).

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

way.¹⁴⁶ However, it may attract speculators and people who want to deforest Yellowstone.¹⁴⁷

The people who visit Yellowstone must treat the park respectfully.¹⁴⁸ They must utilize the space in conformity with the government's purpose.¹⁴⁹ They must obey all park rules.¹⁵⁰ People prone to breaking park rules may be those testing the spirit and enforcement of the law; wishing to cause the remaining and relatively shrinking lands to seem and be mismanaged and unlawfully maintained; and intending to dispose of the area in an unlawful manner.¹⁵¹ People who utilize the land lawfully but observe unrequired misconduct toward animals and plants in need may believe that this scope granted to the government (e.g., rangers) to dispose of life is unlimited, should be revived according to the norms of previous eras, or should be indicative of how they

¹⁴⁶ *Id.* Endangered Species Act.

¹⁴⁷ National Park Service Organic Act.

¹⁴⁸ *Infra* Section VIII.

¹⁴⁹ National Park Service Organic Act § 3.

¹⁵⁰ "Lyndon B. Johnson and the Environment."

¹⁵¹ *Id.*

should behave on nature trails.¹⁵² Instead, presumed corpus and assumed corpus should be used within the given limitations of the imagination and physical potential of the person using the trail and natural area.¹⁵³

VIII. LAWS AND ENFORCEMENT

A. Laws: Nature Trails

The federal government has the authority to make rules and regulations pertaining to the park system.¹⁵⁴ These rules may overlap with state and local laws and regulations.¹⁵⁵ Obeying laws on nature trails is important.¹⁵⁶ Trees, animals, and

¹⁵² National Park Service Organic Act § 3. 36 C.F.R. §§ 10.1-10.4 (2021).

¹⁵³ *Supra* Sections II and III. *Infra* Section IX.

¹⁵⁴ *United States v. Gettysburg Electric Ry. Co.*, 160 U.S. 668 (1896). Any act of Congress which plainly and directly tends to enhance the respect and love of the citizen for the institutions of his country and to quicken and strengthen his motives to defend them, and which is germane to and intimately connected with and appropriate to the exercise of some one or all of the powers granted by Congress, must be valid, and the proposed use in this case comes within such description. *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ Yellowstone National Park, "Regulations," National Park Service (June 24, 2019), <https://www.nps.gov/yell/planyourvisit/rules.htm>.

natural areas merit respect.¹⁵⁷ The law is intended to protect, preserve, and elicit respect.¹⁵⁸ Laws require of visitors comportment that meets minimum standards for conduct in public.¹⁵⁹ It also imparts a sense of how to preserve the wilderness and how to behave near other travelers and park visitors.¹⁶⁰ The law is designed to educate the public about the experience of being human in nature.¹⁶¹ This includes human debilities and strengths.¹⁶²

Rules at Yellowstone National Park include prohibitions against the following:

Willfully remaining near or approaching wildlife, including nesting birds, within any distance that disturbs or displaces the animal.

Hunting or feeding wildlife.

Traveling off boardwalks or designated trails in hydrothermal areas.

Throwing anything into thermal features.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ “Regulations” (June 24, 2019).

¹⁶² *Id.*

Swimming in hot springs.

Removing or possessing natural or cultural resources (such as wildflowers, antlers, rocks, and arrowheads).

Leaving detachable side mirrors attached when not pulling trailers.

Traveling off-road by vehicle or bicycle.

Camping outside of designated areas.

[W]ildlife...viewing with lights....

Imitating elk calls or using buglers.
Imitating wolf howls.

Using electronic equipment capable of tracking wildlife[.]

Launching, landing, or operating unmanned aircraft (drones) on lands and waters.

Smoking...in geyser basins[,],...on trails...[,] in buildings[,] or within 25 feet of building entrances.¹⁶³

¹⁶³ *Id.*

Rules are presented in a user-friendly manner on Yellowstone’s website.¹⁶⁴ The law is in the federal codes, such as the United States Code (U.S.C.) and Code of Federal Regulations (C.F.R.).¹⁶⁵ The penalties for violations are not included in Yellowstone’s recitation and synopses.¹⁶⁶ This is partially due to the park’s friendly attitude toward invitees, guests, visitors, international tourists, etc.¹⁶⁷ Penalties are listed in the law.¹⁶⁸

B. Enforcement Strategies

The law directly contemplates use and reasserts the importance of avoiding past transgressors’ actions.¹⁶⁹ Each park is restricted by a specific set of codes to enable maximum usage and benefits for the environment.¹⁷⁰ Some laws may be repetitious, complementary, or seem lax.¹⁷¹ Lax codes may

¹⁶⁴ *Id.*

¹⁶⁵ 16 U.S.C. § 3 (2021). 36 C.F.R. ch. 1, Parts 1-7 (2021).

¹⁶⁶ “Regulations” (June 24, 2019).

¹⁶⁷ *Id.*

¹⁶⁸ *E.g.*, 36 C.F.R. § 4.13(b) (2021).

¹⁶⁹ *See supra* Sections II and III.

¹⁷⁰ 16 U.S.C. § 3 (2021).

¹⁷¹ *See id.*

indicate positive support from the community, which follows the spirit of the law.¹⁷²

Yellowstone is an example of a park with many rules, and yet, rules that suggest to people that they exercise discretion and behave in conformity with their surroundings, not in novel, daring, or eccentric manners.¹⁷³ Yellowstone prohibits the use of sled dogs, but allows snow mobiles.¹⁷⁴ Unlike other federal sources of authority that allow grazing, but penalize unauthorized grazing with a daily fine per animal, Yellowstone's public website, which lists rules, does not describe a penalty for unauthorized horse grazing on nature trails in relation to the cultivation of animals on federal land.¹⁷⁵ Some parks require tours to yield to pedestrians (e.g., caves) while others strictly prohibit trail hikers from coming into contact with certain natural wonders (e.g., water

¹⁷² *Id.*

¹⁷³ *See e.g. infra* note.

¹⁷⁴ 36 C.F.R. § 7.13(l)(16)(iii) (2021).

¹⁷⁵ 36 C.F.R. § 7.63(b)(i)(6) (2021). "Permittees or nonpermittees who have stock on Federal lands within the monument at any time or place, when or where herding or grazing is unauthorized may be assessed fifty cents per day per cow or horse and ten cents per day per sheep as damages." *Id.*

areas).¹⁷⁶ The purpose of the regulations is further clarified by the severity of the penalties.¹⁷⁷ While some penalties call for revocation of licensure to inhibit certain misuses, the park may arrest and penalize hikers.¹⁷⁸ Hikers should be wary of copying others in the area, because they may be licensed or sponsored by the federal government in conjunction with specific scientific, athletic, cultural, ethnic, religious, or other purposes.¹⁷⁹ Hikers venturing into nature or a new area for the first time should check with rangers to understand which guidelines apply to them and how they may safely utilize the public park.¹⁸⁰ The United States Attorney's Office in Wyoming specifies online which offices may be contacted for further information.¹⁸¹

¹⁷⁶ 36 C.F.R. § 4.20 (2021); 36 C.F.R. § 7.13(m) (2021).

¹⁷⁷ National Park Service Organic Act.

¹⁷⁸ *Id.*; 36 CFR § 4.2 (2021); *See*, D. Wyo. & 10th Cir. Ct.

¹⁷⁹ Yellowstone National Park, "Research Permitting Policy," National Park Service (June 15, 2016), <https://www.nps.gov/yell/learn/nature/permitpolicy.htm>; Yellowstone National Park, "General Conditions for Scientific Research and Collecting Permit," National Park Service (June 15, 2016), <https://www.nps.gov/yell/learn/nature/npsconditions.htm>.

¹⁸⁰ *See e.g.*, "Regulations" (June 24, 2019).

¹⁸¹ The United States Attorney's Office District of Wyoming, *Violations in Yellowstone and Grand Teton National Parks and in*

Safety encourages the use of parks and is a primary function of penalization.¹⁸² Penalties deter people from distracting, misguiding, endangering, compromising, beguiling, or misleading others while in the park.¹⁸³ This serves the federal and environmental purposes.¹⁸⁴ By envisioning the law and a body of results codified to establish beneficial purposes, uses, and strategies, assumed corpus and presumed corpus become essential tools for estimating, portraying, and recommunicating how properly to behave on the nature trail.¹⁸⁵ They work in conjunction with following the law.¹⁸⁶

Penalties may seem reasonable.¹⁸⁷ They may be intended to enforce the law, but not discourage people from visiting the park where they assume the

Other Federal Enclaves, United States Department of Justice (Aug. 31, 2015), <https://www.justice.gov/usao-wy/criminal-division/violations-yellowstone-and-grand-teton-national-parks-and-other-federal-enclaves>.

¹⁸² *Id.* *Infra* note.

¹⁸³ *E.g.* 36 C.F.R. § 4.13(b) (2021).

¹⁸⁴ *Id.*

¹⁸⁵ Wyoming, *Violations in Yellowstone and Grand Teton National Parks and in Other Federal Enclaves*. *Supra* Sections II and III.

¹⁸⁶ *Supra* Sections II and III.

¹⁸⁷ Yellowstone National Park, “Laws & Policies,” U.S. National Park Service, <https://www.nps.gov/yell/learn/management/lawsandpolicies.htm>.

risk of and responsibility for being penalized for disobeying the law (e.g., forfeiture).¹⁸⁸ Off-road use of motorized and mechanicalized vehicles, less than one hundred feet from the road, is assessed a \$25.00 fine when damage to resources is not significant.¹⁸⁹ When significant resource damage occurs or the distance is greater than 100 feet, then the fine is \$100.00.¹⁹⁰ On two-lane highways, vehicles traveling slower than the posted speed limit or slower than road conditions allow within the speed limit, shall exit the roadway at the next safe turnout in order to allow a vehicle or vehicles following to proceed.¹⁹¹ The fine for failing to obey the rule is \$25.00.¹⁹² Drivers idling for any reason other than warm-up or loading and unloading passengers for more than ten minutes may be subject to a fine of \$50.00.¹⁹³ Skiing and snowshoeing may be permitted on closed roads when ski trails and areas are closed;

¹⁸⁸ *Id.*

¹⁸⁹ 36 C.F.R. § 4.10(a) (2021).

¹⁹⁰ *Id.*

¹⁹¹ 36 C.F.R. § 4.13(b) (2021).

¹⁹² *Id.*

¹⁹³ 36 C.F.R. § 5.13 (2021).

however, skiers may only, when practicable, ski facing traffic on the left side on the edge of the road.¹⁹⁴ Oversnow vehicles have the right of way or the penalty is a \$25.00 fine.¹⁹⁵ Seasonally, due to animal presence and weather conditions, and within certain geographic boundaries, skating activities may be proscribed except at the administrative and housing areas.¹⁹⁶ The use of gear subject to a \$25.00 fine includes roller skates, skateboards, roller skis, and roller blades.¹⁹⁷

Sanctioning may cleanse conduct.¹⁹⁸ Authorization may occur in the form of granted permission, licensure, notification, or through other means.¹⁹⁹ One common penalty that could result from state and federal infractions is the loss of a particular kind of permit to operate certain vehicles within the park.²⁰⁰ This may result from pollution

¹⁹⁴ 36 C.F.R. § 2.19 (2021).

¹⁹⁵ *Id.*

¹⁹⁶ 36 C.F.R. § 2.20 (2021).

¹⁹⁷ *Id.*

¹⁹⁸ *See supra* Sections II and III.

¹⁹⁹ *See generally*, Wyoming, *Violations in Yellowstone and Grand Teton National Parks and in Other Federal Enclaves*.

²⁰⁰ 36 C.F.R. § 7.13 (2021).

and hazardous material transportation.²⁰¹ Waste management is of central importance around and on trails.²⁰² This includes the dispersion of materials (e.g., animal feces) arising in conjunction with human presence throughout the natural areas.²⁰³ Section 2.15 of the C.F.R. requires responsible parties (e.g., pet owners) to pick up and discard “pet fecal matter in residential, public use areas or along roads adjacent to these areas.”²⁰⁴ An infraction results in a \$25.00 fine.²⁰⁵ “The owners or responsible persons of pets impounded for running-at-large or as the result of pet abuse, neglect or cruelty will be charged a minimum of \$10 per day for kennel or boarding costs, in addition to veterinarian fees, transportation and disposal.”²⁰⁶ The superintendent may approve visitors or residents keeping domesticated wild or agricultural animals, who pose no danger to nature or cultural

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Infra* note.

²⁰⁴ 36 C.F.R. § 2.15(a)(5) (2021).

²⁰⁵ *Id.*

²⁰⁶ 36 C.F.R. § 2.15(d) (2021).

resources.²⁰⁷ Unapproved keeping, danger, and other violations result in a \$25.00 fine.²⁰⁸

Dogs and cats must be restrained (e.g., leashed, crated, or carried), only within 100 feet of roadways and parking lots.²⁰⁹ They cannot use nature trails or boardwalks.²¹⁰ Many areas in the park may only be travelled by using a designated footpath.²¹¹ It is illegal to use a dog to pull a sled or cause a skier to be pulled by a dog or horse; vehicles cannot pull skiers; and bicycles are prohibited on oversnow routes.²¹² The number and kind of vehicle permitted in any area may be limited by the superintendent, who provides public notice, in consideration of the location of wintering wildlife; snow cover and avalanches; public safety, operations, utilization, rates, and visitor experiences; or other factors each day.²¹³

²⁰⁷ *Infra* note.

²⁰⁸ 36 C.F.R. § 2.15(e) (2021).

²⁰⁹ 36 C.F.R. § 7.13(h) (2021).

²¹⁰ *Id.*

²¹¹ 36 C.F.R. § 7.13(j) (2021).

²¹² 36 C.F.R. § 7.13(l)(16)(iii) (2021).

²¹³ 36 C.F.R. § 7.13(l)(10)(xiii) (2021); 36 C.F.R. 1.7 (2021).

Federal parks have resisted social trends to expand or contract the rights of states' citizens while in the parks.²¹⁴ For example, when national parks follow federal law and the spirit of the law, they do not authorize implementation of state-level policies or lend authority to recent changes to allow or regulate the smoking of some plants but not other plants.²¹⁵ The fine for any smoking in undesignated areas is \$25.00.²¹⁶ Undesignated areas are the following: “[a]ll thermal areas, visitor centers, ranger stations, entrance stations, communication center, computer rooms and other public areas or facilities as posted,” and “[i]n emergency response vehicles, including, but not limited to...[p]atrol vehicles, ambulances, patrol vessels and fire apparatus.”²¹⁷ If caught drinking alcohol in parts of the park in which drinking alcohol is prohibited, the fine is \$25.00.²¹⁸ Private use of the park is a \$100.00 fine unless the superintendent approves the residence of

²¹⁴ See e.g. *infra* note.

²¹⁵ Controlled Substances Act, 21 U.S.C. § 811 (2021).

²¹⁶ 36 C.F.R. § 2.21(a) (2021).

²¹⁷ *Id.*

²¹⁸ 36 C.F.R. § 2.35(a)(3)(iii) (2021).

government, concession, or contract employees and their families.²¹⁹ Consistent with the federal rules regarding equal protection, free speech, and privacy, federal parks may not segregate men and women in statutes prohibiting public nudity.²²⁰ Nude swimming, bathing, and sun bathing are prohibited in areas populated by people.²²¹ Violators are fined \$25.00.²²²

The park prohibits people from willfully harming or disturbing wildlife and natural areas.²²³ Approaching or walking near wildlife is generally prohibited.²²⁴ The law prohibits people from using animals (e.g., horses) to approach wildlife.²²⁵ The law prevents people from approaching “on foot” but does not directly prohibit people from approaching on boats or by swimming.²²⁶ Presumably, the park

²¹⁹ 36 C.F.R. § 2.61(b) (2021).

²²⁰ 36 C.F.R. § 2.34(a)(4) (2021). *See* WY Stat. § 6-2-301(a)(ii) (2019). *Free the Nipple—Fort Collins v. City of Fort Collins*, 216 F. Supp. 3d 1258 (D. Colo. 2016); No. 1:16-CV-01308-RBJ (10th Cir. 2019). U.S. CONST. amends. I, V, & XIV.

²²¹ 36 C.F.R. § 2.34(a)(4) (2021).

²²² *Id.*

²²³ *See infra* note.

²²⁴ 36 C.F.R. § 1.5(a) (2021).

²²⁵ *Id.*

²²⁶ *Id.*

can prohibit this and does.²²⁷ The permissible range is a 100-yard distance, therefore approaching on foot may be required to enter the water.²²⁸ People cannot approach birds, nests, and other wildlife within a 25-yard distance when wildlife is disturbed or displaced.²²⁹ Although the park intends to promote the well-being of animals and natural areas, the law suggests or stipulates that parks may experiment on animals and people may disturb animals in the regular course of business (e.g., “inadvertent,” “no reasonable alternative travel route,” and “normal traffic” on a hiking trail).²³⁰ Travelling between walkways, trails, or park areas is fined \$25.00.²³¹ Berries and mushrooms gathered by hand for daily consumption cannot be preserved or canned.²³² Dead wood gathered without interfering with or harming wildlife may be used to fuel fires in backwood and frontwood areas; however, permit and on-site

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.* Violations are \$25.00. 36 C.F.R. § 1.5(f) (2021).

²³¹ 36 C.F.R. § 2.1(b) (2021).

²³² 36 C.F.R. § 2.1(c)(1) (2021). A violation is \$25.00.

restrictions may result in \$100.00 fines imposed on violators.²³³ The use of flash photography or lights disturbing animals past sunset is prohibited and punished with a \$100.00 fine.²³⁴ Attractants are prohibited.²³⁵ “Elk bugles, varmint calls, audio attractants or other artificial or natural means of attracting or disturbing wildlife (including rattling antlers or verbal bugling or howling imitations) are prohibited.”²³⁶ The fine is \$100.00.²³⁷

Park restrictions describe how guests with groups of animals must treat animals, the park, and natural areas.²³⁸ When permits require restrictions, parties of 25 or fewer animals may dwell inside a federally protected park area.²³⁹ Surplus results in a \$25.00 fine plus \$10.00 per surplus animal. Hay may not be transported into the backcountry.²⁴⁰ Certified weed-free hay, securely wrapped, may be transported

²³³ 36 C.F.R. § 2.1(a)(4) (2021).

²³⁴ 36 C.F.R. § 2.2(e) (2021).

²³⁵ 36 C.F.R. § 2.2(a)(2) (2021).

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Infra.*

²³⁹ 36 C.F.R. § 2.16(g) (2021).

²⁴⁰ *Id.*

through the park for use outside the park when a permit has been obtained from the superintendent, and “certified weed-free pellets, cubes and/or grain” may be served.²⁴¹ Though portable electric fences are permitted, they may not be tethered to plants.²⁴² Stakes cannot be tied in a manner that damages vegetation.²⁴³ Corrals and drift fences are illegal.²⁴⁴ Stock parties are not required to stay on the trail except where off-trail travel is banned.²⁴⁵ Pack animals must remain on the trail unless the path is obstructed.²⁴⁶ Off-trail travel may be allowed through the use of a permit.²⁴⁷ One support pack animal is permissible for day trips off-trail.²⁴⁸ Maps in the superintendent’s office denote closed off-trail travel areas.²⁴⁹ Stock manure must be scattered.²⁵⁰ Manure within a radius of 100 feet of core human

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ 36 C.F.R. § 2.16(g) (2021).

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ 36 C.F.R. § 2.16(g) (2021).

habitation must be removed.²⁵¹ Animals may not be picketed within 100 feet of trails, sites, or water, but may be picketed with pins made from dead down wood whether packed-in or on-site.²⁵² Frequent movement or rotation is required to prevent overgrazing and vegetation damage.²⁵³ Lost and dead stock animals must be reported to park rangers as soon as possible.²⁵⁴ Owners, caretakers, companions, etc. are responsible removing carcasses or making proper disposal arrangements as soon as possible.²⁵⁵ Due to these laws and laws like these, compliance, and enforcement, assumed corpus and presumed corpus are beneficial strategies for saving nature.²⁵⁶

²⁵¹ *Id.*

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ *Supra* Sections II and III. *Infra* Section IX.

IX. SAVE THE ENVIRONMENT BY WALKING ON A NATURE TRAIL

Walking on a nature trail can help save the environment.²⁵⁷ A nature trail is a special opportunity to observe mother nature in her element while being granted reprieve from poisonous plants that would have dwelled there.²⁵⁸ It is like a limited easement granted by nature to frail humans.²⁵⁹ Humans must be separated from her.²⁶⁰ This indulgence, thus, is granted. It is vital to humans to participate with nature.²⁶¹ The environment is saved when humans responsibly avoid harming nature and realize how vital nature is for each person.²⁶²

Assumed corpus and presumed corpus are two collective ways to ponder nature.²⁶³ By using assumed corpus one may gain the calm confidence

²⁵⁷ National Forest System Trails Stewardship Act, 16 U.S.C. § 583k, *et seq.* (2016).

²⁵⁸ *But see*, A.R.S. 37-1309 (2021).

²⁵⁹ *Also*, A.R.S. 36-3206(H) (2021).

²⁶⁰ 38 U.S.C. § 3684 (2021).

²⁶¹ National Environmental Policy Act of 1969 § 102, 42 U.S.C. § 4332 (2006).

²⁶² A.R.S. 37-1421 (2021).

²⁶³ *See supra* Sections II and III. HENRY DAVID THOREAU, WALDEN (1854).

required to walk in the woods among imagined monsters or scary creatures.²⁶⁴ Presumed corpus would prevent someone from irresponsibly entering the woods or prematurely endowing oneself with great exploration.²⁶⁵

To save nature by walking on a nature trail, one must recognize the value of two thoughts.²⁶⁶ The thoughts preserve the assumed corpus and presumed corpus, yet properly caution environmentalists.²⁶⁷ First, thoughts of oneself being invincible are likely fallacies.²⁶⁸ Even the voice of experience can be overcome by anomalous circumstances.²⁶⁹ Assumed corpus should retain a realistic perception of one's dexterity at all times.²⁷⁰ Second, thoughts of one being capable of coexisting without saving nature are unrealistic.²⁷¹ Humans require nature.²⁷² Environmentalism of this form immerses the person

²⁶⁴ See *supra* Section II. JUNG, AION.

²⁶⁵ See *supra* Section III. FREUD, TOTEM AND TABOO.

²⁶⁶ Durkheim, SUICIDE.

²⁶⁷ Durkheim, SUICIDE.

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² Durkheim, SUICIDE.

in nature.²⁷³ Without emersion the environmentalist lacks nature.²⁷⁴ This precipitates demise.²⁷⁵ Thus, coexistence will be impossible.²⁷⁶ To properly assert assumed corpus and gauge how physically to stimulate presumed corpus an environmentalist should review, obey, and apply local laws and the customs of the local area (e.g., national park).²⁷⁷

Assumed corpus and presumed corpus are appropriate because people often bond with nature as a sole person or in small parties.²⁷⁸ They may find unscheduled moments to enjoy a pavilion or park bench.²⁷⁹ Other modes of interacting with, acknowledging, or glorifying the human race or greater inner voice are insufficient for protecting an individual who cannot exercise prudence or expedience.²⁸⁰ While building on assumptions and

²⁷³ *Id.*

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ *Id.*

²⁷⁷ See *supra* Sections and IV. Yellowstone National Park, “Regulations.”

²⁷⁸ See *supra* Sections II and III. THOREAU, WALDEN.

²⁷⁹ *Id.*

²⁸⁰ 36 C.F.R. § 1.5(a) (2021).

presumptions one will be faced with a special sense of being alone.²⁸¹

X. CONCLUSION

Assumed corpus and presumed corpus are important ways to contemplate being at one with nature.²⁸² It is a system for drawing into nature to save nature.²⁸³ Trails are established according to laws.²⁸⁴ Law protects and guides humans through nature and to safety.²⁸⁵ Safe passage through nature is not guaranteed, but by combining a sense of others with a sense of self one may venture in and expect to return.

²⁸¹ *See supra* Sections II and III.

²⁸² *Supra* Sections II and III.

²⁸³ *Id.*

²⁸⁴ *Id.*

²⁸⁵ *Supra* Section IV.