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ROGER W. FINDLEY

Environmental Law

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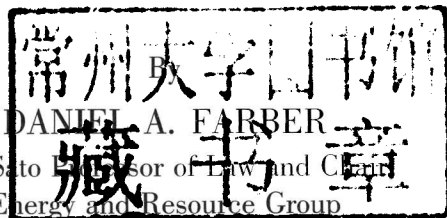
8th Edition

WEST®

ENVIRONMENTAL LAW

IN A NUTSHELL

EIGHTH EDITION



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*To Justice Stevens, the
architect of so many
key environmental
law doctrines.*

PREFACE

Environmental law is a rapidly changing area of law. In the short time since the last edition of this Nutshell, the Supreme Court has decided a cluster of important environmental cases, and the Obama Administration has pressed forward with legislative proposals and administrative actions.

Even without this flux, environmental law would be a challenging field. Environmental law can often seem like a *mélange* of statutes and cases in search of a common theme. The list of acronyms alone can be intimidating, never mind the complexities behind the initials. This Nutshell is designed to provide a roadmap through the confusion (beginning with a table explaining sixty or so acronyms). Given space limitations, the Nutshell focuses on the key features of statutes and cases, leaving the nuances to casebooks, treatises, and law review articles. As a further aid in sorting through the confusion, an “environmental law timeline” before this Preface highlights some of the crucial developments of the past forty years of U.S. environmental law.

The text begins with the role of the courts in environmental law. Chapter 1 covers key administrative law doctrines and NEPA decisions that shape the judicial role. Chapter 2 considers the

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federalism doctrines that courts have used to allocate authority between federal and state regulators.

Chapters 3 through 6 focus on legal mechanisms for dealing with environmental threats to public health. Chapter 3 examines air and water pollution. Chapter 4 introduces the reader to risk management and to ways that regulators deal with scientific uncertainty about possible public health hazards. Chapter 5 examines the complex legal regimes for keeping hazardous substances out of the environment and cleaning them up when they are already out there.

Chapter 6 switches attention from pollution and public health to preservation of natural areas. Here, the question is the government's ability to preserve land in its natural state, including constitutional restrictions on that endeavor. Key topics are the takings clause, the public trust doctrine, and the Endangered Species Act.

The goal throughout the book is to provide a clear path through the confusion of legal details, highlighting the most important features of the landscape. Although the material is presented as simply and directly as possible, the book also points out some key areas where readers need to be aware of greater complexity or legal uncertainty.

This edition of *Environmental Law in a Nutshell* is the first to go forward without the active participation of Roger Findley as a co-author. The book will continue to bear his imprint for many years to come. It has also benefitted from the care-

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ful work of a series of administrative assistants,
most recently Leslie Stone.

Dan Farber

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