

## UNPACKING THE PUBLIC TRUST DOCTRINE: A JOURNEY INTO FOREIGN TERRITORY

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### Summary

The past decade has borne witness to the transformation of South Africa's natural resources law with the introduction of a new legal concept, that of "public trusteeship", to South African jurisprudence. The concept of "public trusteeship" as it is embodied in South African legislation encapsulates the sovereign's duty to act as guardian of certain interests to the benefit of the nation as a whole. In the quest to demystify the incorporation of the concept of "public trusteeship" in South Africa, this article, as a first tentative step, focuses solely on the public trust doctrine as it functions in American jurisprudence. It is the aim of this article to give a thorough theoretical exposition of the development and application of the public trust doctrine in American jurisprudence in order to provide the South African scholar with a perspective on a legal construct founded on the philosophical notion that governments exercise a "fiduciary trust" on behalf of their people.

### Keywords

Environment; environmental protection; natural resources; ownership; American public trust doctrine; private property; public rights; takings; South African public trusteeship; fiduciary trust; stewardship ethic; *res omnium communes*; *res publicae*.

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