A. Access Across Non-Federal Land

John D. Leshy explores the construction of old federal grants and the relationship between federal property law and state common law, stating that the Property Clause has framed an attitude in the Supreme Court that has left “a decidedly positive imprint on American life and culture.” *A Property Clause for the 21st Century*, 75 U. COLO. L.REV. 1101, 1110–13 (2004).


B. Access Across Federal Land

1. R.S. 2477 Rights-of-Way

On the ecological disruption caused by roads and mitigation designs, see *Road Ecology: Science and Solutions* (Forman & Sperling, eds. 2003) and *Safe Passages: Highways, Wildlife, and Habitat Connectivity* (Beckman et al., eds. 2010).

A recent, comprehensive review that casts doubt on the effectiveness of mitigation measures to reduce harm to a wide range of animals can be found at Trevor Beebee, *Effects of Road Mortality and Mitigation Measures on Amphibian Populations*, 27 CONSERVATION BIOLOGY 657 (2013).

The two circuits that contain the most federal lands within their jurisdictions, the Ninth and Tenth Circuits, have taken markedly different approaches in dealing with the applicability of state law to R.S. 2477 claims, though the Tenth Circuit has most clearly, and recently, spoken in favor of state law. The Tenth Circuit in Southern Utah Wilderness Alliance v. Bureau of Land Management, decided in 2005, held that state law governs both the perfection and scope of an R.S. 2477 right-of-way, and that the BLM does not have primary jurisdiction to determine the validity of R.S. 2477 claims. On the other hand, the Ninth Circuit, while not holding outright that a federal standard applies, has repeatedly disregarded state law in determining the validity of federal agency action vis-à-vis potential R.S. 2477 rights-of-way. Matthew L. Squires, *Federal Regulation of R.S. 2477 Rights-of-Way*, 63 N.Y.U. ANN. SURV. AM. L. 547, 552 (2008).

Who has the responsibility for resolving disputed R.S. 2477 claims? Federal courts or federal land managers? Bret C. Birdsong argues that federal land management agencies should replace the courts as the institution with primary responsibility for resolving issues that arise from R.S. 2477 claims. See *Road Rage and R.S. 2477: Judicial and Administrative Responsibility for Resolving Road Claims on Public Lands*, 56 Hastings L.J. 523 (2005).

2. ANILCA Permits

3. FLPMA Title V Permits

Solar energy development is a relatively recent use of BLM lands, and the BLM has adopted a policy of “facilitat[ing] environmentally responsible commercial development of solar energy projects on public lands.” The BLM currently regulates
solar development on public lands under Title V of FLPMA, which governs rights-of-way across public lands. As solar energy development increases on BLM lands, solar projects have the potential to conflict with other land uses, such as habitat conservation, which might bring about legal challenges to land use plans. For a discussion between the tension of solar energy and habitat conservation, see Sarah Pizzo, *When Saving the Environment Hurts the Environment: Balancing Solar Energy Development with Land and Wildlife Conservation in A Warming Climate*, 22 COLO. J. INT'L ENVTL. L. & POL'Y 123, 143 (2011).


C. Executive Power Over Federal Resources

1. Presidential Prerogatives
An engaging account of the Teapot Dome scandal can be found in BURL NOGGLE, *TEAPOT DOME: OIL AND POLITICS IN THE 1920’S* (1962).

2. National Monuments under the Antiquities Act

For a CRS report on the history of the act, including monument issues and controversies, see Carol Hardy Vincent, Cong. Research Serv., R41330, *National Monuments and the Antiquities Act* (2010).

D. Land Acquisitions, Sales, and Exchanges

1. Land Acquisitions
A summary of current acquisition and disposal authorities, by land management agency can be found at: Carol Hard Vincent et al., Cong. Research Serv., RL34273, *Federal Land Ownership: Current Acquisition and Disposal Authorities* (2012).

2. Land Sales
Is it even possible for a national park to dispose of lands? 16 U.S.C. § 430g–5(b) and § 4601–22(a) suggest that it might not always be possible.

The Southern Nevada Public Land Management Act allows the BLM to sell public land within a specific boundary around Las Vegas, Nevada. The revenue derived from land sales is split between the State of Nevada General Education Fund (5%), the Southern Nevada Water Authority (10%), and a special account available to the Secretary of the Interior. The BLM
maintains information on the Southern Nevada Public Land Management Act at:
http://www.blm.gov/pgdata/content/nv/en/snplma.html

3. Land Exchanges
A 2000 GAO report on land exchanges can be found at: U.S. GOV’T ACCOUNTING OFFICE, REP. NO. RCED-00-73, BLM and the Forest Service: Land Exchanges Need to Reflect Appropriate Value and Serve the Public Interest (2000).
For suggestions on improving the environmental benefits of land exchanges under FLPMA, see Scott K. Miller, Missing the Forest and the Trees: Lost Opportunities for Federal Land Exchanges, 38 COLUM. J. ENVTL. L. 197 (2013).

E. Planning and Organic Legislation
An invaluable source on public land planning is John B. Loomis, Integrated Public Lands Management (2002 2d ed.)