

ENVIRONMENTAL LAW AND POLICY: NATURE, LAW, AND SOCIETY

Zygmunt J.B. Plater
Robert H. Abrams
William Goldfarb

American Casebook Series





ENVIRONMENTAL LAW AND POLICY:

A COURSEBOOK ON

NATURE, LAW, AND SOCIETY

Zygmunt J.B. Plater

Boston College Law School

Robert H. Abrams

Wayne State University Law School

William Goldfarb

Cook College, Rutgers The State University of New Jersey

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Foreword

Joseph L. Sax

In introducing a 1986 symposium on environmental law I observed that the subject, born perhaps twenty years earlier, had changed dramatically in that short span. Despite the predictions of some observers that the environmental movement and environmental law would be passing fads, the tide was racing the other way. I wrote that, far from fading away, environmental law had become institutionalized, an accepted and significant enterprise both for government and for attorneys.¹

Now, a half-dozen years later, it seems more like a flood, challenging our ability to assimilate its force and volume. There is so much environmental law that few academics still try to focus on the entire field.

A survey of environmental law teachers² that I conducted in 1989 revealed that many of us feel that our broader goals as teachers are no longer being met in the basic environmental law course. Massive legislative interventions in the pollution control field have seemed to call forth an inordinate focus on statutory detail while broader perspectives on the subject recede. Rich and exciting cognate areas like natural resources management, land use, and international issues are shunted to the side or ignored totally.

Environmental Law and Policy: Nature, Law, and Society can be seen as a first “second generation” environmental law book. Its major teaching premise is that environmental law will continue to grow and evolve. By employing a legal process orientation, the book responds to the desire to teach broadly without sacrificing attention to regulatory detail. By breaking down statutes into categories that reflect their underlying regulatory technique, this book also makes teaching statutory analysis a more fruitful endeavor. Students are taught about the different ways in which statutes address environmental problems, including the strengths and weaknesses of each generic statutory type. Beyond simplifying the task of teaching the statutory portions of the course, this approach insures that the student’s knowledge does not become obsolete as statutes and regulations are amended and altered.

This book captures the diversity that is a hallmark of contemporary environmental law. The staples are, of course, present, including materials on air and water pollution control, toxic torts and other common law approaches, conflicts between private and public rights, and the procedures of the administrative state. Beyond

Professor Sax is the James H. House and Hiram H. Hurd Professor of Environmental Regulation, University of California, Berkeley School of Law.

1. Sax, Introduction to Environmental Law Symposium, 19 J. Law Reform 797 (1986).

2. Sax, Environmental Law in the Law Schools: What We Teach and How We Feel About It, 19 ELR 10251 (1989)(noted in Author’s Preface *infra*).

that, the volume also addresses the “hot” topical areas of risk assessment, regulation of toxics, and hazardous materials. Still other important issues, like public trust law, economic incentives to environmental improvement, endangered species protection, alternative dispute resolution, and international law have their own chapters. The book seriously addresses the role citizens play in environmental decision making.

This is a challenging book designed in response to a challenging subject matter. I am confident that it will help make teaching environmental law as enjoyable and rewarding as it was in the early days.

AUTHORS' PREFACE

"When we try to pick out anything by itself, we find it hitched to everything else in the universe," John Muir, founder of the Sierra Club, once said.¹ Indeed, "Everything is connected to everything else" is the First Law of ecology. This is depressing news for anyone trying to write a coursebook on environmental law. It means that it is impossible to capture in one book a field that ultimately takes on the entire planet as its subject matter.

So this is primarily a book about environmental law. Environmental law necessarily includes environmental science, environmental economics, and environmental policy as essential elements of its analysis. To keep the enterprise manageable, however, this book chooses to focus on law.

Even so, environmental law has become so complex and bulky that courses in the subject run the risk of bogging down, a danger that has encouraged us to use a different approach to organizing the field.

The logjam in current environmental law teaching was chronicled recently by Professor Joseph Sax, a pioneer in the teaching of environmental law. After polling more than a hundred colleagues,² he reported that "bewilderment and frustration were the most common themes...."

"The subject seems to have overwhelmed us. Virtually every law teacher – however broad his or her overlook – wants to introduce students to the specific materials in the field, and to provide some experience and familiarity with it. Yet, every such attempt is an encounter with statutes of numbing complexity and detail. My respondents did not find their unease markedly alleviated when they shifted (as most had) from broad survey courses to those that focused primarily on one illustrative statute, usually the Clean Air Act.

"Complexity as such does not seem to be the problem. Lawyers enjoy puzzles. What discourages law teachers is rather a sense of being drawn into a system in which enormous energy must be expended on something that is ultimately vacuous. As I read the letters, I imagined spending years learning the minutiae of an extraordinarily difficult language, only to find, at the end, that it wasn't a language of communication at all, but just empty babble.... Jim Krier at the University of Michigan spoke for many when he said: 'Environmental law has come to be a bore...if the idea is to "teach" the "law" that we find in "the books." There is too much junk there, too many details.... Project this picture a bit and what you have for the future...is a bunch of lawyers who don't really know anything worth knowing.'

"A common adaptation to this state is to make the best of a bad thing. Environmental regulatory laws can be used to teach about the administrative

1. J. Muir, *My First Summer in the Sierra* 211 (1911).

2. Sax, *Environmental Law in the Law Schools: What We Teach and How We Feel About It*, 19 *ELR* 10251 (1989).

process, judicial review, or techniques of statutory analysis. Some among us, however, doubt that they are well suited even for that purpose. John Leshy of Arizona State observed: 'Frankly, I dislike teaching [the pollution side of environmental law].... It is mostly just administrative law in an environmental context.... I found it difficult to identify, much less organize a course around, some overarching themes in the regulatory patterns. They seem to me to be quite ad hoc...bureaucratic responses to pressing problems.'

"I sense that my colleagues would be more tolerant of the current laws if they were convinced that, for all the limitations of the regulatory genre, those statutes represented a best effort to cope with terribly difficult dilemmas – if they were persuaded that we were at least inching along in the right direction.

"But that is not the case.... The sense of discouragement that emerges [was] made explicit in comments...by David Getches of the University of Colorado. He observes that we have more and more 'environmental artillery': more lawyers working on problems that seem increasingly sophisticated, with ever greater economic stakes, and at the same time ever greater attenuation from the ultimate causes and concerns that gave rise to the field. 'Lawyers in great numbers are finding jobs doing environmental law,' he says. But 'law, lawyers, law schools, and law students seem to have so little to do with *environment* as seen by knowledgeable people.'"

How then does this coursebook handle the numbing complexity and detail of modern environmental law? Without getting too entangled in the intricacies of environmental science and policy analysis, the book invites and attempts to integrate into the law an awareness of what has gone wrong between humans and their natural habitat. Using a legal process structure, the book tries to probe every nook and cranny of the legal system, exploring ways in which environmental attorneys have attempted to use law imaginatively to remedy environmental problems.

Environmental law is a relatively young subject. Courses were first introduced, and only in a few law schools, around 1970. Initially most environmental law materials were drawn from other well-established legal sub-disciplines, such as land use, tort, criminal law, property, and constitutional law. The complex administrative subculture that now dominates pollution control was barely in its formative stages. The innovative burden of pioneering environmental lawyers was to adapt and harness an array of legal tools designed for other societal purposes as an effective means to promote environmental quality.

Since 1970, environmental law itself has matured. Interest has grown to the point that environmental law is a standard offering at more than one hundred-fifty law schools. Environmental consciousness, the number of students trained in environmental science, and the number of statutes directed at pollution and other forms of environmental degradation have all grown dramatically. The task facing environmental lawyers today is to handle the remarkable bulk of both statutory and nonstatutory environmental protection law.

This coursebook has a relatively long history. It began as a collection of teaching materials developed for an experimental course taught to graduate and undergradu-

ate students at the University of Michigan in 1971. Since then "Nature, Law, and Society" has been taught in more than a dozen law schools and environmental studies programs. Strongly influenced by Professor Sax and his advocacy of citizen involvement in environmental decision-making, the materials aim to prepare environmentally interested and concerned students to be active participants in the processes that shape their environmental future. In addition to teaching students about the substance of the laws pertaining to the environment, the course pursues a broader goal of teaching about how the legal system functions in an area of vital public concerns.

Most other casebooks are organized on a medium-by-medium basis – divided into air, water, noise, land use, toxics, wildlife, nuclear, and so on – typically focusing on just one or two of these. That particular approach does not appear to make the subject more accessible to students, nor does it make the subject more "teachable." Quite the opposite. To split the course up along resource headings introduces weary, often redundant, sojourns through seemingly endless fields of legislative and regulatory overkill. It also forces students and teachers into an unrewarding pursuit of detail³ that obscures rather than illuminates the ways in which the legal process can be employed to improve environmental decisionmaking.

In the face of the numbing mass and complexity of modern environmental law, this coursebook uses the structure of the legal system as its organizing principle, selecting the best examples of how the process works, including a sampling of classic environmental cases, without particular regard for the type of pollution or policy involved. The way the legal system works, not the intricacy of some media-specific physical science area, is our primary concern. The book's larger organization, therefore, tries to build around the major blocks of the legal system itself.

More than a score of years have passed since the first Earth Day and compilation of the original edition of this coursebook, a collection of materials that has changed many times over while retaining the same conceptual approach. This book aims to give students analytical skills and a solid doctrinal footing in the field, along with encouraging a taste for the pleasures of creative lawyering in meeting the challenges of our troubled ecological context. Ultimately we are guardedly optimistic that environmental problems can be solved, and that law will be a sensitive part of the solution.

NOTE ON EDITING CONVENTIONS USED IN THIS BOOK

In editing materials for this book we have tried to make the text as smooth as possible to the reader's eye, and to keep the amount of text as short as possible, while covering this dauntingly broad and expansive field. This has required quite a bit of editorial surgery on text and excerpted materials.

3. Taking the example of the federal Environmental Protection Agency, "today EPA employs over fourteen thousand people. Its major environmental statutes fill a 654 page book and the regulations encompass eleven volumes and 8608 pages of the Code of Federal Regulations. EPA's operating programs require about \$2.7 billion, and the Superfund and Leaking Underground Storage Tank programs require an additional \$1.6 billion." Reitze, *Environmental Policy – It Is Time for a New Beginning*, 14 Colum. J. Envtl. L. 111, 111–112 (1988).

Within excerpts, many internal citations (especially string citations) are simply excised, with no indication by ellipsis, or are dropped to footnotes. (In some cases in the text itself, when discussing general scientific or other nonlegal data, only limited citations are supplied.) Footnotes in excerpted materials, when they remain, do not have their original numbers. Where a footnote holds special importance to subsequent commentators, its original number is mentioned. Judicial opinions are often drastically cut and edited, indicated only by simple ellipsis, and in a few cases portions of the opinion are reordered to make the presentation flow more smoothly. As with most casebooks, if the reader wishes to delve into a particular case or text, the excerpts here should serve to get the inquiry started, but there is no substitute for going back to the original full text.

Various departures from literary convention and “Blue Book” style have been incorporated throughout the book to improve scansion (as in eliminating brackets on [i]nitial capitalization changes, or our simplified *infra* and *supra* references). Case opinion excerpts, however, usually retain the originating court’s stylistic idiosyncrasies. Swarms of acronyms have invaded environmental law – EISs, NIMBY, LULUs, PSD, SARA, ToSCA, ad infinitum – so to help the reader cope, the back reference pages (which contain all reference sections except the Table of Contents), also include a Glossary of Abbreviations.

Gender-sensitivity was a virtually unknown editing concept until the ‘Sixties. Accordingly many classic cases, and some modern texts as well, address all significant parties as male. In this book the pronouns “he” and “she” when used generically should be understood to refer inclusively to all persons regardless of gender (although in retrospect it seems most polluters appear here as male).

ACKNOWLEDGEMENTS

This book sometimes seems to have evolved with as much biodiversity of input as any marsh or rainforest. Dozens of people have helped shape and reshape it. For all who know the work of Professor Joseph Sax, now teaching at Berkeley, the mark of his thinking and advice on our efforts will be discernible throughout these pages. In its earliest form the book derives from materials prepared in 1971 by a committee of law students at the University of Michigan, including two of the present authors, for a course called Nature, Law, and Society offered to graduate and undergraduate students. Of that group, Peter W. Schroth served not only as a major editor but also as the administrator of the course, a thankless and demanding task; without his energetic work the whole project might well have died a-borning. The Nature, Law, and Society project was supported and advised by Joe Sax, and Professor William Stapp of the School of Natural Resources; they served graciously and well as mentors and midwives. Since then the materials have gone through repeated reincarnations, in each case profiting from the experience, advice, and contributions of colleagues, research assistants, and students at the succession of schools at which we have taught them: Boston College Law School, Harvard Law School, Michigan Law School, Rutgers, the University of Tennessee College of Law, and Wayne State

Law School. We also appreciate greatly the suggestions and comments received from almost a dozen colleagues at other schools around the country who used interim versions of some or all of the book in their classes. This, in fact, was the way that Professor Goldfarb came to join the project.

For support and assistance at Wayne Law School, we warmly thank Dean John Reed. Among the students who contributed to the book, we want to thank especially Cecelia Littleton Bonner, Albert Bedecarré, Daniel Cronin, Patrick J. Dolan, Andrew Y. Lee, Carole LoConte, Kathleen Marie Quinn, Karen Hiyama Schodowski, Diane Smith, Nancy Swistock Snyder, Nicholas W. F. Targ, and the Boston College Law School Conservation Research Group.⁴ The Boston College Law School Library reference staff repeatedly provided indispensable detective work and support; Mark Sullivan seems to have been the one who consistently got our most fiendish requests, and always calmly came through. As for the many authors and publishers who graciously granted us permission to reprint portions of their works, a complete listing follows immediately after the text.

For the huge counter-entropic task of managing mutating drafts, and bringing the book into physical existence, we thank Frances Piscatelli, Kathy King, Susan Noonan, Brenda Pepe, and Mary Curran at Boston College Law School. Without their labor, and the truly extraordinary support we received from Dean Daniel Coquillette, the coursebook would still be a smudgy stack of xeroxed class materials. In this computer age, helpful humans are still an indispensable necessity. We do, however, also owe a debt to the computers of the WESTLAW system and Mead Data-Central's LEXIS, and the people who built and provided us with those services, and also to the computer (and eyes and brains) of Michael Kitchen, for design and typesetting wizardry.

Ultimately, our greatest warm thanks and appreciation must be reserved for our families, who naïvely expressed pleasure when they heard of this project.

Z.J.B.P.

R.H.A.

W.G.

November, 1991

4. Tables of authorities were compiled under deadline pressures by the much-appreciated efforts of Conservation Research Group volunteers, including Craig Kelley, Kristin Cihak, John Ellis, and Catherine Smith.

Introduction

We travel together, passengers on a little space ship, dependent on its vulnerable resources of air and soil, all committed for our safety to its security and peace, preserved from annihilation only by the care, the work, and, I will say, the love we bestow on our fragile craft.

– Adlai Stevenson, at the United Nations, 1965

SPACESHIP EARTH

David Brower, one of the founding elders of the 20th century American environmental movement, who played the title role in Encounters with the Archdruid, John McPhee's book about environmentalism in America,¹ once spoke to a class of law students. Standing tall in front of the class, white-haired and raw-boned with piercing blue eyes, Brower stretched out his arm, with thumb and forefinger held about two inches apart, and said:

Imagine if you will our entire planet reduced to this, the size of an egg.... If the planet Earth were reduced to the size of an egg, what do you think the proportionate volume of all its air, its atmosphere, would be? And what would be the total volume of the water that, along with air and sunlight, sustains life on this Earth?... According to the computations I've seen, the sum total of atmosphere veiled around this egg planet Earth would be equivalent to no more than the volume of a little pea wrapped around the globe. And the water? That would be no more than a matchhead, a tiny volume spread thin enough to fill the oceans, rivers and lakes of the world.²

Looking at the students, Brower asked,

Thinking of those limits, can you any longer not believe that our planet is a tremendously vulnerable little system, totally dependent on this fragile tissue of air and water, a thin fabric of life support made up of all the air and water the Earth will ever have?³

Like the astronauts who reported dramatic and startling personal reactions to their first glimpse down upon planet Earth from their position in outer space, the images of Brower's egg and Stevenson's Spaceship Earth force us to recognize our interrelatedness with all other human and natural systems that make up the planet.

1. McPhee, Encounters with the Archdruid (1971).

2. In fact, the relative scale of the mass of atmosphere and water to the planet Earth is apparently even more dramatic. According to Dr. Heinrich Holland of Harvard's geology department, taking the relative *masses* of Earth's air and water (as opposed to spatial volume which is a misleading construct), the atmosphere constitutes less than one millionth of the planet's mass, and the water less than one thousandth.

3. Brower was speaking on a beach on Mission Point Peninsula, Grand Traverse Bay, Michigan, October 1977.

The Earth is indeed one small, limited, totally self-contained entity, a single natural system (albeit made up of many interconnected and interdependent systems) containing great richness, diversity, and vulnerability.

As the First Law of Ecology holds, everything is connected to everything else. Environmentalists tend to be conservative at least in this regard: out of utilitarian caution as well as ethical impulse they tend to value the dynamic natural equilibria that have evolved over millennia, and they distrust the wholesale human intrusions on the balance that have occurred particularly since the arrival of the industrial age. Every act of technology or human behavior is likely to have direct and indirect results, some quite drastic, unpredictable, and long-term in their effects. Who but environmentalists would have foreseen that the choice of coalburning methods in the Midwest would hurt maple sugar producers in Vermont, and leach lead into the water supplies of eastern New England homes 700 miles away? Yet acid rain was a natural chemical reaction just waiting to be triggered. It is important, environmentalists say, to look wide and long before we leap.

Unfortunately, the long view, looking out for long-term negative consequences, does not seem instinctive to the human brain. Quite the contrary. If it can, the human species consistently tends to overlook long-term problems including ecological repercussions, focusing instead on the more upbeat realm of short-term payoffs. The supposition is that as problems start piling up one can ignore them, get around them, pass them off or away downstream and downwind, or one can move on to new frontiers. Brower's egg planet reminds us that there are no such frontiers left; everything goes somewhere and remains within the system in which we must continue to live.

Environmental law attempts to build foresight into the human decisional system, along with an awareness of costs and values that are typically invisible because, though real, they exist outside the formal market economy. Often environmental law works after the fact, attempting to force accountings for depredations that have already occurred, hoping to deter future repetitions. Environmental law has also developed elaborate doctrines attempting to anticipate and prevent environmental disruptions. The goal is to incorporate a process of fair, overall, comprehensive accounting of real costs, benefits, and alternatives into major public and private decisionmaking.

Over the past 20 years there has been a dramatic change in the stature of the field. It is no longer dismissable as the fad of a disgruntled minority; it is now the stuff of presidential campaigns. There are now more environmental lawyers in the United States than there are labor lawyers. Given these toeholds and the reality of environmental problems, the field inevitably will continue to grow ever more intricate, challenging, and important.

THE BOOK'S PERSPECTIVE

There are a few further necessary comments. Our bias, for example. If it isn't already, we wish to make it clear that we personally approach many, though not all, environmental cases from the perspective of environmental plaintiffs, the citizens and public interest groups who initiate these cases. Thus our approach will often be "how can this problem be corrected within the legal system?" presuming in most cases that a problem does exist. This approach seems realistic and useful as well as defensible, however, because the doctrines of environmental law have always been (and still are) developed primarily by the efforts of citizen environmentalists.

To understand environmental law one must understand environmental plaintiffs, especially the individuals and increasingly professionalized groups who make up the active environmental "movement." Environmental defendants do not offer any similarly broad countervailing theory of environmental defense.⁴ So to get deeper into the swamps of environmental law, in practical terms one must follow the activists' trail. Whether readers ultimately view the field from the point of view of plaintiffs or defense, an understanding of the plaintiffs' perspective is indispensable to a recognition of what's going on.

STRUCTURE

The structure of this coursebook should be clear from the table of contents. It surveys environmental law issues throughout the vast range of American legal process (with brief glimpses beyond into international environmental law, a field which is just starting to grow, often on the American model.)

Most books on environmental law are organized by physical science categories: air pollution, water pollution, toxics, etc. This book contains material from each such area, but instead is organized like the legal system itself, building upon a base of common law and constitutional law, continuing on to statutory and administrative law. We find that this approach is a faster and more efficient way of getting students into the deeper and more important legal questions of environmental law. The text includes many classic cases. In large part the aim is not to teach hyper-technical details of current law, especially regulatory standards, like the current parts per million hydrocarbon standard for automobile tailpipe emissions. Environmental law changes daily. We aim rather to show the structure, and how it works. This book is used for the first, and often the only, course in environmental law, and we therefore feel obligated to leave students with a well-rounded legal overview. Because of time constraints, courses organized other ways often cover one type of pollution, including legal issues most important to that area, but leave students with only vague notions about application of the full range of legal concepts to other kinds of environmental problems.

4. Legal defenses typically amount to a series of attempts to avoid the issue – "the facts aren't sufficiently shown"; "the plaintiffs don't have the right to be heard in this court"; "the matter has continued for so long that the law is estopped from changing the status quo"; "enforcement of the law would violate our constitutional rights"; in short, "the law should not be applied."

Part I of the book begins with a brief review of ecological analysis, environmental politics, economics, and risk assessment.

Part II, based on this review and orientation, examines the traditional legal structures and remedies of the common law upon which environmental law doctrines have been based, including an analysis of how environmental plaintiffs have attempted to integrate environmental concerns into the system.

Part III turns to the relationship between private and public law, surveying an array of statutes arising in a toxics case, followed by materials on criminal, constitutional, and quasi-constitutional law as potential sources of enforceable environmental rights. The section includes issues of private due process rights, federal-state relations, and the public trust doctrine (which may be environmental law's single most dramatic contribution to the modern legal system).

Part IV studies the administrative state, after a brief introduction to administrative law in the environmental context, through a systematic study of "statutory taxonomies" illustrating the array of statutory and regulatory approaches that have been applied in the modern administrative state.

Part V offers a parting overview of current trends in the development of environmental law, including ADR (Alternative Dispute Resolution methods), the recent flowering of international environmental law, and a gaze toward the future.

GOING BEYOND THE BOOK

An environmental law course is broad in scope. The text and commentary in this book often incorporate an analysis of source material, cases, and issues extending far beyond the excerpted textual material. The excerpted material often serves to supplement the text, rather than vice versa as in most law course books. To provide more depth and familiarity with detail, students and professors have often added other components to the coursework. Some students take a concurrent nonlaw course, for example in field biology, toxicology, or environmental policy. Some take on projects or internships with active groups outside academe. Some classes have carried one chosen problem area through the course of the term, or kept track of an ongoing local controversy – a particular toxic disposal case, wildlife or park management issue, mining, dredging, or dam project. Others have assigned short individual research papers, class presentations, field visits, and so on, and each of these has been valuable in providing reinforcing feedback to the analyses and techniques of environmental law set out broadly in the book.

Some very fine loose-leaf services⁵ provide information updates on a regular, often weekly, basis: The Environmental Law Reporter*†(cases and analyses by The Environmental Law Institute); The Environment Reporter*†(cases, statutes, and current developments by the Bureau of National Affairs); the BNA International Environmental Reporter*†; the BNA Chemical Regulation Reporter*†, the BNA

5. Sources available on the WESTLAW computer database system are indicated by an asterisk *; sources available on LEXIS are indicated by †.

Toxics Law Reporter*†, and the BNA Asbestos Abatement Reporter.† Student subscriptions to activist newsletters are also available and valuable: The Amicus Journal, Natural Resources Defense Council, 122 E.42d St., Suite 4500, NYC 10168; Earth Island Institute's E.I. Journal, 300 Broadway, San Francisco CA 94133; Environmental Defense Fund's monthly EDF Letter, 257 Park Ave. S, NYC 10010; Not Man Apart, Friends of the Earth, 530 7th St. SE, Washington DC 20003; the National Wildlife Federation's Weekly News Report, 1416 P. St. NW, Washington DC 20036; RESOLVE, published by Center for Environmental Dispute Resolution, World Wildlife Fund and The Conservation Foundation, 1250 24th St. NW, Washington, DC 20037; and the Sierra Club National Newsletter, 320 Pennsylvania Ave. SE, Washington DC 20003. The National Wildlife Federation's Conservation Directory is a useful catalogue of hundreds of environmental organizations; the Federation also has a Congressional Hotline recording for legislative updates at 202-797-6655. Many industry organizations also publish newsletters and are pleased to provide extensive materials in support of their positions.

A number of excellent law reviews specialize in environmental law, including (listed alphabetically) the Boston College Environmental Affairs Law Review*†, Colorado Journal of International Environmental Law, Columbia Journal of Environmental Law, Ecology Law Quarterly, Environmental Law*†, Harvard Environmental Law Review, Journal of Environmental Law and Litigation, Journal of Land Use and Environmental Law, Land and Water Law Review, Natural Resources Journal, Natural Resources and Environment (ABA), Public Land Law Review, Stanford Environmental Law Journal, Tulane Environmental Law Journal, UCLA Journal of Environmental Law and Policy, and Virginia Environmental Law Journal.

Background books on environmental analysis provide helpful orientation in this sprawling field. Worthwhile books include Eugene Odum's *Fundamentals of Ecology*, Rachel Carson's *Silent Spring*, Barry Commoner's *The Closing Circle*, and the *fountainhead* – Aldo Leopold's *Sand County Almanac*.

The best environmental law hornbook we know is Professor William Rodgers' *Handbook on Environmental Law*. Professor Rodgers and Professor Frank Grad have each published helpful multivolume treatises as well. West Publishing Company produces a very useful annual statutory compilation, *Selected Environmental Law Statutes*. Joseph Sax's *Defending the Environment* (1971) continues to be a vivid introduction to the use of law in solving the pervasive social, economic, and ecological problems we call "environmental."

And don't be daunted by the "numbing complexity and detail" of some sectors of environmental law. Since everything is connected to everything else, if one just picks up a trail and follows it, it will lead to all there is to know.



HEILMAN

ENVIRONMENTAL LAW AND POLICY:

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Part One

PERSPECTIVES ON ENVIRONMENTAL LAW

This noblest patrimony ever yet inherited by any people must be husbanded and preserved with care in such manner that future generations shall not reproach us for having squandered what was justly theirs.

– The Whig Almanac, 1843