

ENVIRONMENTAL LAW, POLICY, AND PRACTICE

Linda A. Malone
William M. Tabb

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ENVIRONMENTAL LAW, POLICY, AND PRACTICE

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*With love to my daughters,
Erin and Corey.*

—L. Malone

*To Diane for your love,
friendship and encouragement.*

—M. Tabb

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Preface

The field of environmental law, as an independent legal discipline, is a relative newcomer to the mainstream of academic study. Although certain historical property and tort law influences have a lengthy heritage in common law, the modern formulation of environmental law in the United States traces its roots to various federal regulatory regimes established or substantially revised just in the past few decades. Such regulatory models have dealt with a vast array of topics, ranging from air and water pollution control to programs regarding the cleanup of toxic waste.

The diversity and complexity of the common law and legislative solutions aimed at ensuring a clean and safe environment and the numerous public and private interests at stake present unique pedagogical problems in teaching a course in environmental law. Recognizing the breadth and dynamic nature of these developments, we oriented the focus of this book to a mainstream, national approach examining the major topics and themes of environmental policy and practice. The central goal of the book is to offer a balanced, current, and comprehensive study of the field in a traditional format.

Several important trends have emerged in recent years which affect the study of environmental law. One predominant trend is the increasing specialization of environmental practice. The emphasis on specialization reflects the variety and complexity of environmental law on the state and federal level, with unique scientific, administrative, and legal challenges presented in each sub-discipline. The challenge for study of environmental law in an introductory survey course, then, is to provide a strong foundation in basic environmental policies and theories with appropriate coverage of principal statutory schemes in a manageable format. The overarching themes that guide state and federal policies affecting environmental regulation of both public and private sectors are also examined. The book analyzes the principal regulatory models that govern ownership and development of private property, business practices, and obligations imposed on governmental entities. Those building blocks of structure and theory will hopefully allow more advanced study in a selected field of specialization, if so desired.

Another major evolving trend involves the rapidly increasing globalization of society, which necessarily implicates legal responses to complex international problems. Although the book is not intended to provide comprehensive coverage of international-environmental laws, such influences are becoming more prevalent in the application of domestic federal environmental statutes. Illustrations include recent cases dealing with global warming and its impact on EPA duties under the Clean Air Act, transboundary pollution, and governmental studies of international issues

under NEPA. Each topic reflects a mixture of scientific uncertainty, economics, political ramifications, and administrative challenges.

Organization and Coverage

The book is organized in six parts: (1) introductory materials, which include significant historical economic and political perspectives, along with traditional common law influences which have shaped modern environmental policy; (2) major constitutional challenges affecting environmental issues, such as takings jurisprudence, standing, and the interrelationship of state regulatory power and constitutionally reserved federal power; (3) the protection of endangered species; (4) National Environmental Policy Act; (5) federal pollution control regulation through the Clean Air Act and Clean Water Act; and (6) federal regulation of toxic substances, including the RCRA, CERCLA, TSCA, and FIFRA.

The book is designed to address each of the important topics in a conventional study of environmental law by providing the fundamentals in each major substantive area. Those fundamentals typically include a blend of historical landmark cases with the most recent significant Supreme Court opinions. Also, the principal regulatory policies and themes underlying each federal regulatory scheme are highlighted, with attention to statutory topics receiving the most current attention in the courts.

There were several guiding principles which are reflected in the thematic approach and organizational design of the book. The first principle was to provide a thorough, balanced treatment of all the major federal environmental statutes and common law topics with emphasis on significant developments. Illustrations of recent issues given extensive coverage are the developments involving greenhouse gases and the Clean Air Act, national wetlands policy and jurisdiction, and takings jurisprudence by the Supreme Court. The materials are structured to provide a suitable mix of cases, notes, problems, and charts. The notes have been written to further class discussion of the principles of the main cases and supplementary issues of importance, rather than to address every issue in an encyclopedic manner. The book is intended for primary use as a casebook for teaching a survey course in environmental law rather than as a reference guide or treatise.

A major objective of our organizational philosophy was to make the book “user-friendly” for students and professors. One structural feature incorporated throughout the book is to study the principal topics in a self-contained fashion. In other words, the major federal statutes are covered as independent units rather than piecemeal in various places throughout the text. This design permits the study of the major statutes as “stand-alone” units. Also, each section is introduced by a discussion of the significant topics which will be examined. Since environmental law today is a patchwork of complex statutes and common law developments, these introductory materials hopefully will provide a contextual background to understand the materials better and to grasp their importance.

The internal organization of the book is designed to provide maximum flexibility and selectivity of material. Most sections include three or four cases and accompanying notes to reflect an appropriate amount of coverage for a typical class period. Also, the most important topics in each chapter are covered first and collateral but interesting issues are generally placed at the end. Some professors may desire to cover just the “core” material at the beginning of the chapter and move along to other topics. Others may opt to spend more time in examining a particular area in greater detail. Our approach will accommodate those individual choices while preserving the overall integrity of the book.

Case Selection and Editing

We had two principal goals in the selection of cases. First, we sought to use current cases to illustrate points whenever possible. This reflects the significant developments which have taken place recently in the field of environmental law. Some of the older “classic” cases have been included where appropriate. Second, we tried to choose cases representing the majority position on a topic. In certain instances portions of the dissenting opinion will be included to provide a more complete picture of the respective sides of a particular issue. The note materials often will be used to examine minority views on a subject which are not adequately addressed in the main case.

We have adopted several “conventions” in our editing which should enhance the instructional value of the cases. Our main goal was to focus on the key material that makes the case significant and merits inclusion in the book. In that regard, we have sought to limit the cases to a manageable length by summarizing extensive factual backgrounds where appropriate and deleting long string cites which do not add to the educational value of the opinion.

The study of environmental law offers an interesting and exciting challenge because of the diversity and significance of the interests and policies involved. Any book, by necessity, merely represents a sampling of the many provocative and often controversial issues facing Congress, courts, agencies, business, and the public. The social consciousness of how environmental issues affect everyday life have become heightened with such increased attention to issues of global warming, scientific uncertainties regarding exposure to toxic substances, and the demands for safe and clean air and water resources. The materials presented hopefully will generate thoughtful analysis and a deeper understanding of this rapidly changing field.

LINDA A. MALONE

WILLIAM M. TABB

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Mark Sagoff, *Economic Theory and Environmental Law*, 79 Mich. L. Rev. 1393-1401, 1410-1417, 1419 (1981). Copyright © 1981 by the Michigan Law Review Association. Reprinted by permission.

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