

1. Record Nr.	UNINA9910795181203321
Autore	Stacey Jocelyn
Titolo	The constitution of the environmental emergency / / Jocelyn Stacey
Pubbl/distr/stampa	Portland, Oregon : , : Hart Publishing, , 2018
ISBN	1-5099-2028-5 1-5099-2030-7 1-5099-2029-3
Descrizione fisica	1 online resource (295 pages)
Disciplina	344.04/6
Soggetti	Disasters - Risk assessment Environmental disasters Environmental law Environmental protection Law - Philosophy
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Nota di bibliografia	Includes bibliographical references and index.
Nota di contenuto	Introduction -- I. Methodology, Terminology and Context -- II. Outline of the Book -- Part I: The Environmental Emergency -- 1. The Concept of the Environmental Emergency -- I. The Environmental Emergency -- II. Failing Schmitt's Challenge -- III. The Formal Conception of the Rule of Law -- IV. Conclusion -- 2. Environmental Reform: The Problem of Discretion in Environmental Law -- I. The Environmental Reform Position -- II. Black and Grey Holes in Canadian Environmental Law -- III. Impoverished Environmental Reform Solutions -- IV. Conclusion -- 3. Environmental Governance: The Problem of Law in Environmental Law -- I. Old and New Governance -- II. Three Examples of Environmental Governance -- III. Reclaiming the Rule of Law -- IV. Conclusion -- Part II: Responding to the Environmental Emergency 4. The Requirement of Public Justification -- I. Responding to Schmitt's Challenge -- II. Public Justification: A Democratic Conception of the Rule of Law -- III. Conclusion -- 5. Institutional Design: Reforming Forest Practices -- I. The Institutional Dimensions of Public Justification -- II. The Forest Practices Board and the Mountain Pine Beetle Response -- III. The Forest Practices Board and Its Governance Response -- IV.

Conclusion -- 6. Pipelines and Principles: Reasonableness and Fairness in Environmental Law -- I. The Pipelines, the NEB and Their Problems -- II. In Defence of Environmental Principles -- III. Publicly Justifying the Pipelines 7 -- IV. Conclusion -- 7. Reasoning Adequately: Wind Turbine Risks and Benefits -- I. The Confluence of Environmental Factors in Wind Turbine Development -- II. The Method and Purpose of Reasonableness -- III. Reasoning Adequately about Wind Turbine Approvals -- IV. Conclusion -- 8. The Rule of Law and the Right to a Healthy Environment -- I. The Case for a Charter Right to a Healthy Environment -- II. Environmental Protection and Section 7 Adjudication -- III. Common Law Constitutional Rights Adjudication -- IV. Conclusion

Sommario/riassunto

This book argues for a reframing of environmental law. It starts from the premise that all environmental issues confront lawmakers as emergencies. Environmental issues pose a fundamental challenge to law because it is impossible to reliably predict which issues contain the possibility of an emergency and what to do in response to such an unforeseen event. These features undermine the conventional understanding of the rule of law. This book argues that approaching environmental issues from the emergency perspective leads us to an understanding of the rule of law that requires public justification. This requirement recentres the debates in environmental law around the question of why governance under the rule of law is something worth having in the environmental context. It elaborates what the rule of law requires of decision-makers in light of our ever-present vulnerability to catastrophic environmental harm. Controversial, compelling and above all timely, this book presents an important new perspective on environmental law