The Bald and Golden Eagle Protection Act prohibits the taking or possession of eagles and eagle parts. Recognizing the centrality of eagles in many Native American religions, Congress carved out an exception to that prohibition for “the religious purposes of Indian tribes.” This talk will examine a series of tensions: between species preservation and religious freedom; between accommodating the religious needs of tribal members, but not others with the same religious needs; within the case law itself; and between the government’s effort to accommodate tribal religion and the deep dissatisfaction of the tribal community. The talk will then address the potential solution of changing the Fish and Wildlife Service’s administration of the exception from permitting individuals to permitting tribes and ultimately turning over much of the administration of the Indian tribes exception to the tribes acting collectively.

Professor Kovacs teaches Administrative Law, Natural Resources Law, and Property at Rutgers University, Camden. Prior to joining the Rutgers faculty in 2011, she spent twelve years in the U.S. Department of Justice’s Environment and Natural Resources Division, Appellate Section where she wrote more than 100 appellate and Supreme Court briefs and argued more than sixty appeals in all thirteen of the federal circuit courts of appeals, twice en banc, and in three state supreme courts. Professor Kovacs is a cum laude graduate of Yale University and the Georgetown University Law Center. When she’s not writing about the Administrative Procedure Act, Professor Kovacs enjoys refereeing rugby and hiking with her Australian cattle dog, Earl.