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CHAPTER 1
AN OVERVIEW OF ENVIRONMENTAL LAW

Environmental law includes regulation of pollutants and natural resource conservation and allocation. It touches on energy, agriculture, real estate, and land use, and has expanded to include international environmental governance, international trade, environmental justice and climate change. Environmental law practice often requires extensive knowledge of administrative law and aspects of tort law, property, legislation, constitutional law, and land use law.

Directories and career guides sometimes distinguish between environmental law and natural resources law. Natural resources law is the body of law governing the acquisition, ownership, development, allocation and conservation of naturally occurring resources like water, oil and natural gas, minerals, wildlife, crops, and forests. This includes the areas of energy law, mining, fishing, and forestry regulation and relates to the common law doctrines including riparian rights, nuisance, and public trust.

Environmental law is a broader category incorporating both resources law and the law of pollution control, which regulates human environmental impact. Federal and state statutes such as the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and the Toxic Substances Control Act largely dictate the confines of this body of law. This guide will discuss both bodies of law as “environmental law.”

Environmental law practitioners perform a wide variety of functions, including negotiation, litigation, administrative practice, lobbying, organizing, and advising. These attorneys often shape and devise both governmental and corporate policy. Since federal statutes drive much of environmental law, attorneys often work for or with administrative bodies, such as the Environmental Protection Agency, the Department of the Interior, the Department of Agriculture, and their state-level equivalents. However, environmental lawyers also work for nonprofit organizations, private law firms, and corporations; many environmental attorneys work in several of these settings during the course of their careers. The following is a brief overview of these settings, accompanied by examples of each.

A. Government

1. Federal Government

The federal government employs a large number of environmental lawyers in a range of settings. Several executive branch administrative agencies take part, either directly or indirectly, in implementing and enforcing federal environmental law. These agencies are responsible for managing and preserving natural resources and ensuring that private and government organizations comply with federal environmental statutes. Lawyers in these agencies help to develop policy, assist in the drafting of legislation and regulations, represent the agencies in hearings before courts and administrative law judges, and monitor compliance with environmental statutes and regulations. In some agencies, the legal functions are handled by a single office, and in others they are divided (e.g., enforcement may be handled separately from counseling on administrative law).

Several federal departments and agencies are responsible for specialized areas of environmental and natural resource policy. For example, the Department of the Interior operates the National Parks, administers federal mining leasing programs, and manages federal lands. The Department of Agriculture, through the Forest Service, also manages vast tracts of federal land. The Department of Energy (DOE) influences and develops national energy policy. The DOE also has environmental lawyers working on the cleanup of government facilities where nuclear testing and weapons production has been undertaken.
The Environmental Protection Agency (EPA) is responsible for overseeing the implementation and enforcement of key environmental regulatory statutes, such as the Clean Water Act and the Clean Air Act. In this capacity, the EPA often delegates enforcement authority to individual states and reviews the performance of state regulators. It also promulgates regulations and issues guidance documents to assist states and the regulated community, and brings its own enforcement litigation where necessary. EPA lawyers perform a mix of counseling and litigation and work closely with the Department of Justice (DOJ) in environmental litigation. The Department of State has an environmental section that draws on principles from both international and domestic law to develop an effective environmental foreign policy.

Other executive branch agencies deal with environmental law and policy, albeit less directly. For example, the Department of Transportation, the Occupational Safety and Health Administration, and the Food and Drug Administration all have environmental lawyers on staff to ensure compliance on matters like toxic waste management, and herbicide and pesticide regulation. The Department of the Army employs environmental law experts to assist and advise the Army Corps of Engineers, which, among other things, issues permits for use of U.S. navigable waters and wetlands. The Department of Commerce has environmental lawyers in its National Oceanic and Atmospheric Administration.

These organizations tend to focus on administrative proceedings but also work closely with DOJ attorneys to litigate and secure compliance with the laws and regulations that the agencies are charged with enforcing. U.S. Attorneys may also prosecute individuals and organizations for criminal violations of federal environmental statutes. DOJ attorneys represent the U.S. as a defendant in environmental lawsuits brought by private organizations or individuals. DOJ attorneys handle most federal environmental litigation. Within the DOJ, the Environment and Natural Resources Division has responsibility for all environmental, land management, and natural resources litigation on behalf of the federal government.

Environmental attorneys also shape environmental law in the legislative branch. For example, attorneys work on the staffs of the House and Senate committees with significant environmental jurisdiction (e.g., the House Committee on Resources, the House Committee on Energy and Commerce, the Senate Committee on Environment and Public Works, and the Senate Committee on Energy and Natural Resources).

2. State Government

State environmental agencies play a leading role in implementing both federal environmental statutes and state regulatory regimes. Examples of such agencies include the Florida Department of Environmental Protection, the Texas Commission on Environmental Quality, the Massachusetts Department of Conservation and Recreation, and Connecticut’s Department of Energy & Environmental Protection. In-house counsel may be involved in drafting legislation, designing regulatory systems, monitoring compliance, educating the public, enforcing existing statutes, and furthering environmental policy. Utility regulatory commissions also play a major role in developing energy policy in most states.

Another avenue for practicing environmental law in state government is through the environmental department of the state attorney general’s office. The attorney general in all states can file lawsuits on behalf of a state environmental agency, and many states provide the attorney general’s office with jurisdiction to bring environmental lawsuits directly. The National Association of Attorneys’ General website, www.naag.org, lists the websites of state attorneys general with information on the environmental department of each office and its arrangement with state environmental agencies.
3. Local Government

Large urban areas often have municipal environmental agencies that employ in-house counsel. The New York City Department of Environmental Protection, for example, has a Bureau of Legal Affairs where attorneys are involved in maintaining and upgrading the city’s water and wastewater infrastructure, advising the city on compliance with federal and state environmental laws, protecting the city’s watersheds, and enforcing local codes governing air and noise pollution, asbestos abatement, and emergency spill response. In addition, many cities and towns have local planning and zoning, conservation, and wetlands commissions, which employ attorneys or contract for their services. City councils may also be actively engaged in the development of local environmental law and policy and employ legal staff to undertake this work.

Municipal attorneys and agencies serve many of the same functions as the state and federal agencies, but they focus on more localized resources and local ordinances. For example, municipal environmental attorneys frequently play a role in waste disposal and in Superfund issues that affect their municipalities.

B. International Organizations

Many international organizations—from the World Bank to the U.N. Environmental Program to Treaty Secretariats—employ lawyers with environmental expertise. As international law becomes broader and deeper, opportunities to practice environmental law on a global scale are growing. For example, the Center for International Environmental Law’s (CIEL) litigation uses international law in their various programs such as Climate Change, Human Rights and the Environment, International Financial Institutions, International Environmental Governance (including Democratizing International Dispute Settlement), Law and Communities, and Trade and Sustainable Development.

The differences among environmental organizations make it important for applicants to research organizations carefully to find the best fit.

C. Nonprofit Environmental Organizations

Nonprofit environmental organizations seek to shape the development and implementation of national, international, state, and local environmental policy. Their activities include litigation, negotiation, policy development, lobbying, research, education, public campaigns, and direct collaboration with industry. Some seek to cooperate with government entities and to shape law, regulations, and policies from the “inside.” Others are more confrontational in their approach, working as “outside” critics.

Though few environmental groups fit into neat categories, there are several broad areas of distinction. Some groups, especially the larger ones, have a very diverse practice. Well-known examples are the Natural Resources Defense Council and the Environmental Defense Fund, both of which employ a wide variety of professional staff, including lawyers, scientists, economists, and technical experts, and undertake the full array of environmental advocacy work to advance policy and market solutions. Organizations like Earthjustice have more specialized litigation practices that focus on representing other environmental and citizen groups in court.

Many major groups are not litigation-centered and instead focus their work on education, research, lobbying, and grassroots action with the intention of improving and enforcing environmental laws and regulations and bringing greater public attention to environmental issues. Greenpeace, Sierra Club, Environment America, and Clean Water Action exemplify this orientation. Since these grassroots
organizations focus more on developing lobbying power, they tend to be less attorney-driven than the litigation-focused groups.

Another type of organization focuses on specific issues or a specific environmental resource. For example, Conservation International, The Nature Conservancy, and the Open Space Institute work to protect specific ecosystems from destructive impacts of development, in large part by purchasing land or securing protective easements. The National Wildlife Federation and Defenders of Wildlife focus on habitat protection and restoration. The Audubon Society works to protect bird habitats. The Adirondack Council and the various Riverkeepers and Baykeepers work to improve the quality of geographically specific natural resources. In addition to these high-profile national organizations, many organizations, like the Connecticut Fund for the Environment, Environmental Advocates of New York, and the Natural Resources Council of Maine, focus on local, state, or regional concerns.

Though most environmental groups are advocacy organizations, some operate more as think tanks that employ attorneys and scientists to conduct research and policy analysis, participate in drafting of domestic and foreign regulations, track and document developments in federal environmental decision-making, and build the capacity of nations to advance and implement environmental law and policy. Examples include the World Resources Institute and the Environmental Law Institute. Unlike most other national organizations of their stature, they engage in neither lobbying nor litigation but work to forge cooperative relationships across sectors by joining governments, industry, and public interest groups in dialogue about pressing environmental problems.

In addition to the national organizations that undertake some international environmental work, there are several nonprofit organizations, such as EarthRights International, that focus on international environmental issues.

D. Law Firms

Many attorneys find opportunities to practice environmental law in private firms. Although few firms specialize entirely in environmental law, many firms have environmental or natural resources practices or have environmental pro bono activities.

The environmental or natural resources practice group at a firm might handle the representation of clients such as oil and gas companies, mining companies, industrial corporations, lumber and paper companies, electric or natural gas utilities, construction companies, or waste disposal companies. In the modern regulatory environment, environmental laws affect almost all businesses. The varied activities of a firm lawyer representing such a company might include negotiating contracts in conformance with environmental regulations, advising companies as to their compliance obligations with respect to environmental laws, handling real estate transactions, working with zoning laws, obtaining permits, and handling enforcement actions.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or the Superfund Law) and federally mandated hazardous waste handling and disposal programs have necessitated environmental review of virtually every business and real estate transaction. This “due diligence” requirement has created a vital and vibrant domestic and international practice area. Some firms lobby and litigate to shape environmental policy.

Environmental lawyers in the private sector may work on Superfund cases, which can involve negotiation, litigation, or real estate counseling. Because Superfund has now been in place for over 20 years, significant progress has been made in cleaning up contaminated sites. Although direct Superfund work may be declining, a very significant consequence of both Superfund and federally mandated
hazardous waste handling and disposal programs is that virtually every business and real estate transaction must be reviewed (through a due diligence process) for environmental liabilities and issues.

Typically, U.S. businesses manifest a compliance ethic and seek to avoid enforcement actions by maintaining vigorous internal compliance programs. However, environmental lawyers in private firms may also find themselves defending their client from lawsuits from a governmental agency or nonprofit organization.

“Public interest law firms” are private, usually small firms that represent municipalities, NGOs, citizen groups, and individuals in actions and advocacy that promote the public interest. These firms are hired by environmental nonprofits to assist in litigation, policy development, or other work, and may also represent individuals, or citizen groups, in environmental actions ranging from toxic torts to zoning challenges. Many of these firms are listed on PSJD (www.psjd.org). You can also find information at CDO’s website (www.law.yale.edu/student-life/career-development/students/external-career-links).

Martindale-Hubbell (www.martindale.com) and the NALP Directory of Legal Employers (www.nalpdirectory.com) are two online resources for locating law firms with environmental practices. In addition, see The Environmental Law Careers Directory in the CDO library.

E. Corporate Counsel

An environmental lawyer may serve as in-house counsel for a company that regularly deals with environmental law and regulation. In-house legal departments for smaller companies employ fewer attorneys, requiring each attorney to work across a range of legal specialties. Larger corporations may have enough in-house environmental attorneys to allow for specialization.

An in-house lawyer’s activities generally mirror those of a firm lawyer representing the same type of company, but involve a more intricate knowledge of the company. The corporate attorney tends to have more contact with other environmental professionals, especially those employed by or consulting for the corporation, in a problem-solving atmosphere. A corporate attorney routinely works with technical professionals to achieve and maintain compliance with environmental regulations and to identify and address environmental considerations related to business and real estate transactions. Legal work might include analyzing new regulations and legislation to assess their impact on the company’s activities, supporting in-house efforts to achieve compliance with environmental regulations, helping obtain permits and licenses, and participating in litigation. Activities generally left to outside private attorneys include active litigation in state and federal court, involvement in novel issues, and highly visible or contentious business and real estate transactions.

In-house practice gives the attorney a greater opportunity to link his or her legal practice with business planning and strategies. The corporate attorney must be concerned with long-term risk in lending, capital formation, acquisition, and development activities due to environmental issues. In-house environmental legal jobs can lead to environmental management positions, as well as opportunities to set corporate environmental policy and to manage both legal and technical professionals in the field. In addition, jobs with large, responsible multinational corporations offer opportunities in international environmental law practice.

F. Conclusion

Choosing among these varied settings involves a number of considerations. Perhaps most obviously, private firms and corporations typically offer higher compensation than government and public interest organizations. Lawyers for international bodies earn salaries comparable to those at U.S. government
agencies, but may enjoy limited U.S. taxation if they work abroad. Additionally, the legal activities in each setting vary. Some environmental organizations specialize in education and grassroots efforts; government attorneys tend to focus on drafting and implementing regulations and other aspects of administrative law; and those working for Attorneys General and U.S. Attorneys are likely to focus on litigation.

It is important to think about which side of the issues you would rather represent. In litigation, lawyers for nonprofit organizations generally represent plaintiffs. Government attorneys may represent plaintiffs such as federal or state environmental agencies or may defend the government in actions brought by nonprofit organizations, among others. Public interest law firms would most commonly represent individuals or organizations as plaintiffs. Private firm lawyers representing corporations and corporate in-house counsel who litigate most often represent defendants.

It is always helpful to ask alumni and student mentors about their experiences in environmental law. Alumni mentors are available through YLS Career Connections on the CDO website and Chapter 2 of this guide. Chapter 2 also lists contact information for students and recent graduates who have worked in various environmental law settings. Additional resources include summer employment lists and summer job evaluations.

Although solid research is the best foundation for any career choice, keep in mind that many or most modern lawyers have a variety of jobs over the course of their careers. Environmental attorneys often move between and among the varied sectors of environmental law practice.
CHAPTER 2
RESOURCES WITHIN THE YALE COMMUNITY

Yale Law School and other graduate schools at Yale offer a number of useful resources for students interested in environmental law. Graduates and faculty experienced in the field can be a valuable source of information and advice. Additionally, student organizations, academic programs and coursework in the Law School and the Yale School of Forestry and Environmental Studies offer other avenues for obtaining information and working with other students.

A. Alumni Mentors
E. Environmental Organizations and Programs

Yale Environmental Law Association
This student group focuses on creating a dynamic forum for interdisciplinary environmental thinking at Yale. YELA sponsors speakers, debates and activities to promote awareness of environmental issues. YELA has facilitated events on environmental justice, food policy, and international environmental law, as well as periodic YELA-organized reading groups and outreach to the Yale and New Haven communities. YELA also organizes hikes, field trips, and social events. Contact YELA at yela@yale.edu for more information.

The Yale Center for Environmental Law and Policy
The Yale Center for Environmental Law and Policy, established in 1994 by YLS and the Yale School of Forestry and Environmental Studies, seeks to advance fresh thinking and analytically rigorous approaches to environmental research and policy. The Center is focused on three program areas: the Environmental Performance Measurement program, the Environmental Law and Governance program, and the Innovation and Environment program. For more information, visit www.yale.edu/envirocenter or contact the Center’s Program Director, Josh Galperin at joshua.galperin@yale.edu.

Environmental Protection Clinic
The Yale Environmental Law Clinic is a joint enterprise of YLS and the Yale School of Forestry and Environmental Studies. Launched in 1994 by Professor Daniel C. Esty, the Clinic is designed to introduce students to the fields of environmental advocacy and policy—as well as the benefits of public interest work more generally. The centerpiece of the Clinic is hands-on experience with real world projects that take students beyond traditional academic research and writing into the world of complex negotiation, political, economic, and policy analysis, strategic planning, and community service.

Clinic clients include national, state, and local environmental organizations, think tanks, government agencies, international organizations, and local citizen groups. For more information, visit www.yale.edu/elc or contact Allison Clements at aclements@nrdc.org or Lisa Suatoni at lsuatoni@nrdc.org.

Joint Degree Program with the Yale School of Forestry and Environmental Studies
A four-year joint JD and environmental master’s degree program is available. Students must apply independently to both schools and then receive approval through the YLS joint degree committee on special courses of study. More information on the joint degree program is available through the following sites: www.law.yale.edu/study-law-yale/areas-study/environmental-law/joint-degrees and http://environment.yale.edu/academics/degrees/joint/id/.

The Center for Business and the Environment at Yale
Established by the Yale School of Forestry & Environmental Studies and the Yale School of Management in 2006, the Center for Business and the Environment at Yale (CBEY) provides a focal point for research, education, and outreach to advance business solutions to environmental problems. CBEY seeks to connect students, executives, academics, and policymakers. The Center provides visibility to experts and catalyzes innovative, pragmatic ideas that will shape the future of both business and the environment. The Center’s current research areas include Environmental Finance and Economics, Market Frameworks and Governance, Corporate Strategy and Governance, Industrial Ecology, and Investments in Land and Ecosystems. For more information, visit www.yale.edu/cbev or contact the Center’s Program Director, Stuart Decew at stuart.decew@yale.edu.
F. YLS Courses

The following courses have been offered in recent academic years, or are currently offered. Check the 
*Bulletin* for more information as this list is not comprehensive.

- Administrative Law
- Advanced Community & Economic Development
- Advanced Environmental Protection Seminar
- Advanced Environmental Protection Clinic
- Climate Change and Clean Energy
- Community and Economic Development (Clinic)
- Constitutions and the Environment
- Corporate Environmental Management and Strategy
- Decarbonizing the U.S. Power Sector: Driving U.S. Climate Policy under the Clean Air Act
- Energy Law and Policy
- Engineering and Ownership of Life
- Environmental Management and Strategic Advantage
- Environmental Law and Policy
- Environmental Protection Clinic
- Fugitive Water Resources
- Green Energy Policy
- International Environmental Law
- International Trade Law
- Intro to Transnational Law
- Land Use
- Law of Climate Change
- Law & Globalization
- Law of the Sea
- Property
- Property, Social Justice, and the Environment
- Public Health Law
- Public Order of the World Community: A Contemporary International Law
- Regulation of Energy Extraction
- Sustainability: Environment, Energy, and the Economy in the Twenty-first Century

G. Financial Assistance

Summer Public Interest Fellowships (SPIF) and the Law School’s loan forgiveness program, Career Options Assistance Program (COAP), are available to students and graduates who need this assistance in order to pursue environmental careers. See the *Yale Law School 2015-2016 Bulletin of Yale University*, financial aid publications, and the Yale Law School Financial Aid website, [www.law.yale.edu](http://www.law.yale.edu) under Admissions, Costs & Financial Aid, for full descriptions of these programs.

H. CDO Library Resources¹

- Conservation Directory 2005-2006
- Directory of Environmental Websites—11th Edition
- Environmental Grantmaking Foundations—11th Edition
- Environmental Law Careers Directory 2011-2012
- Vault Guide to Environmental Careers 2009
- Vault Guide to Green Programs—2009 Edition

¹ CDO is happy to expand its career library. If you learn of books that are valuable to law students pursuing a career in environmental law, or other areas, please let us know.
CHAPTER 3
INTERNET RESOURCES

Yale Law School is a member organization of PSJD, www.psjd.org, which provides students with access to a current, searchable database of available public interest organizations as well as jobs, internships and fellowships.

The following is a sample listing of other websites related to environmental law. For a comprehensive listing, consult the Directory of Environmental Websites (available in the CDO library).

**Ecomall**
www.ecomall.com
Directories of grassroots environmental organizations

**Envirolink**
www.envirolink.org
A non-profit organization that provides access to thousands of online environmental resources

**Environmental Career Opportunities**
www.ecojobs.com
Job listings in environmental organizations; fee required for membership

**Environmental Careers Center**
www.environmentalcareer.com
Environmental and natural resources job information and career news

**Environmental Jobs and Careers**
www.ejobs.org
Database of environmental law jobs

**Findlaw: Environmental Law**
www.findlaw.com/01topics/13environmental/index.html
Database of environmental law firms, agencies and employment opportunities

**International Network for Sustainable Energy**
www.inforse.dk
List of NGOs in the sustainable energy field

**Martindale Hubbell Lawyer Locator**
www.martindale.com
List of attorneys and firms by specialty area

**National Council for Science and the Environment**
http://ncseonline.org/
List of environmental opportunities and organizations

**Web Directory Databases**
www.webdirectory.com/databases/
Links to environmental organization
CHAPTER 4
PERSONAL NARRATIVES

A. Practicing Attorneys

1. Federal Government

U.S. ATTORNEY’S OFFICE, SOUTHERN DISTRICT OF NEW YORK
Jeffrey Oestericher ’90: Assistant U.S. Attorney (AUSA)
New York, NY

Working in the Civil Division of the United States Attorney’s Office for the Southern District of New York provides the opportunity to litigate a wide range of environmental cases, both affirmative and defensive. As a civil AUSA, environmental cases will be one element of your varied docket. You will handle your environmental cases from their inception through any appeal to the Second Circuit Court of Appeals. These cases often involve cutting edge issues of law and/or complex public policy matters. On the affirmative front, you may bring suit to enforce a whole host of environmental statutes, including the Clean Air Act, Clean Water Act, RCRA, CERCLA, the Endangered Species Act, etc. These cases, both big and small, can have a significant impact on the community and the environment in general. For example, we recently settled a number of “small” Clean Water Act cases in which we ensured that various towns in Westchester will properly treat and monitor the drinking water that they provided to their residents.

We also are involved in much larger cases involving multiple polluted sites across the country and hundreds of millions of dollars (or more) in clean-up costs. For example, this office litigated (and then settled) its environmental claims in the Tronox bankruptcy and recovered over $5 billion, which will permit the clean-up of numerous polluted sites across the country. Similarly, this office handled the environmental claims in both the Chrysler and GM bankruptcies. The groundbreaking settlements that were achieved in those cases were literally front-page news.

On the defensive front, the United States (or one of its departments or agencies) may be sued under CERCLA, the Administrative Procedure Act, the National Environmental Policy Act (NEPA), the Freedom of Information Act, etc. Working with the particular client agency, you will litigate and/or attempt to resolve those cases in a manner that promotes justice and achieves a fair and just result for the government.

2014

U.S. DEPARTMENT OF JUSTICE, ENVIRONMENT AND NATURAL RESOURCES
DIVISION, ENVIRONMENTAL ENFORCEMENT SECTION
Deborah M. Reyher ’83: Senior Counsel
Washington, DC

I am a Senior Counsel in the Environmental Enforcement Section (EES), the largest litigating section at DOJ with approximately 150 attorneys. EES is responsible for bringing civil judicial actions to enforce federal environmental laws such as the Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act, Oil Pollution Act, Resource and Conservation Recovery Act (RCRA—hazardous waste regulation), and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA—also known as the Superfund law). Our primary client is the Environmental Protection Agency (EPA), although the Department of the Interior (DOI) and the Department of Agriculture may also bring
enforcement cases in their roles as land managers. We also represent DOI, the National Oceanic and Atmospheric Administration (NOAA), and U.S. Fish and Wildlife Services (FWS) as trustees in natural resources damages claims brought under CERCLA. A smaller sister section, Environmental Defense, primarily handles cases in which a federal agency is a defendant, although they also bring enforcement cases under Section 404 of the CWA. There is also a separate Environmental Crimes Section, an Appellate Section, and several others. We coordinate often with attorneys in other sections, as well as in the U.S. Attorney’s offices, some of which are starting to develop environmental expertise (e.g., SDNY, ED Mich.).

I have been with EES for over twenty years, first as a Trial Attorney, the title of virtually all our attorneys, subsequently as a Senior Attorney, with supervisory and mentoring duties as well as responsibility for some of our more complex cases, and currently as Senior Counsel, handling some of our most important national cases. EPA has administrative authority to handle smaller enforcement matters, so the cases referred to EES tend to be significant, and often present issues of national scope, or target multiple facilities of a particular defendant, or even a particular industry as a whole. My own major cases have involved a massive RCRA enforcement case against Kodak stemming from its 80 miles of leaking sewer systems; a CERCLA case involving over 300 defendants responsible for one of the largest and most dangerous landfills in New Jersey (Helen Kramer Landfill); a RCRA case against FMC Corporation stemming from its disposal of ignitable and reactive phosphorus wastes in unlined ponds; a multi-media case against IBP, Inc., now taken over by Tyson Foods, stemming from dangerous levels of hydrogen sulfide emitted from ponds treating slaughterhouse and tannery wastes, as well as ammonia discharges to the Missouri River; a CAA case against Buckeye Egg Company, seeking to stem uncontrolled particulate and ammonia emissions from its chicken houses; and most recently a multimedia case resolving over 400 claims against McWane Company, Inc. at 27 facilities nationwide, which settled last year. Currently I am lead attorney for EPA’s Mineral Processing RCRA Priority, addressing widespread violations of RCRA in the phosphoric acid industry, for which we obtained the first settlement, with CF Industries Inc. in 2010.

While knowledge of substantive environmental law is important, top-notch litigation skills are probably more important, especially the strategic development of a case. Given that a majority of our cases ultimately settle, either through pre-filing negotiations or following a period of litigation, the ability to prepare and present a case, and to use the results of that in negotiations, is critical for success.

The level of individual responsibility at EES is great. The opportunity for autonomy and creativity is also high. Physical and support resources (like the pay) cannot compete with the private sector, but the “brain trust” here is unlike anything I have known before, and the sense of shared mission—and passion for that mission—makes this much more than just a job. The best part of the work stems from knowing that the results in your cases actually preserve and improve human lives, not just hypothetically, but actually.

There is nothing like that reality to motivate you to always do your best. The most difficult part is that the cases we bring are developed by agencies where enforcement at times may not be a priority due to political pressures. There are always interesting cases, and much good work to be done, but it is hard to see policy decisions being made that you know are going to compromise human health and the environment. But every day, I wake up interested in my job and eager to do the best I can. Not many lawyers get to say that.

2015
Mike Fisher ’94: Director, Legal Counsel Division
Washington, DC

I’m the Director of the Legal Division in EPA’s Criminal Enforcement Office. EPA has approximately 175 criminal investigators scattered around the country—federal agents with the normal range of law enforcement powers (firearms, search warrant authority, etc.)—who investigate knowing violations of the federal pollution control statutes. Those agents’ investigative work is managed here at EPA headquarters. The legal division has a dozen attorneys who do a mix of policy and case-specific work in support of the criminal enforcement program. There are also another couple dozen lawyers working in EPA’s Regional offices who do most of the direct case-support work, and some litigation.

From 1998 to 2005, I was a Regional Criminal Enforcement Counsel (RCEC) in EPA Region III—the Mid-Atlantic States. I came to that job after a clerkship and several years as an associate in the environmental practice group of a large Washington, DC firm. RCECs provide EPA’s agents with legal advice, and also assist prosecutors from the Department of Justice, who seek indictments and prosecute those cases throughout the country. AUSAs in each of the 94 federal judicial districts also prosecute environmental crimes, but rarely specialize in that type of case.) Many RCECs are appointed as Special AUSAs, which allows them to do grand jury and courtroom work in addition to the investigation-phase legal work for which they’re primarily responsible.

An RCEC’s typical day might include meeting with agents to review a draft search warrant affidavit; reading interview reports to catch up on the progress of several pending cases; discussing with an AUSA the Sentencing Guidelines calculations relevant to a plea agreement coming up for negotiation; and meeting with another prosecutor to discuss upcoming grand jury investigative strategy. The job has a great mix of litigation, “client” counseling (the clients being the EPA agents and prosecutors), and policy work.

I’ll offer these thoughts on environmental law job searches. First, you need to understand the lay of the land: the subject matter ranges across a wide spectrum with conservation and land use issues at one end and pollution control at the other; the types of work vary from pure litigation to pure policy; employers of all sizes reside in the private, governmental, and NGO sectors. Second, you need to decide where you would ideally like to work and then figure out what you need to do to get there by acquiring experience, skills, and contacts that can provide you with information and opportunities. Finally, since it’s a lucky attorney who immediately jumps from law school to her dream job, compose a back-up plan: ask yourself what type of non-ideal job you’d be willing to do for the short term—what can you tolerate, and what will provide the best experience and skill development? Resolve to keep researching your options and reevaluating your goals once you join the workforce. There is an enormous need for motivated, capable people in this field. Please give me a call or send an email if you’d like to chat, and good luck!

Steve Neugeboren ’86: Associate General Counsel, Water Law Office
Washington, DC

Since graduating from Yale Law School in 1986, I have been an attorney in the Office of General Counsel at the U.S. Environmental Protection Agency in Washington, DC. In 2005, I became a senior executive with the Agency in charge of the Agency’s legal office overseeing implementation of federal water statutes (principally the Clean Water Act and Safe Drinking Water Act). While it may not be the

Yale Law School Career Development Office
norm for Yale grads to be so long in one organization, I’ve spent the past 27 years at EPA because, day in and day out, the job has been stimulating, challenging and enjoyable. I couldn’t have picked a better place to work.

While in law school, I knew I wanted to practice environmental law, but EPA was not on my short list. My two summers I clerked for the Natural Resources Defense Council and Environmental Defense Fund, and I viewed EPA somewhat skeptically as too subject to the political winds to protect the environment the way I thought was needed. But environmental groups were not hiring new law graduates, and I was able to obtain a position in EPA General Counsel’s office handling water-related litigation and counseling.

The General Counsel’s office provides what seems to me is a unique blend of policy and legal work. As the “in-house” counselors of Agency policy-makers, we get involved intimately in national policy-making. The responsibility starts almost immediately. For example, an attorney we recently hired is the OGC representative on the Agency workgroup developing regulations governing the storage underground of carbon dioxide from coal fired power plants pursuant to authority contained in the Safe Drinking Water Act. “Carbon sequestration,” as it is called, will be one of the principal mitigation measures that the United States will employ regarding global warming. As the responsible Agency attorney, she can speak authoritatively to policy-making staff on legal issues. In addition, she and other attorneys help mold the policy-making process by virtue of their ability to think creatively about different ways of achieving policy-making objectives within legal bounds.

One positive aspect of the job is that attorneys are responsible for the entire life cycle of an issue. For example, if an attorney is working on a regulation, he/she helps inform the decision-making process from the start, and then helps draft regulatory language and the record, including the Federal Register preamble, that explains the Agency’s rationale. All the while the attorney knows that litigation over the final rule is likely (our rules are challenged more than any other federal agency’s), and so the attorney helps guide the decision-making and assemble the rulemaking record that will make it possible to succeed in any legal challenge. If litigation is brought, the attorney works closely with the Department of Justice lawyers crafting and drafting the arguments. (While DOJ does most of the oral presentations, I have argued three cases in the Courts of Appeals during my time here). Going through the process gives an attorney a truly holistic picture of environmental policy-making and litigation.

Federal agency work is not necessarily for all environmental lawyers. For those with activist temperament and a desire to see the effects of their work quickly, it may not be the right choice. But for getting an insider’s view of environmental law and policy-making, it is an excellent way of starting (or, as in my case, maybe completing) a career.

Christopher C. Herman ’73: International Activities Specialist
Washington, DC

For starters, I should say I do policy, not lawyering; then I should add that the policy work I do is more effective because I’ve been a lawyer.

Since 1989, I’ve worked on ‘finance and environment’ policy issues in EPA’s Office of International and Tribal Affairs. The intersection of finance and environment at the international level is a particularly interesting one. The portfolio includes environmental issues arising from multilateral development bank (World Bank, etc.) investments; environmental governance issues arising as negotiators make rules for
international investment, goods and services trade (World Trade Organization); and domestic and global market greening issues (green supply chains, ecolabels, voluntary standards, etc.)

Working in this area means lots of reading (reports), writing (“comments”) and interacting, a.k.a., policy advocacy, at several levels: with colleagues to help shape office policy, with agency counterparts as government policy is shaped by whatever agency has the policy “lead”, occasionally with counterparts in other governments in organizations like the Organization for Economic Cooperation and Development (OECD).

Some examples: Does the World Bank adequately analyze the downstream impacts of large dams? Should the list of environmental goods proposed for tariff reductions in the World Trade Organization include insecticides? Should organic or other labels be considered barriers to trade? Does the notion of expropriation describe when compensation is required for an otherwise legitimate action of government or is it a sanction for illegitimate action?

Much of this work links to issues of development and poverty reduction: the relation of sound environmental governance to equitable, sustainable economic growth; which, in turn, links back to how environmental and economic change elsewhere will affect, possibly profoundly affect, the U.S. I’ve always felt fortunate to have a role, however small, in this game.

EPA’s Office of International and Tribal Affairs has about 70 professional and other staff organized into groups that manage environmental cooperation programs involving specific countries (e.g., China or India) and environmental technology initiatives (e.g., lead in gasoline, mercury, or water) or do “policy” work involving various international organizations or support domestic tribes’ efforts to address environmental and public health challenges.

Post-law school, I spent six interesting years doing the NYC law firm thing, then 10 years in EPA’s Office of General Counsel with responsibility for aspects of the Clean Air Act and the Atomic Energy Act. There’s more than enough of this kind of work to keep another couple dozen policy-oriented JDs busy.

2015

2. State Government

Formerly with COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
Howard Roitman ’72: Director (Retired), Environmental Programs; Director, Health Facilities and Emergency Medical Services Division
Denver, CO

Before retiring in June, 2011, I held progressively more responsible positions at the Colorado Department of Public Health and Environment for 23 years, with one year out at a small trade association in Washington, DC. I also continue to teach at the University of Denver’s University College Environmental Program in Policy and Management. This narrative reflects my position as Environmental Programs Director for the state. I have found that the critical skills fostered by my legal education have proved invaluable to my success in these jobs. The skills I would identify are: written and verbal communication, including legislative drafting; strategic analysis, planning and decision-making, including the questioning of technical assumptions around environmental issues; and analysis of political, legal and decision-making environments, including elected officials and federal, state and local agency officials.
What got me to this point? After trying on assorted legal jobs after graduation, I found myself at the U.S. Department of the Interior Regional Solicitor’s office, where my client, the Office of Surface Mining, was implementing a relatively new federal statute. That meant that we were trying a lot of things for the first time—writing regulations and policies, interpreting what the law meant and reviewing proposed state programs for equivalence with the federal law and regulations. It was exciting because we were breaking new ground, but I also found that I enjoyed the stimulation of working with the engineers, geologists, biologists and other staff at the client agency more than being in a government law office. I accepted a position as a unit manager with my client and have really never looked back in terms of practicing law. A typical day involves a lot of email, paper, meetings and phone calls. When I held lower positions in my organization, I might roll up my sleeves and work on a Superfund decision, represent the agency at community meetings, etc. Now my focus is on the dozen or so issues that are policy related or politically sensitive.

I do a lot of work with our state legislature and with the EPA. My experience is typical of many state environmental commissioners. Air quality issues tend to occupy the greatest part of my time because of their far-ranging impact on the general public, as well as major industry. Water quality comes next, followed by hazardous and solid waste, and radiation licensing and disposal issues.

The issues tend to have multiple technical, legal and political layers. For example, the National Park Service has identified air deposition of nitrogen as having a negative impact on ecosystems, primarily lakes, in Rocky Mountain National Park. Likely sources include industry, agriculture and motor vehicles. The industrial sources may actually be out of the state. Working on an issue like this requires the best technical data and modeling you can get and working collaboratively with federal agencies, the affected industry, local communities and the general public to try to craft solutions, be they regulatory or voluntary. Keep in mind that there is not necessarily a legal mechanism to address all of the issues that you may encounter.

Something else people might not realize is that there are opportunities in this field to work with your peers across the country, as well as the EPA and other federal agencies, to address national policy issues. For example, I negotiated a Memorandum of Understanding with several federal agencies on Long-Term Stewardship of contaminated federal sites. We have worked with the EPA on how to measure the effectiveness of environmental regulatory programs. There are national organizations representing the environmental agencies and each of the specific media programs. After my 19 years on the environmental side of the house, I left to work at one of these associations. However, I found the work unstimulating after the experience described above. Consequently, I returned to Colorado in an entirely different field, but one that calls on the same set of skills described above.

The rewards of the type of career I have followed include crafting direct controls for improving the environment, as well as long-term policy direction. The frustrations are myriad. It is difficult to move bureaucracies, both your own and those of others. Where it happens, it happens slowly, so a long view helps. The stakeholders on either side of an issue may range from cooperative to belligerent. Many positions are based on what I call religious fervor, rather than sound technical or legal footings. Salary will vary from state to state and from the federal government to state government. Typically, the federal government pays better than states, and you can certainly make a comfortable living working for government. It will not compare with what you can make with a big law firm, but it is probably more than you’d make with an environmental advocacy organization.

2015
3. Local Government

NEW YORK CITY LAW DEPARTMENT
Hilary Meltzer ’92: Deputy Chief, Environmental Law Division
New York, NY

I am the Deputy Chief of the New York City Law Department’s Environmental Law Division, where I have worked since graduating from law school in 1992. I had no particular interest or background in environmental law; rather, I knew that I wanted to work for the City. The Environmental Division was doubling in size the year I arrived, and I was extremely fortunate that the Division chose me among the class of first-year lawyers starting at the NYC Law Department.

Much of my work involves protection and management of the City’s drinking water supply. I enjoy the work tremendously, particularly because it raises public health and policy issues in addition to environmental concerns. In the many years I have worked for the city, as I had hoped coming into the job, I have developed both technical and legal expertise. I have also established relationships with a number of City officials and other employees—my clients—including lawyers, policy makers, engineers, biologists, and chemists.

New York City has a complex relationship with the communities in the upstate watershed of its water supply, and is of course also regulated as a water supplier by the State and federal governments. I enjoy the regular contact with local, State, and federal authorities. On one hand, I interact with the upstate village, town, and county officials who advocate in numerous contexts for the businesses and residents in the City’s watershed. On the other, I also work with State and federal environmental and health agencies that regulate the City’s drinking water. I have participated in the negotiations resulting in U.S. EPA and the New York State Department of Health’s granting a series of filtration avoidance determinations for the City’s water supply since 1997. I continue to be involved in negotiations concerning several central components of filtration avoidance—the City’s Land Acquisition Program and flood hazard mitigation.

The City has the unusual authority to enact, administer, and enforce regulations that govern land use activities in the watershed, well beyond our jurisdictional boundaries. I have enjoyed interpreting the version of those regulations that came into effect in 1997. I had previously litigated several cases under the 1953 watershed regulations and was involved in drafting the current regulations. Seeing, and often deciding, how the new regulations apply to actual development projects has been fun and instructive. I drafted revisions to those regulations, which were promulgated in 2010, and appreciated the opportunity to clarify and adjust a few provisions based on our experience administering and enforcing them. I am now working on another set of revisions to further refine the regulations in light of experience and development patterns.

Daily work for me and my colleagues combines affirmative and defensive litigating, drafting and negotiating permits, contracts, and consent agreements, and counseling. The proportions of time attorneys spend doing each type of work depends on their preferences and the needs of our clients. In interviewing applicants for jobs in the Environmental Law Division, I focus on three types of skills. First, I believe that writing is the most important skill for lawyers, whatever type of work they pursue. Second, to be a good in-house attorney, one needs to get along well with people, including people who are not favorably disposed toward lawyers. Finally, while prior substantive technical knowledge is not necessary for environmental lawyers, eagerness to learn the engineering and science that are pervasive throughout the work is essential.

2015
4. Nonprofit Organizations

**Formerly with EARTHJUSTICE**

*Adam Berger ’89*

*Seattle, WA*

I worked as an associate, project, and staff attorney for the Pacific Northwest office of Earthjustice (or Sierra Club Legal Defense Fund as it was originally known) from 1990 through 1998, before moving to my current job as a plaintiff’s trial attorney in a private law firm.

I had a longstanding interest in environmental issues, but did not go to law school expecting to specialize in environmental law. That changed when an Earthjustice attorney gave a brown bag lunch at the law school during my first year. I arranged a semester externship in the Seattle office at the beginning of my 3L year and was hired as an associate on a two-year contract following my post-law school federal district court clerkship.

My work at Earthjustice focused on endangered species and public lands management issues. My last few years in particular I focused on endangered Pacific salmon issues, including litigation relating to hydropower systems, grazing, logging, and mining adjacent to spawning and rearing habitat, and hatchery interactions with wild fish. Much of my last year was taken up contesting the water rights for a proposed open pit gold mine, culminating in a three-week quasi-judicial administrative hearing. It was one of a very few instances during my Earthjustice career where I presented and cross-examined live witnesses in an adjudicatory setting.

I also took a six month leave of absence during my employment to accompany my wife while she conducted anthropological research in Vietnam. I volunteered for the World Wildlife Fund office in Hanoi, working on organizing a sustainable business development roundtable and advising government agents from Vietnam, Thailand, and other southeast Asian countries on species, habitat, and bioresource protection laws and regulations.

Earthjustice was a litigation shop, and the vast majority of my time was spent on the typical procedures surrounding federal court review of agency decision-making: reviewing administrative records; drafting pleadings, motions, and briefs; working with expert witnesses to analyze the record and prepare sworn written testimony; consulting with clients; and presenting oral argument on motions. I often got approached by people thinking about going to law school in order to advance their interest in environmental advocacy, and I always counseled them that the job involved being a lawyer first and an environmentalist second; if they did not like or were not interested in the procedures, structures, and techniques of legal advocacy, then they should skip law school and pursue a career in environmental advocacy in some other fashion.

That being said, the Earthjustice attorneys (particularly the staff attorneys) also had to engage in a certain amount of lobbying and policy strategizing associated with their cases, as well as fundraising associated with the needs of the organization. While I was never particularly fond of either lobbying or development work, it did make for an occasional nice break from the litigation tasks.

The best aspects of my job included the substantial responsibility and opportunity that accompanied working for a small nonprofit law firm where everyone was expected to pull their full weight. Within my first year, I was arguing significant motions in federal district court and within my first few years I had appeared before the Ninth Circuit several times. Within six years, I was primarily responsible for the strategy and implementation of a major litigation campaign. I also enjoyed working with the expert
witnesses and clients and learning and translating their knowledge and view of the matters at issue into language and formats accessible to the court. The engagement with non-legal thinking, and the constant opportunity to learn about new areas of biology, etc., kept the job fresh for a long time.

The worst aspects of the job included the frustration from repeatedly having to fight the same battles against constant pressure from industry and others to weaken environmental protections. You could protect a species or a piece of land from development by a legal victory for some period of time, but a few years down the road the threat would return. I used to say our victories were temporary, while our defeats were permanent. And some problems, like the impact of the federal Columbia River dams on wild salmon, proved fairly intractable to litigation—we could prove the system was being operated unlawfully, but getting the courts to order meaningful change was much more difficult. The other thing that started to wear on me over time was the relative absence of actual trial practice. The cases we handled were almost always record review appeals from agency decisions; after eight or so years of doing that, I began to feel that my style of practice was stagnating (though I had by no means mastered either legal writing or oral advocacy—that is a lifelong process).

There are far fewer jobs in public interest environmental law than there are attorneys wanting to do the work. The single best way to improve your odds of getting a position is to do a summer clerkship, internship, or externship that will give you some longer term exposure to the attorneys who run the nonprofit offices. When I was participating in the hiring process, sorting through stacks of resumes, if an applicant had worked at one of Earthjustice’s offices or at a similar group like NRDC, we would usually give a call to ask whether the applicant was worth interviewing. Most of these groups will not hire right out of law school, but might hire someone coming off a judicial clerkship. If you cannot get hired by one of these groups right off, but want to preserve your chances for the future, a good alternative is to work for a federal or state environmental or lands management agency or attorney general’s office. If you follow that route, try to find a position that will match up experience-wise with the public interest position you will be seeking in the future: a litigation position if you want to go into public interest litigation, or an advising or planning role if you want to go the policy route.

Ultimately, I left Earthjustice for a mix of personal and professional reasons. On the professional side, I wanted to find a position where I could expand my skill set both to maintain my interest in legal practice and in case I had to move someplace where public interest environmental jobs were not available. I did maintain a bit of an environmental practice when I first went into private practice, doing damages cases on behalf of victims of contaminated water and other toxic torts, but have since focused more on areas of wage and hour class actions, consumer fraud, and medical malpractice. I continued my connection to the environmental movement by serving on the boards of some of my former client organizations. And the litigation training I gained at Earthjustice handling complex cases has served me well in my subsequent private career.

2015

EARTHJUSTICE

David Henkin ’91: Staff Attorney
Honolulu, HI

Since Earthjustice is a law firm, albeit a public interest one, most of my time is spent on litigation. On a given day, I perform factual and legal research to work up new cases, research and draft pleadings, motions or briefs for cases already on file, meet with clients, cajole opposing counsel, and the like. Since public interest environmental lawyers are a pretty tight-knit group, I also spend a fair amount of time emailing or talking on the phone with colleagues around the country, brainstorming on litigation strategies or sharing research and briefs.
In public interest work, winning cases is often only half the battle. To keep our victories from being undone by legislative action, I often testify before the Hawaii Legislature or work with Earthjustice’s policy folks in Washington, DC to influence lawmaking at the national level. I draft press releases, fact sheets, op-eds and other materials, hold press conferences, and speak at conferences to educate the press and public about the importance of our litigation efforts and to remind them about the central role environmental protection plays in improving the quality of life in Hawaii.

For many years, I put in 10 to 11 hour days on a regular basis, with longer days and occasional weekends during litigation crunches. Now, with two children, I try to keep the work routine to nine hours a day. Of course, when litigation deadlines loom, I have an ethical obligation and a personal commitment to do what it takes. Earthjustice’s Mid-Pacific office has only four attorneys, so I am usually the only lawyer staffed on a case. When a brief needs to get cranked out, it’s usually up to me, and me alone, to do it.

The best and worst thing about my job is that I feel really committed to protecting Hawaii’s unique environment and, in particular, its many critically endangered species. It’s the best because I feel passionate about my work and am motivated to put maximum effort into all aspects of my cases. It’s the worst because it can be hard to leave the office at the office and enjoy the rest of what life has to offer. The demand for paying jobs in public interest environmental law far outstrips the supply. Thus, to pursue a career in my field, it helps if you’re flexible about both where you live and the issues on which you work, so you can take advantage of opportunities when they present themselves.

2015

EARTHJUSTICE

Colin O’Brien YFES M.EM. ’02, YLS J.D. ’02: Staff Attorney
Anchorage, AK

I am a staff attorney for Earthjustice in Anchorage, Alaska. Earthjustice is a non-profit public interest law firm dedicated to protecting the magnificent places, natural resources, and wildlife of this earth, and to defending the right of all people to a healthy environment. Headquartered in San Francisco with ten regional offices, Earthjustice represents local and national environmental groups and their partners.

In Alaska, Earthjustice’s team of eight lawyers works to protect public lands, waters, and wildlife from destructive oil and gas drilling, mining, logging, and other unsustainable activities. Over the past 30 years, safeguarding the Tongass National Forest—the largest national forest in the country—has been a key objective of our office. In recent years, we increasingly have focused on protecting Alaska’s Arctic region. Climate change is already wreaking havoc in the Arctic and irresponsible industrial development threatens to accelerate harm to the sensitive ecosystem and Alaska Native communities that rely upon it.

Since joining Earthjustice in 2011, my work has focused on air quality and oceans issues. For example, I challenged two air permits issued by the U.S. EPA for offshore oil drilling in the Arctic, first before EPA’s Environmental Appeals Board then the Ninth Circuit. Presently, I am litigating a federal district court case aimed at improving air quality in Fairbanks, Alaska, and challenging through administrative channels air permits for a coal mine and two coal-fired power plants. On the oceans front, I have led our recent litigation to promote a healthy ecosystem in the North Pacific, including a successful effort before the district court and Ninth Circuit to protect endangered Steller sea lions from harmful fishing practices.

Surrounded by talented colleagues and challenged by my work, the most important upside of working at Earthjustice is that I am deeply invested in my job. I am passionate about my cases, I enjoy working as part of a small, tight-knit team, and I value the high level of responsibility I have been afforded. Further, Earthjustice provides a friendlier and much less formal workplace than a law firm and the organization supports maintaining a more reasonable work-life balance. Of course, the tradeoff is that my Earthjustice
salary, while comfortable by any reasonable standard, is approximately one-third of what I would make at a law firm. But for me, the tradeoff is unquestionably worthwhile.

Prior to Earthjustice, I worked for four years in Washington, DC at the Natural Resources Defense Council (NRDC), one of the largest and most prominent environmental organizations. My job there consisted of monitoring and influencing EPA's implementation of the Clean Air Act. Much of my time was spent challenging or defending EPA rulemakings before the D.C. Circuit. The job also involved reviewing proposed legislation, drafting fact sheets, lobbying, liaising with the media, and otherwise advocating for clean air outside of the courtroom. My experience at NRDC was terrific but I left because I wanted to litigate more and to live somewhere with better access to wilderness.

Before NRDC, I clerked for the Second Circuit and then spent four years working as an associate in the environmental practice group at Sidley Austin LLP in New York City. My work at Sidley entailed a mixture of litigation tasks (e.g., legal research, drafting pleadings and other court filings, reviewing large volumes of documents) and transactional work (e.g., environmental due diligence, drafting contract provisions to address environmental matters, and negotiating environmental insurance coverage). My time at Sidley was positive because my colleagues and mentors were excellent, the assignments were challenging, and the compensation was generous. However, I wasn’t always excited about the nature of the cases or my clients’ positions and I worked too many hours.

For those interested in a career with an environmental organization, the best preparation is to take as many environmentally-themed courses as possible and to spend at least one summer working for an environmental group. Immediately following graduation, fellowships and internships are available. Such positions are perhaps the best way for an aspiring environmental attorney to get her foot in the door. Other paths are possible, however, including government work, law firm work, and academia.

2014

ENVIRONMENTAL DEFENSE FUND

Tomás Carbonell ’08: Attorney, Climate and Air Program

Washington, DC

Before law school, I pursued my interest in environmental law and policy through internships at the Center for International Environmental Law, Environmental Defense, World Resources Institute, and the U.S. Department of Justice Environmental Enforcement Section, as well as through graduate study in environmental management. During my time at YLS, I developed my skills by participating in the Environmental Protection Clinic for two semesters, interning at the Environmental Protection Bureau of the New York Office of the Attorney General, serving as a Research Assistant on energy and environmental issues, and helping organize events and activities with the Environmental Law Association and National Association of Environmental Law Societies.

After graduating from YLS, I worked as an associate at the DC law firm of Van Ness Feldman (VNF). With about 100 professionals, VNF is well-known for specializing in energy, environmental and natural resources law, and climate change. Our clients ranged from large utilities and natural gas pipeline operators to municipal agencies and electric cooperatives, wind farm developers, renewable energy startups, offset project developers, carbon trading firms, non-profit environmental advocacy organizations, and policy commissions/think tanks. At VNF, my practice primarily focused on climate change, clean air, and clean energy/energy efficiency issues. My major activities included preparing comments on EPA rulemakings relating to climate change, clean air, and other issues affecting the power sector and the oil and natural gas sector; analyzing proposed and final rules issued by EPA and other
Federal agencies that affected our clients; and working with think tanks and energy efficiency advocates to develop white papers and policy proposals.

In July of 2012, I left VNF and joined the Environmental Defense Fund as a Climate and Air Attorney based in Washington, DC. In this capacity I have engaged in appellate litigation in the D.C. Circuit (both defending and challenging EPA regulations under the Clean Air Act) as well as litigation in Federal district court to enforce statutory deadlines and other nondiscretionary duties under the Clean Air Act; participated in regulatory proceedings (primarily filing comments on rulemakings at EPA); and carried out policy research, analysis and advocacy. My work has primarily focused on emissions of both greenhouse gases and conventional pollutants from the power sector and the oil and gas sector; however, I have also done extensive work related to addressing harmful emissions from landfills, wood combustion devices, and small stationary engines.

I would be pleased to consult with any student on surviving law school and the bar exam; environmental internships and/or careers at law firms, state government, and non-profit organizations; or any other topic.

2013

ENVIRONMENTAL DEFENSE FUND
Peter Heisler ’13
Washington, DC

I was an active member of an environmental organization in college, so coming into law school I knew environmental law was a career path I might want to pursue. Still, I didn’t (and in many ways still don’t) know where that path might lead, or even how to get on it. Choosing classes wasn’t a problem since Yale’s course offerings in this area were somewhat limited; and a solid foundation in legislation and adlaw, supplemented with some really great classes on environmental issues (Professor Rose’s comes to mind) and reading groups (there was a good intro to Energy Law run by a practitioner at Van Ness Feldman), has given me the basic tools to make a start in this field.

I’ve discovered that environmental law is one of those areas you sort of have to learn by doing, because the statutes are so complicated and you really have to focus on one statute at a time to learn its ins and outs. For me, the first was the Clean Air Act (CAA). I got lucky and landed an internship at Environmental Defense Fund (EDF) in Boulder, Colorado my first summer. The Climate & Air program there is kind of a boutique, in-house litigation shop, led by some terrific attorneys—including General Counsel Vickie Patton. An internship is an internship, and there’s always menial work involved, but EDF really gave me a chance to immerse in the CAA and to try my hand at litigation. It was an all-around great introduction to the CAA and this kind of advocacy.

My second summer I decided to go back to Colorado for personal reasons (really, though, who wouldn’t want to spend a summer out there?!), so I accepted a summer law clerkship with Earthjustice in Denver. That office focuses mainly on public lands and endangered species issues, so this time around I was working mainly with the Federal Land Policy and Management Act, the National Environmental Policy Act, and, to a lesser extent, the Endangered Species Act. The advocacy was more regional scale, but that was fine with me since it was still federal law and the issues mattered to me as a temporary (and repeat) resident of Colorado. The staff structure there was different from EDF’s, as each intern worked with a staff attorney one-on-one. There wasn’t really much opportunity for mentorship in just ten weeks, but it was good to focus on a certain set of cases and issues—and to learn from the (brilliant) associate attorneys, who are still just starting in on this career path as well but have dug in a bit more.
Starting my 3L year, I did some soul-searching and questioned whether I wanted to pursue a legal career at all—because I didn’t feel like I completely belonged in the law school culture at Yale, with its emphasis on theory and policy. I was particularly discouraged by the apparent lack of funding for environmental job opportunities, since Yale’s fellowships are so competitive and some environmental organizations don’t pay their fellows. Still, I stuck with it, and taking the MPRE and Advanced Legal Writing with Professor Harrison in the spring renewed my commitment to practicing law. So, heading into the summer, I still didn’t have anything lined up, but I decided to take the Colorado bar and see where things led.

In June I found out I had been selected for a fellowship in EDF’s DC office, working with an attorney I had gotten to know in Boulder. I accepted the position, spent the rest of the summer studying for the bar, and went out to take the exam in Denver in July—and do a week of training at EDF in Boulder just before the bar. In another stroke of good luck, I had been invited to interview with Justice Monica Márquez of the Colorado Supreme Court as well, so in the course of about ten days I started a new job, interviewed for (and was ultimately offered) a clerkship, and took the bar. Kind of crazy in hindsight, but doable with the support of family and the kindness and graciousness of the people at EDF and the court.

This past year at EDF has been a tremendous learning experience. I’ve not only vastly expanded my knowledge of the CAA and been on the front lines of strategy around the Carbon Pollution Standards for power plants, but also gained a lot of practical on-the-job experience, building relationships within the organization and observing some deft coalition-building outside. The attorneys at EDF are just outstanding—they’re a joy to work with and some of the most effective advocates I’ve ever had the privilege to witness in action. The work flow is varied—sometimes fast-paced and high-pressure, sometimes slow—and the pay is about a third of what you could make at a firm. I realize this is a cliché, but the contribution you make to such a meaningful cause is truly its own reward.

So, I guess the most important thing I’ve learned from my journey so far is to stick with it and build on the relationships you’ve already established. When I accepted the fellowship with EDF, I kind of de-valued it because I’d already worked there and thought it might be repetitive. But it’s turned out to be a wonderful opportunity for learning and personal growth, and I think it had a large part in my getting the clerkship. I don’t know where the path will lead (one of the best parts about clerking, to me, is that it broadens your horizons), but I’m glad I’m on it.

Please feel free get in touch if you have any questions—I’d love to hear about your own career path so far and would be happy to chat whenever.

2014

GEORGETOWN UNIVERSITY LAW CENTER, INSTITUTE FOR PUBLIC REPRESENTATION (ENVIRONMENTAL PROGRAM)
Hope Babcock ’66: Professor and Director
Washington, DC

I am director of the environmental program at the Institute for Public Representation (IPR), a clinic at the Georgetown University Law Center. I also teach basic environmental law courses in pollution control and natural resources law, as well as some advanced environmental law courses. I came to Georgetown and IPR nearly 24 years ago after serving as a general counsel (and before that deputy general counsel) of the National Audubon Society as well as the director of its Public Lands and Waters Program. In those capacities, I supervised Audubon’s litigation docket, brought lawsuits in Audubon’s name, and lobbied on a range of public lands and waters issues, including the Clean Water Act and wetlands.
I have served in the federal government as a deputy assistant secretary at the U.S. Department of the Interior during the Carter Administration and been in private practice, first as an associate, during which I represented utilities proposing to construct nuclear generating plants, and then as a partner doing general corporate work for NGOs.

I have been extraordinarily lucky in my environmental practice, especially considering that when I attended law school there were no classes in environmental law, since the field had not yet emerged as a separate practice area. I have enjoyed every legal and policy position I have held in the field. The nature of these positions has allowed me to learn about different legal practice areas, to acquire a range of legal skills, to work with technical experts in an array of non-legal disciplines, and to see environmental law from a variety of perspectives. I have never been bored and have always been constantly challenged by the work expected of me. But, of all the jobs, I would have to say that teaching is the most challenging and satisfying position I have ever held.

At IPR, we represent a variety of clients, ranging from individuals who are concerned about a particular environmental threat in their neighborhoods to regional and national organizations with broader agendas. Students write briefs that are filed in state and federal court, including in the United States Supreme Court, file comments with federal and state administrative agencies, draft legislation, participate in negotiations, engage in discovery and the drafting of expert testimony, work with experts, prepare and present witnesses for agency hearings, present oral testimony at agency proceedings, and engage in very sophisticated legal research and analysis on cutting edge law reform issues. Students gain an enormous amount of substantive knowledge about environmental and related fields of law and work hard on developing their legal skills. My clinical job is to help them in all aspects of that work.

As part of my responsibilities at IPR, I also supervise two graduate fellows/staff attorneys who, in turn, help me supervise the students. On average, we have six third-year students working on environmental projects each semester. I work closely with the graduate fellows/staff attorneys on the development of not only their teaching and supervisory skills, but also their legal skills. These graduate fellows/staff attorneys have generally had a year or more experience as a clerk, in a law firm or in a government legal position before they join our staff; sometimes they are hired directly from law school. The two-year fellowship offers a young attorney a wonderful opportunity to develop her own legal skills, while still being mentored by a more senior attorney. By the time a graduate fellow/staff attorney has left IPR, they will in all likelihood have argued at least one case in court and have had primary responsibility for managing at least one major case on our busy docket.

My advice for finding a job in the field of environmental law—other than sheer luck and good timing—is to think broadly and creatively about your job search. You should think broadly about the ways in which you can practice environmental law (e.g., NGOs, private firms, foundations, federal, state and local public service jobs, staff to a legislative committee or member, corporate general counsel’s office) and creatively about the field (e.g., public health, land use, zoning, animal welfare, food and drug, environmental crimes, human rights, even teaching, especially clinical teaching).

Regardless of the field in which you practice, be sure you are learning a skill that can help you qualify for your ideal job and are developing a positive working relationship with people who can assist you later on to get that job. Always be sure that you find a position where your work will be supervised by a more experienced attorney and where you will be given plenty of opportunities to expand your skill set. Never take a job from which it will be harder to get the next job. There should always be value added by your new job that will broaden your options when you are ready to move on. Finally, enjoy the people with whom you work and the work you are doing—perhaps this is the most important aspect of true job satisfaction.

2015
HUMANE SOCIETY OF THE UNITED STATES
Lewis Bollard ’13: Policy Advisor & International Affairs Liaison to the CEO
Washington DC

I’m the Policy Advisor & International Affairs Liaison to the President and CEO at the Humane Society of the United States (HSUS). In this position, I support the CEO’s work to advance our mission of protecting all animals from cruelty. My focus is policy, so I track legislation in Congress and the states, write emails on important policy issues for animals, help with the CEO’s blogs and presentations, coordinate with staff and our board, and work on our international expansion strategy.

My challenge every day is to do more to end the suffering of tens of billions of animals in factory farms, fur trapping, the live wildlife trade, the pet industry, and so many other sectors. I like the HSUS because it’s focused on achieving tangible progress, not on debates over ideology or rhetoric. It does what works, and has already spared hundreds of millions of animals from severe suffering.

I was previously an Equal Justice Works Fellow at the HSUS. In that position, I worked on litigation at the intersection of food safety, social justice, and animal welfare. I switched roles because I thought I could do more to help animals on the policy side.

On a typical day at the HSUS, I come into the office between 8 and 9 and leave between 7 and 8. I spend most of my day reading, writing, and communicating by phone and email. The most important two things for a job candidate here are to be (a) a clear and effective communicator, and (b) passionate about stopping the suffering of animals.

If you want to do something about the suffering that so many animals endure, please do be in touch.

2015

NATURAL RESOURCES DEFENSE COUNCIL (NRDC)
Larry Levine ’00: Senior Attorney, Water Programs
New York, NY

I am an attorney in the New York office of Natural Resources Defense Council (NRDC), working on a variety of issues pertaining to water quality and water efficiency in the Northeast and at the national policy level. Currently, my work is focused especially on promoting the use of “green infrastructure” as a sustainable solution to polluted urban runoff and raw sewage overflows that foul many of our nation’s waterways and coastlines. NRDC is a national and international environmental advocacy organization with over one million members and online activists and offices in New York, Washington, DC, Los Angeles, San Francisco, Chicago, Livingston (MT), and Beijing. Our program staff includes lawyers, scientists, economists, and other policy specialists.

I started at NRDC 13 years ago, as a litigation fellow, working on federal court litigation on issues ranging from mercury pollution in the Penobscot River in Maine, to large-scale wetlands development proposals in the Florida Panhandle, to filing an amicus brief opposing an over-aggressive federal criminal prosecution of Greenpeace for a peaceful act of civil disobedience. Following that 2-year fellow position, I was lucky enough to have the chance to stay on as a staff attorney, and worked first on water quality issues specifically in the New York/New Jersey region, and then broadened to include national policy work as well. Before coming to NRDC, for my first two years after law school, I was a clinical fellow at the Georgetown Law Center’s environmental law clinic. My role at Georgetown included serving as counsel to local environmental and community organizations in the Washington area, on both litigation and non-litigation matters, and supervising law students enrolled in the clinic.
In my current position, my work includes a mix of litigation and policy advocacy, as is typical of many attorneys at NRDC. On any given day I may be, for example: traveling to Trenton for meetings with the state Department of Environmental Protection; consulting with an outside expert consultant or witness; presenting to a conference of government officials or environmental professionals; supervising the preparation of a legal filing for a state or federal court case; reviewing and commenting on a proposed permit or regulation; participating in a governmental advisory committee meeting; leading a strategy session with coalition partners or co-plaintiffs; negotiating a potential settlement of litigation; fielding calls from the press; writing a publication or report on a policy issue; or blogging on NRDC’s website about the issues on which I work.

The office atmosphere, as at most non-profit organizations, is fairly casual and I’m privileged to work with a group of talented, collegial, and committed lawyers and other advocates. Though my typical working hours are far less than those of lawyers at large, big-city law firms, the cyclical nature of litigation occasionally results in long hours. My salary is also, obviously, far less than I would earn at a large, big-city law firm, but NRDC pays fairly well for the non-profit world (and also has a good benefits package), and the satisfaction of working on cases and issues I care about more than compensates for the difference in monetary income. Yale’s loan repayment assistance program, COAP, also helped tremendously!

For those of you already thinking about post-graduation employment, it can be difficult to land a job right out of law school in the non-profit environmental world. Though I didn’t do a clerkship, many of the young attorney hires at NRDC have clerked, and this is definitely a plus when we are hiring for positions such as our two-year litigation fellowships, which are designed for recent graduates. Some other organizations, such as Earthjustice and the Georgetown clinic, have similar fellowship programs, but the demand for any of these jobs far outstrips the supply. Often overlooked by job seekers are positions in state and local government—including environmental regulatory agencies as well as state Attorney General offices and, in large cities, municipal Corporation Counsel offices, which often have sections devoted to environmental law. Many lawyers also move laterally from law firms to the non-profit sector after gaining a few years’ litigation experience and, often, after making connections and demonstrating one’s skills by doing pro bono work for a hoped-for future employer. Keep in mind that the environmental non-profit legal community is a very “small world” and networking is key.

Fortunately, most public interest-types are happy to take the time to talk with you and to direct you to others who do the sort of work you’re most interested in. Take advantage of those opportunities, and reach out to create your own!

2015

Currently with UNIVERSITY OF MAINE, MAINE SCHOOL OF LAW
Formerly Appellate Public Defender, NYC; Maine Supreme Court Law Clerk; Partner in 3 different Maine law firms doing civil and criminal litigation, as well as environmental and energy permitting and litigation work
Jeffrey Thaler ’77: Visiting Professor of Energy Law, Policy and Economics; Assistant University Counsel
Portland, ME

First some basic tips (for any Yale Law student regardless of area of interest) and lessons learned from several decades of legal practice: (1) as a Yale Law alum, you should have great faith and self-confidence in your skills and innate abilities—therefore, be brave and say “yes” to every opportunity that comes your way in and out of work, even if you may not have the listed prerequisites in a job description or volunteer opportunity; (2) if the work you are doing is not emotionally rewarding and stimulating, if it is not tapping your passions and enthusiasm—seek new work opportunities; (3) pursue and do not fear
variety in what you do; and (4) regardless of what is your “day job,” speak out and advocate for what you believe in through community and family groups, activities and causes.

Putting the tips in context: I took no environmental or science courses in college or law school. Rather, at Yale Law I worked for New Haven Legal Assistance all 3 years, and then after graduation worked for New York City Criminal Legal Aid doing appeals and some trials. My wife (also a Yale Law alum) wanted out of NYC, and I belatedly wanted to try a judicial clerkship in a location with a better quality of life, so despite 2 years of intense public defender work I next did a one-year clerkship for the Chief Justice and Senior Associate Justice of the Supreme Court of Maine. We have been in Maine ever since. My wife also clerked for the Court.

I wanted to develop civil litigation skills, so ended up with a 15-lawyer trial firm in Portland, ME that primarily did insurance defense work; I also did some plaintiff’s work, and a growing amount of pro bono work with groups in Maine whose causes I supported—such as one trying to shut down the only Maine nuclear power plant. By my 3rd year in the law firm, I was handling significantly complex cases as the lead attorney, and developing a statewide reputation. I was intellectually challenged—but felt that I was not as emotionally rewarded as I had wanted. I reflected on why I had gone to law school (to help the underdog, to improve societal conditions), and began to keep my eyes open for opportunities.

By chance I saw an ad in a local newspaper for the staff attorney/advocacy director/lobbyist position with Maine Audubon Society, an independent statewide group. The ad said “environmental law experience required.” I had none . . . but applied anyway, and talked my way into the job. I quickly had to learn on the fly multiple areas of environmental law, lobbying, how best to write press releases and conduct press conferences, fundraising, and the like. I spent over a year, working 7 days a week, as lead legal counsel for a national and state coalition of environmental groups and businesses in a huge fight against a dam proposed by the most powerful company in Maine on a key stretch of the Penobscot River; I lobbied on a variety of bills; and I represented Audubon as an intervenor in other permitting proceedings of various development projects.

But it was a burn-out job, especially with a young child. So when a small plaintiff’s trial firm in Lewiston approached me to do litigation, ultimately I said yes—but conditioned on my being able to try to build a “white-hat” environmental practice representing citizen and environmental groups while in the private sector—as no one in Maine was doing so. Which is what I was able to do, juggling both a trial practice with an environmental practice—a combination I continued for over 25 years, as I enjoyed each type of work. I also developed cross-over work—product liability and toxic tort lawsuits, and a plaintiff’s lead poisoning practice.

After 11 years in Lewiston, in order to reduce my commuting time and to add the chance at a broader range of cases with more back-up help, I lateraled my practice to a Portland general practice firm with 50 lawyers. There, I rebuilt its environmental practice, while also getting more involved in renewable energy project work—hydro, biomass, waste-to-energy, and wind. I continued to be involved in major regulatory permitting proceedings at the local, state and federal levels, as well as more policy development work. I continued my trial practice as well. I also taught environmental law as an adjunct for 2 semesters at Maine Law School, as well as developing courses and programs on refugee-immigrant issues for college students, in my “spare” time. And I helped start the American College of Environmental Lawyers with 23 others around the country, and the Environmental and Energy Technology Council of Maine—the only such trade group in the area.

After another 14 years, one of my clients—the University of Maine—offered me the chance to undertake for two years a new challenge: to develop an interdisciplinary, multi-campus renewable energy curriculum. I renegotiated the position so that my course work would involve both University...
undergraduate and graduate students, as well as (2+ hours away) Maine Law students—and to work as a University lawyer in-house on environmental, energy and sustainability projects. This was to include my ongoing work as the lawyer for the only floating offshore wind projects outside of Europe. And that is what I have done since 2011, developing new courses in renewable energy law, policy and economics; energy law and economics; climate change science, law and policy; and a revised administrative law course, as well as major legal work on the offshore wind projects and a landfill gas project and PUC rate cases. I also undertook extensive research and writing of a major article on existing climate science and how it requires urgent change in our environmental laws governing the development of clean renewable energy projects, using offshore wind as a case study (http://law.lclark.edu/live/files/13156-thalerready-for-websitepdf).

Suggested skill sets, values: May sound trite, but my success has largely been due to hard work (if you are lead on a team of lawyers, don’t make younger lawyers or staff work longer hours than you are willing to do yourself) and attention to detail (many of my cases were won by knowing the facts better than my adversaries—even more important than the law); comfort in public speaking and advocacy (where litigation experience comes in handy for environmental advocacy); vision (what do you want out of life); and willingness to change and take risks with new jobs or boards or start-up opportunities. And when someone offers you the chance to speak at a CLE or take on a new case or be on a new board—unless you are totally behind your current work, say “Yes, thanks!” Taking initiative and being open to new matters or situations has led to many rewarding experiences in my career.

What I have liked about environmental law: I call it my chance to continue my liberal arts education, my life-long learning of new areas of knowledge—biology, geology, wildlife sciences, hydrology, engineering, finance, marine sciences, climate sciences, and the like. I enjoy trying (not always successfully) to get non-lawyer experts, consultants and clients to understand how the legal and regulatory processes work. I enjoy all of the outside-of-work chances to be involved with causes and groups trying to improve the quality of life in my community, state, nation and globally. I enjoy that the environmental and energy bar is still fairly small, not only in Maine but nationally, and that while working in a relatively small coastal city like Portland, Maine (65,000 people) I have been able to work with and against, and become involved on national issues with, the top environmental lawyers around the US and globe. I also have liked the opportunity to both advocate and educate about environmental and climate issues, and have always enjoyed mentoring younger students and lawyers.

What I have not liked: I used to spend much more of my time in hearings, proceedings, advocating in front of audiences, and the like. Now, much of my time is spent at my desk online, on conference calls, and sorting piles of paper and emails. But that is the fate of many lawyers in the 21st century, especially handling complex matters.

Bottom line: If you cannot find a position right out of law school in the environmental or energy field, don’t sweat it. Take on a job developing your skill sets, but then also be sure to get involved in groups and activities that do have environmental aspects or concerns. Network, keep focused on your passions and goals that drove you into and during law school, and when the community, board and job openings come along to undertake work on environmental issues that interest you don’t look back—JUMP!

2015
HARI OSOFSKY ’98
Professor, University of Minnesota Law School
Faculty Director, Energy Transition Lab
Director, Joint Degree Program in Law, Science & Technology
Faculty Member, Conservation Biology Graduate Program
Adjunct Professor, Department of Geography, Environment and Society
Fellow, Institute in the Environment
MINNEAPOLIS, MN

During the fall of my first year at Yale Law School, I became interested in environmental human rights after learning about the devastation wreaked upon the Ogoni people by Shell Oil in collusion with Nigeria’s military dictatorship. I followed this passion throughout law school, which was a blur of clinics, law journals, researching, writing, and teaching. By the time I survived my third year, my overwhelming feeling was that of burnout, which even a month of travel in Thailand and Laos did not cure.

My clerkship with Judge Dorothy Nelson of the Ninth Circuit Court of Appeals provided me with a critical role model and mentor early in my career and since. Judge Nelson is an amazing woman who, despite being a path breaker, believes in treating others warmly and having a full life beyond one’s job. Although the clerkship taught me a great deal about effective litigating, my most important lesson was in the professional value of being a warm, whole person, a lesson that has helped me since then in situations ranging from difficult negotiations with opposing counsel to complex cross-cultural exchanges to building an academic career to navigating the challenges of leadership roles.

In making my plans for my first post-clerkship job, I was faced with a very difficult decision. I had fallen in love both with and in Los Angeles, and wanted to settle there. I was ready, after a year of assisting a neutral adjudicator, to return to my international environmental human rights activism, but such jobs did not appear to exist in Los Angeles. I thought that I had found a perfect opportunity to apply for fellowship funding to work with the local Human Rights Watch office, until the national headquarters informed me that they would only sponsor a fellowship position based in New York or Washington, D.C.

At around this time I received a fellowship announcement from Center for Law in the Public Interest (CLIPI). Although CLIPI was not engaging in any internationally-oriented work, it did a range of very interesting public interest impact litigation. I decided that, as a young attorney, it could be valuable for me to experience litigation in a variety of substantive areas. In my mind, CLIPI’s civil rights work was the domestic counterpart to international human rights advocacy; the values expressed were very similar.

Whether or not my reasoning was a rationalization in the face of the difficulties I had been having, I could not have made a better decision. For the next two years, I had the opportunity to do substantive work on meaningful cases with great people. I wrote briefs, argued before the California Court of Appeals, presented before a committee of the City Council, participated in negotiations with the city attorney, ran client meetings, developed interview questions for minors and conducted interviews with them, crafted discovery and intervention papers, negotiated with co-counsel and opposing counsel, and generally began the process of conversion from a “baby” lawyer to a confident one. Although my work at CLIPI included many types of civil rights litigation, my primary focus was on environmental justice. I worked with African-American homeowners to address discriminatory sewage spills, and as part of a broad coalition to block a warehouse project in the largest open space in downtown Los Angeles. In the end, this “compromise” resulted both in my expanding as a lawyer and in my pursuing a variation on the legal issues that have compelled me since my first year of law school.

And then, after two years at CLIPI, I ended up going abroad after all. In July 2000, over an incredible meal, I agreed to marry the man that I had begun dating two weeks after moving to Los Angeles. Just as I
was happily settling down into a career at CLIPI, he suggested that 2001-2002 might be a good time for that year abroad I had always wanted. Through a marvelous bout of synchronicity, I learned about the Yale-China Legal Education Fellowship just in time, applied for it, and received it.

Following our wedding and honeymoon, I headed off to Guangzhou, China (my husband had an unusual, last-minute job opportunity in Los Angeles that we decided he should take). I had an incredible year in which I taught U.S. civil rights law; helped to develop and co-teach Sun Yat-Sen University’s first clinic, which focuses on labor law; coached students participating for the first time in English in the national level of an international arbitration competition; taught a faculty English class; engaged in comparative research in clinical law; learned some Chinese; made wonderful friends; and had all sorts of confronting and amusing cultural experiences.

That year in China reawakened my interest in activist academia, reminding me how much I love teaching and exchanging ideas. I spent fall 2002 as a visiting assistant professor at Vermont Law School while I went on the academic teaching market. After a fall of considering what life might be like in places all around the country, I accepted an offer at Whittier Law School (about 40 minutes south of Los Angeles) as an assistant professor and the inaugural director of its Center for International and Comparative Law. Two weeks later, I received a nonresidential fellowship from the Carnegie Council on Ethics and International Affairs to support an international environmental rights project, which built from my work at CLIPI on domestic environmental justice issues. I also taught an Environmental Justice course there in which we worked with Earthjustice on its submission to the U.N. Human Rights Commission on international environmental rights. Thus, after many twists and turns, I landed in Southern California doing international environmental rights work.

This essay does not conclude quite so neatly, however. My personal circumstances and professional goals have continued to evolve over the twelve years since I took my first tenure-track academic job at Whittier Law School. As my academic career has developed, I have had opportunities to teach at the University of Oregon, Washington and Lee University, and now the University of Minnesota. My husband became more flexible professionally when he decided to pursue his dream of writing and to spend time with our young children—I found out that I was pregnant with my first child a week before starting my first tenure-track job—which allowed me to take advantage of these opportunities. He then decided to apply to law school in Fall 2009, included Minnesota’s law school on the list, and through delightful synchronicity, was accepted on a merit scholarship the same week its faculty began recruiting me (he has a different last name, so they had no idea they had done this!). He graduated two years ago and began a second career as a family law attorney.

My substantive interests have evolved as well. My work in 2005 on the Inuit’s climate change petition to the Inter-American Commission on Human Rights awakened my interest in climate change litigation and governance. Later that summer, my friend and colleague Keith Aoki at the University of Oregon introduced me to the discipline of geography, and I was so captivated that I decided to pursue a Ph.D on the side while teaching law. My work on climate change and on the BP Deepwater Horizon oil spill in turn helped develop my interest in energy transition and in local government. My current projects focus on energy partisanship; the Clean Power Plan; corporate energy transition, including investment and divestment; Arctic offshore drilling and renewable energy; energy storage; energy justice; and metro-regional climate change action.

Throughout my over a decade in academia, though, my core goal of using my faculty role to help leave the world a little better than I found it has remained constant – despite the vagaries of navigating tenure, promotion, and faculty politics at multiple institutions. Teaching has always been an important mechanism for doing so. Almost every year, I have taught courses in which I supervise my students on projects to assist government or nongovernmental organizations on environmental justice, climate change,
or energy transition issues. This academic year, I am returning to my practice roots and designing a new project-based course on civil rights and social justice. These courses create the win-win of providing our clients with needed assistance and my students with a practical learning experience in legal research, writing, and satisfying clients.

In addition to teaching and research, I have increasingly moved into more administrative roles as I have gotten more senior, including launching an Energy Transition Lab over the last couple of years that is working with leaders government, business, and industry to help make needed changes in the energy system and directing our Joint Degree Program in Law, Science & Technology. I also try to make a difference in diversity and inclusion in academia through leadership in national organizations – both ones focused on those issues and on my core substantive areas. I believe deeply in paying forward all of the help I was lucky enough to have along the way, and spend a lot of time individually mentoring others as they navigate the academic market and tenure process.

And so more than a decade after my first version of this essay, I am living in Saint Paul, Minnesota, where my research, writing, teaching, and advocacy focus on climate change, law and geography, and energy, an outcome which I certainly could not have predicted when I left law school sixteen years ago. I hope that through a combination of writing, teaching, advocacy, mentoring, and organizational leadership, I can be a constructive part of helping our society make needed transitions in our energy system, address climate change more effectively, and become more fair and equal. I completed my Ph.D. two years ago (long-distance since the degree was still at the University of Oregon even though I am no longer there), defending my dissertation the same week I attended the ceremony celebrating my promotion to full professor. And in another interesting twist, Jennie Green, the lead attorney on the Shell-Nigeria case, who I have admired since my first year of law school, is one of my colleagues here at the University of Minnesota.

The best advice that I have for law students interested in environmental law and energy work or public interest work more generally is to think creatively and be scrappy. If you cannot find exactly the position you desire, find the best opportunity that you can and be open to learning and growing from it. Our careers will, I hope, be long enough that we have time to have experiences rather than worrying about where we are on a path.

In each step of my path, I have not had a master plan, but rather have made decisions that felt right at the time. I have found that being open to life’s synchronicity has been critical to my sense of personal and professional fulfillment. When I wrote the first version of this narrative, I was still at CLIPPI and had no idea that I would end up back where the story started a couple of years later or as a tenured professor in the Twin Cities several years after that. I also did not even know the discipline of geography existed – it had been kicked out of Yale many years before I was there – and could help me bring law together with ideas of place, space, and scale and with both the hard and social sciences. I read about CLIPPI in a job announcement mailed to Judge Nelson’s chambers and found out about the China fellowship through a chance inquiry. In fact, I was initially asked to write an essay for an international public interest career guide, rather than this environmental one, and was unsure if my focus was still international enough to do so.

While it is important to be open to life’s unpredictability, I have found that networking – which for the most part just consists of being friendly and reaching out to people – is almost always the best strategy for finding exciting opportunities. At the outset of your career or when you’re trying to enter a new area, ask everyone you can think of not only what opportunities they know of, but also who else they know of whom you might approach. Over the years, that networking becomes about the mixed personal-professional relationships that you build over time. Here again, the model of Judge Nelson and other mentors continues to serve as a guide for me. By treating people well, helping them along when they
need it, and more generally bringing your values to work, you build the rich relationships over the years which support your happiness and career development.

Most importantly, and connected to this final point, in all this planning and networking, make sure to ask yourself regularly if you are having fun and if you feel fulfilled. If not, look around and think creatively about potential alternatives. And as you build your career, make space for the things you enjoy in life that are neither work nor family. For me, that has included taking up rowing; starting that novel project that’s always intrigued me; launching a YA book and cocktail club and participating in other book clubs; skiing; surfing; exploring food – including insects; and travel. Whatever these interests are for you, make time for them and for finding a career that makes you happy, whether or not your path conforms at all to those of your peers. It is the journey that matters, after all.

2015

SYRACUSE UNIVERSITY COLLEGE OF LAW
Formerly with NATURAL RESOURCES DEFENSE COUNCIL
David Driesen ’89
Syracuse, NY

I worked at the Natural Resources Defense Council’s (NRDC’s) air and energy program for about three years in the 1990s before moving into a teaching position at Syracuse University College of Law. My work at NRDC mostly focused on encouraging EPA to properly implement the Clean Air Act, which Congress had recently amended. To that end, I talked with government officials about pending decisions, wrote detailed comments about proposed rules, and litigated some regulatory decisions in the District of Columbia Circuit. My job also required crafting press releases (with the help of media staff), writing letters to members of Congress, and sometimes presenting oral testimony on pending rules.

I enjoyed this work immensely, mainly because the freedom to choose the most important Clean Air Act matters to work on made me feel like I was making a difference. I also really like and admire my colleagues there (most of whom still work there, more than 20 years later). They are smart, dedicated, and extremely knowledgeable about the many detailed questions that arise in implementing environmental law.

One of the most challenging aspects of my job involved negotiation. NRDC had learned through 20 years of Clean Air Act advocacy that constant fighting between environmentalists and industry could be very counterproductive in making progress on environmental issues. For that reason, the organization by that time put a lot of emphasis on negotiated rulemaking and other efforts to try and reach consensus on environmental policy matters. I had some success with that, but I felt the need to improve at the somewhat softer skills needed to create consensus. I was not as heavily involved in negotiation as my senior colleagues, but it is an important skill that’s not easy to acquire in law school.

In my job interview, David Hawkins (then the director of NRDC’s air and energy program) emphasized the importance of attention to detail, for very good reason. An effective environmental lawyer has to master extraordinarily detailed statutes, even more complex regulations, as well as some information about science and technology. Although I like the big picture and do not revel in the process of learning details, I found this necessity did not bother me. The feeling of doing something worthwhile made the effort necessary to get the details right feel almost fun and I learned a lot. At the same time, a good environmental lawyer has to understand how those details contribute to a much bigger picture in order to communicate with non-specialists—like judges, Congressmen, and the broader public—simply yet accurately.
Public interest organizations, even one as well established as NRDC, need their lawyers to have the capacity to handle very complex matters mostly on their own. They just do not have enough people to assign teams to nearly every matter, the way a large law firm might. For that reason, NRDC and many other public interest organizations generally hire lawyers with at least a few years of experience, and government service can be especially valuable (since the government offers great responsibility early on as well). These are great jobs for people who like to work independently (like myself).

The law, I learned, has far less influence over environmental policy than one might think. I found that frustrating and the problem of the rule of law disintegrating in the face of various political pressures may have become worse since I moved into teaching.

I have been teaching law at Syracuse University for 20 years now. As a law professor, I try to keep contributing to environmental protection, not only through amicus briefs (mostly in the Supreme Court), but also through scholarship that addresses the ideologies that have disrupted the rule of law or explains the values and logic underlying environmental law (with some forays into related fields). As a law professor, I have perhaps even more freedom than a public interest lawyer, but less of the excitement (and pressure) that comes from timely engagement with pending issues. I enjoy the process of writing about the big picture issues (my most recent book, The Economic Dynamics of Law (2012), is about the theory of law and economics). And that’s a good thing, because when you write books and law review articles it can be hard to see whether you are having an impact. Ideas may have more of an influence on environmental policy than law, so it’s worth working on the ideas. But ideas’ influence can be subtle and difficult to detect. I try to get ideas to a broader audience by working with the Center for Progressive Reform, which produces White Papers, reports, opeds, and testimony, mostly on environmental issues. I also find that teaching offers great flexibility, which becomes especially helpful if you start to raise family.

My advice for people starting out would be to do the things you find interesting and useful and don’t worry too much about improving your credentials, because making choices congruent with your values will get you down a path that works well for you (even if you’re not completely sure about what you are interested in). Believe it or not, you, as a young attorney, do have the ability to help improve the world you live in, and if you commit yourself to that your capacity will only grow.

2015

5. Private Firms

BRYAN CAVE LLP
Roberta Gordon ’86: Counsel, Environmental and Land Use Practice
New York, NY

In my lifetime, society has come to more fully understand human impact on the environment, and laws to protect natural resources and human health associated with exposure to hazardous materials have evolved. I first aspired to be an environmental scientist and worked as an environmental planning consultant before entering law school. However, I later learned the formidable power that law and lawyers have to impact issues affecting the environment. This realization was the genesis of my career as an environmental lawyer.

The environmental clinical programs at Yale Law School and summer internships are great opportunities for students to get a flavor of the different settings available to practice environmental law as well as assess the relative advantages of each. I spent my summers working at a non-profit organization (Environmental Defense Fund) and in the environmental practice groups of two private law firms. It
became clear to me that there were multiple paths to a satisfying career in environmental law, and that
environmental lawyers could, and often did, make significant shifts (i.e., such as shift from private firms
to governmental positions) during their careers. Life priorities (i.e., parenting, financial needs), in addition
to career goals, played a part in these decisions.

After my 1986 graduation from Yale Law School, I clerked for a federal district judge in the Southern
District of New York. To further develop the litigation skills I was beginning to learn in my clerkship, I
then joined the litigation practice of a large New York firm (Debevoise & Plimpton). My decision to
develop litigation skills in a high caliber firm at the beginning of my career (and not to specialize in
environmental law initially) was one of the best professional decisions I have made, and I recommend it
to other graduating law students. I spent several years honing my litigation skills (and made money to
take a year to travel and do volunteer work). Despite the long hours and sometimes hum drum tasks that
plague junior associates in firms to this day, the experience provided me with the legal and writing skills
that have served me in every position that I have held since.

At that time (the late 1980s), corporations were increasingly realizing that environmental issues were a
potentially vast source of liability, and that corporate, banking and real estate transactions required
analysis and factoring in of environmental issues. I began to see the advantages of voluntary agreement
(where possible) over legal confrontation, and I shifted my focus away from litigation and joined the first
wave of attorneys working with the environmental aspects of environmental due diligence, quantification
of environmental risk, and the allocation of environmental liabilities through consensual agreement.

With the birth of my first child, I decided to leave private practice in New York for government service in
Washington, DC and to elect for a compressed work week to give me time for my family. In every
position I have held since (with one minor deviation), I have worked from my home one day each week,
and my children, now young adults, appreciate that I have made that time for them. While balancing
family and law (and trying to be available for both, sometimes simultaneously) is difficult and a bit of an
art form, if I had it to do again, I would make the same career choices today.

My first government stint, as an attorney for the United States Environmental Protection Agency, Office
of General Counsel, involved analyzing legal policy with respect to federal environmental laws,
regulations, and programs and representing the Office of General Counsel on workgroups involving
innovative policy areas, such as Superfund reauthorization, policies to remedy pollution in low-income
and minority communities and developing rules to govern the environmental liability of lenders. My next
government position (back in New York and back to litigation) as an Assistant Attorney General in the
New York State Department of Law, Environmental Protection Bureau, entailed representing the State in
affirmative and defensive environmental litigation in federal and state courts. My cases involved wetlands
requirements and hazardous waste remediation actions against diverse defendants, such as a municipality,
a dissolved corporation, a liquidating trust, bankrupt entities, corporate parents, and successors. In
addition, I represented the Attorney General on various environmental policy issues before the National
Association of Attorneys General and drafted briefing memoranda regarding various policy issues,
including environmental justice. My government service was challenging and rewarding, and I would
definitely consider serving in the government again during my career.

Due largely to a change in administration, in late 1995, I re-entered private practice in New York and
have practiced environmental law in that setting since, representing both private clients and government
agencies. While I have been involved in some environmental litigation over the years, my work is largely
focused on (as it was in the early days of my career) negotiation, consensus building and voluntary
compliance with environmental laws. In addition, through my work on various working groups and
committees, including those organized as public/private partnerships by governmental bodies, I play a
role in policymaking with respect to cutting edge environmental issues.
I represent clients in domestic and international corporate and real estate transactions, in which I counsel lenders, underwriters, corporations, purchasers, and sellers of stock or assets on environmental compliance, disclosure, and liability issues. I represent businesses that voluntarily agree to remediate and redevelop brownfield sites whose use has been hampered by contamination and negotiate environmental insurance policies to fund environmental cleanup and other potential environmental liabilities, such as personal injury actions involving exposure to hazardous material. I routinely retain and oversee the work of environmental engineers in efforts to study manufacturing processes, waste streams and environmental conditions in order to assess and quantify environmental risk, sometimes with respect to multiple facilities across a number of continents. I draft and negotiate environmental provisions for acquisition, financing and other agreements in which private parties agree to allocate environmental liabilities, and then oversee the remediation of environmental pollution conditions and correction of environmental non-compliance. My work involves both pollution of the indoor and outdoor environment, and increasingly, climate change. In the great majority of my matters, an environmental benefit results directly from work, and all of my work involves identifying the parties who are to be responsible for correcting identified or potential environmental problems.

There are enormous opportunities in all sectors for environmental lawyers to have a positive impact on environmental matters. On a global scale, the challenge has never been as great as today. I have found that counseling private clients—working on the inside—can result in environmental benefits that might not be achieved in any other fashion.

BURLAK, ANDERSON & MELLONI, PLC
Jon Anderson ’78: Member
Burlington, VT

I have practiced in the related areas of environmental, land use and real estate law since returning to Vermont in 1980. Although a single practitioner may not cover all of these areas in states with larger populations, Vermont is small so lawyers who want to keep busy practice at least environmental and land use law together. I like practicing real estate law in addition because I like the variety and knowledge in all three areas is useful. I often see ways to resolve land use or environmental concerns using real estate concepts and vice versa. My practice involves both litigation, including whether land use or environmental permits should issue, and property and title disputes and an office practice involving advice on permitting issues and the analysis of complex title issues. Again, I like this diversity.

My work last week shows the diversity of my practice. On Thursday, I attended a zoning hearing to approve construction of a convenience store. I worked with the client and its engineers all week to prepare for the hearing. I am also preparing a zoning application for another convenience store. For other clients, I approved filing documents by a New York attorney appealing a zoning decision there, I am negotiating a commercial lease, and I am organizing a closing to purchase land. I also prepared a proposal for a title insurance company to defend a client against a title claim, I am preparing for trial on a survey dispute, I am negotiating to resolve an enforcement action by the State of Vermont against a client to restore wetlands the client allegedly improperly disturbed. I am also assisting another client in obtaining permits to build a distillery. Another client approved my proposal to develop a plan for subdividing and selling an uncontaminated portion of a property from a contaminated portion. We will then negotiate with the State of Vermont over the clean-up of the contaminated portion.

The most rewarding aspect of my work is helping people solve problems and create things including, over the years, housing developments, landfills, shopping centers, banks, convenience stores, office buildings, a distillery and whiskey aging warehouse and distribution center, etc. In my favorite transactions,
sometimes taking years to complete, I negotiate and prepare title acquisition documents, develop and execute a plan for obtaining necessary permits and close the transaction.

I also enjoy working to improve permitting processes. I authored the first draft of a 200-page bill passed by the Vermont Legislature in 2004 rationalizing Vermont’s permitting processes so that all environmental and zoning permits are now appealed to an environmental court with statewide jurisdiction.

Ideally, a practitioner in these areas would have a background in science, engineering or planning. I constantly assemble, and interface with, teams of engineers, scientists, surveyors, etc. and understanding what they do is useful. Some knowledge of economics and decision trees also helps to assist clients in finding the most cost-effective way to pursue their goals.

I wish I had known when I started out how challenging it would be to keep up with older attorneys who had much more knowledge and experience than I did. I lived with this anxiety until I was about 50. At 60, practicing law is a lot of fun.

2015

LOZEAU | DRURY LLP
Richard Toshiyuki Drury ’90: Partner
Oakland, CA

I am a partner with the law firm of Lozeau | Drury LLP, where I specialize in plaintiff-side environmental law. My work includes a mixture of administrative proceedings and litigation in state and federal trial and appellate courts. Our clients have included non-profit environmental organizations, labor unions, and individuals, including the Sierra Club, Golden Gate Audubon Society, League to Save Lake Tahoe, California Sport fishing Protection Alliance, Heal the Bay, Ocean Conservancy, and many others. Our practice areas include the state and federal Clean Air Acts, state and federal Clean Water Acts, California Environmental Quality Act, California Proposition 65, and others. We have substantial experience in bringing labor and environmental interests together to form “blue-green” alliances that improve worker health and safety, enhance the environment, and often create clean, safe jobs.

For a decade, I was legal director for Communities for a Better Environment in Oakland, California. I began my career at the environmental law firm, Shute, Mihaly & Weinberger in San Francisco. I clerked with Chief Judge Thelton E. Henderson of the U.S. District Court for the Northern District of California.

2015

SHOOK, HARDY & BACON LLP
John M. Barkett ’75: Partner
Miami, FL

I have been practicing in the environmental law arena since I graduated from Yale Law School. I began by helping to site nuclear power plants. I then became involved in work under the Toxics Substances Control Act (relating to polychlorinated biphenyls). After the Superfund law was adopted, I became heavily involved in a number of Superfund sites through the United States as a litigant, counsel to one or more parties involved in potentially responsible party (PRP) groups, or as common counsel to a PRP Group. That work evolved into my role as a neutral who conducted mediations, allocations, or arbitrations of environmental matters or contractual disputes involving environmental claims. I also serve as the Everglades Special Master appointed by one of our judges (S.D. Fla.) and in that role, I oversee the Consent Decree governing the restoration of the Florida Everglades.
My entry into environmental law came via the litigation route (as opposed to real estate lawyering or government service). In my judgment, it is valuable to be comfortable in a courtroom if one is serious about an environmental law career. Permit violations, non-compliance claims, suits for cost recovery, citizens’ suits—all require litigation skills.

Air work under the Clean Air Act and associated toxic tort claims remains an important practice area throughout the United States. The Clean Water Act also generates quite a bit of litigation, primarily related to jurisdiction. Since the Supreme Court’s decision in Rapanos, courts have struggled to determine when the Environmental Protection Agency or the Army Corps of Engineers can assert jurisdiction over “wetlands.” Litigation under the federal Superfund law has slowed considerably in most states, but there remains some considerable amount of Superfund work in certain states, Texas, New Jersey, and California among them. The Supreme Court’s May 2009 decision in Burlington Northern has resulted in more litigation under the Superfund law but most of the Superfund legal work in 2014 is on river sediment sites where the cleanup costs can run into the hundreds of millions of dollars. Until there is more enforcement under the Resource Conservation and Recovery Act, the legal work required will be more in the nature of regulatory interpretation than defense of enforcement claims. And because liability is so broad under the environmental laws, any transaction that implicates the transfer of real property (sale of land, mergers, donations to a charity, bank foreclosure, and so on) will continue to require legal review to minimize environmental risk for the transferee of property. Biotechnology, nanotechnology, food safety, and “toxic” consumer products are areas receiving considerably more attention than traditional environmental work.

You don’t necessarily need a science background to get into this practice area, but it helps to apprentice under someone who knows the area well to give you time to learn the science applicable to the statute or statutes you are working under.

2014

SPIEGEL & MCDIARMID, LLP
Frances Enseki Francis ’65: Of Counsel
Washington, DC

Before deciding whether to pursue a career in environmental law, I suggest that you think about what “environmental law” means to you. The legal field has not been very good about defining what it encompasses, allowing practitioners and law professors to draw the boundaries of “environmental law” where they want. Rather than reviewing their viewpoints, I suggest you think about what you think it means. About fifty years ago, when I attended Yale Law School, there was no recognized field of “environmental law,” by which I mean that no courses were offered in that topic and few, if any lawyers, identified themselves as such. What we had were some folks who had a deep interest in conservation, as those principles had been taught and discussed at the Yale Forestry School for some time. Interestingly, the Forestry School was fostered by Gifford Pinchot, who together with President Teddy Roosevelt, was influenced by what they termed “conservation.” Loosely interpreted, this meant the discipline of managing our natural resources so they served the public good. The trick, of course, was defining what “the public good” was. And that is a value question, pure and simple.

If you were to believe, above all, that the Earth’s natural resources should never be changed by any act of man, then your mission as an “environmental” lawyer is plain. You should stop reading this article now. But in my view, that approach is not practical or consistent with the more complicated and interesting legal work that needs to be done. After almost 50 years of practice in and around environmental issues, I believe that environmental law is here to stay. But, in more than most other areas of the law, whether you will want to devote the time needed to develop expertise as an environmental law expert depends
principally on what you value most and how you think society should go about the task of resolving tough problems fairly, where the law is directly involved.

In a sense, environmental law came of age with the passage of laws in the early 1970s involving clean air and water. The key administrative law was the National Environmental Protection Act or NEPA, passed in 1969, which did not prescribe what the “best state” was, but rather required federal agencies to follow a procedure to identify the environmental impact of their decisions. Congress then moved on to legislate about the use of lands, toxic substances, clean-up of past environmental blights, and zoning in the form of wetlands and other land use measures. Once all these laws were enacted, it was a question of businesses and individuals learning to live with the provisions of the law and for their lawyers and (usually) the government’s lawyers to enforce the law. Communities and non-profit environmental organizations also claimed rights to participate in the process to ensure the standards they saw prescribed in the law were achieved. With such a broad set of laws that required both scientific or technical knowledge and an administrative process that added time and penalties to businesses and individuals, it was inevitable that a separate field of law that grouped all sides under the name of “environmental law” arose.

So, the next question is: do my values identify with the proponent or the opponent in a typical case involving environmental issues? As a new attorney, would you prefer to gain experience learning about the fastest way for your client to comply under the rules that may call for penalties or do you gain experience primarily as a guerilla attorney, fighting against the developers, for example, in order to preserve a view or a public park space? Both tasks encompass legal work, often overlapping in their technical aspects, but the fees for representing different kinds of clients in environmental litigation are quite different, and you should be aware that cross-overs are not easy. In part, I suspect, that is because these cases represent the clash of different values that are not susceptible to easy resolution.

Nor is it all about your personal compensation as a lawyer, although that is something you should be aware of. Fighting a case when your client is likely to be without the money to present expert qualified witnesses at trial or when basic information is simply not available within the time frame prescribed in the laws is challenging, at best. The fact about most environmental litigation is that it is very expensive and to have a chance at winning, it will require experts to make your case and fight off the opposition. You may be sure your clients are right, but you will often find yourself without the funds to “prove” it legally; and your opponent will often have more than adequate funds and talent at his/her disposal.

About 50 years ago, I became first a government attorney in the energy area, and then a few years later, associated myself with a law firm that was a “public interest” law firm that was going to try to stay in business for the long haul; fortunately, it did. In that practice, I represented primarily cities, states and occasionally a maverick private client or Native American tribe. It was a good combination of clients because, as public or public-oriented entities located near the resources at issue, they grappled with conservation and use issues in developing their positions. They often chose to pursue what the private sector would not consider as legitimate goals—e.g., improving the quality of the water their citizens drank or preserving the lake views that so many of their residents enjoyed, while figuring out how to pay for it. The occasional private client invariably had similar considerations and was willing to pay legal expenses to maintain his or her business or develop a project. Regrettably, over time, my clients and I observed a rigidity in the regulatory/permitting system in which we worked, and it often led to rejections of our clients’ position because it would require the decision makers to make the hard, substantive resource balancing decisions that were called for by the law. This pattern has led to a rather narrow set of outcomes, invariably influenced by the disparity in money and the ability of smaller entities to sustain long-term actions, and often the rejection of our clients’ positions, especially when they proposed solutions outside the traditional box. Occasionally, we win in the courts on review, but you should be aware of the odds, going in.
Based on the above, should you abandon the thought of becoming an environmental lawyer? I would hope not. I have thoroughly enjoyed my decades of practice, even at its worst moments. Fighting for values makes a difference, but you will have to be prepared to see a lot of sad and unjust things happen. It helps if you are an optimist; have a working knowledge of economics, risks and trade-offs; and have a good set of clients (something that you have to work at). The advantage of working in this area is that it is not entrenched in centuries of precedent. It needs new ideas and people, and you can’t escape it anyway. Because society has in the last half century become more attuned to conservationist principles and their necessity to society, I think that whether you choose to be a corporate attorney or whether you choose to deal in poverty law or whether you are trying to advise a client on where she or he can build a second home, you must be aware of what is going on in your environment and the laws that are being passed in the name of “the environment.” In other words, a good lawyer must be, in a real sense, an environmental lawyer, or have a pretty good idea of what it entails.

2015

VAN NESS FELDMAN, PC
Doug Smith ’86: Partner, Energy and Environmental Practice
Washington, DC

I have the good fortune of having an energy and environmental practice that involves both legal and policy work. Given the dynamic changes in policy relating to the Nation’s energy sector, it is a great time to practice in these areas. For the past fifteen years, I have been a partner at Van Ness Feldman, LLP, a Washington, DC-based 90-attorney firm that focuses on energy, environment and natural resources law. My career has included fascinating work in both the public and private sectors.

After graduating from Yale Law School in 1986, I began my legal career by clerking with Judge Walter Stapleton on the U.S. Court of Appeals for the Third Circuit in Wilmington, DE, and then made my way to Washington, DC. I was an associate with the DC office of a large Atlanta law firm (Powell, Goldstein, now defunct) for seven years, working on a wide variety of “Washington practice” assignments, including counseling and policy work on energy, environment, antitrust and banking issues. The most memorable of these assignments related to lobbying on the acid rain title of the Clean Air Act Amendments of 1990 and electricity and energy efficiency titles of the Energy Policy Act of 1992.

In 1994, I had the opportunity to move into government and joined the U.S. Department of Energy (DOE), where I eventually became Deputy General Counsel for Energy Policy. At DOE, I worked on electricity sector restructuring issues, energy efficiency standards, renewable energy policy, and a variety of other energy policy matters. After three years at DOE, I was appointed to serve as General Counsel to the Federal Energy Regulatory Commission (FERC), the U.S. government’s utility regulatory body. The FERC's work includes rate- and merger-related economic regulation, and licensing of hydroelectric and natural gas facilities. The latter categories are essentially specialized environmental permitting cases. My work with the government was especially satisfying—it was gratifying to be at or near the locus of decision making on public policy issues that I cared about, and to help address the challenges associated with making and supporting sound policy decisions.

With the change in administrations in 2001, I landed at Van Ness Feldman. At Van Ness, my practice consists of representing electricity sector clients on regulatory issues before the FERC, and assisting clients on a range of other environmental/energy matters, including climate change, clean air, energy efficiency, and energy technology policy. My clients include electric utilities, energy project developers, product manufacturers, trade associations and coalitions, and non-profit organizations.

My work is quite varied. I help clients understand and comply with complex regulatory requirements, and represent clients in administrative adjudications, compliance audits and agency enforcement actions.
More interestingly, I support clients seeking to shape new energy and environmental policy through legislation and rulemakings.

Some of my work is “in the weeds” of FERC or DOE regulation—relating, for instance, to the assessment of market power in a particular electricity market, or the application of ratemaking principles to a new class of competitive transmission developers, or enforcement of complex product efficiency regulations. Other work relates to policy issues with economy-wide implications such as EPA’s climate change regulation of the electricity sector, energy efficiency rulemakings, and technology policies designed to foster investments in renewable energy, smart grid, and other advanced technologies.

In addition to practicing, I have had the opportunity to teach energy and environmental law—most recently teaching Energy and the Environment on the adjunct faculty at George Washington University Law School. I have also led energy law and climate change reading groups at Yale Law School.

In short, I have had an interesting and satisfying career to date working at the interface of energy and environmental law, and the future seems sure to hold even greater challenges for lawyers and policymakers in this arena.

Note that Van Ness Feldman has a rich history of hiring Yale Law School graduates—we have more attorneys from Yale (currently 8) than any other law school. If you are interested in joining us, please contact me.

2015

6. Business

APEX CLEAN ENERGY, INC.
Steve Vavrik ’96 Chief Commercial Officer—Business Development
Charlottesville, VA

My career in environmental law has been atypical from the start. While at YLS, I decided to explore non-legal careers. Through networking with contacts and alumni, I was able to work at GE Capital in Stamford for my second summer. At graduation, I had offers from law firms and from GE Capital itself. I took the GE Capital offer and have been involved in energy project development and finance since.

Currently, I am Chief Commercial Officer of Business Development at Apex Clean Energy, a company that develops utility-scale wind and solar power projects. My typical day includes phone calls with counterparties and colleagues, research on new markets and projects, meetings with counterparties and policymakers, and discussions with counsel (in-house and outside) reviewing draft contracts.

I joined Apex after two years at SunPower, which is one of the world's largest solar power module manufacturers. Before SunPower, I worked at First Wind, a leading wind power development company based in Massachusetts. The solar and wind projects I have worked on are now displacing thousands of tons of greenhouse gases each year, which is a rewarding accomplishment.

There have been times in my career when I regretted not practicing law for a few years before entering finance and business. Law practice exposes one to many types of transactions, industries, companies, and clients. In addition, the skills developed in a good associate training program will be used throughout one’s career. Lastly, the salaries of first-year associates from YLS are rarely matched by non-legal firms or companies.
My advice to law students, however, is to examine the non-traditional path closely. If environmental issues are important, think about what sort of role you would want to play. Seek out alumni who are doing the types of things you want to do. There are many ways one can help advance environmental solutions.

2014

Formerly with KIMBERLY-CLARK CORPORATION

Ken Strassner ’74: Retired, Vice President—Global Environment, Safety, Regulatory and Scientific Affairs

Roswell, GA

I am a 1968 graduate of Yale College in History and Economics and a 1974 graduate of the Law School. After law school, I worked for two years in the Washington office of Kirkland and Ellis doing trade regulation law and then served at the end of the Ford Administration as an Executive Assistant to the Assistant Secretary of Labor for Occupational Safety and Health.

I joined Kimberly-Clark’s (K-C) Washington Legal Office in early 1977 and became the company’s first environmental lawyer. Between 1977 and 1983, my practice was focused principally on U.S. air and water issues that impacted the company’s pulp and paper operations. In 1983, I moved to the company’s Roswell, Georgia headquarters, and my practice expanded to include a variety of other regulatory and commercial areas, including utility rates and contracts, product safety regulation, occupational safety and health work, commercial agreements and mergers and acquisitions.

In 1989, I left K-C’s legal department to become vice president of Environment and Energy for the company. In this position, I was responsible for development of corporate environmental policies, management of the corporation’s technical environmental and energy support staff, supervision of K-C’s internal environmental auditing staff and provision of energy advice to corporate operations. K-C then operated more than 135 production facilities in 42 countries, so my day-to-day work involved environmental and energy issues around the globe. This role was frankly more management than legal, but my legal training was essential to successfully doing the work.

Typical issues on which I have been involved include helping to implement a program of five year corporate environmental objectives, working on development of K-C’s response to the European Union and other greenhouse gas emissions trading program, considering options for new corporate policies related to global warming and forestry issues, supervising wastewater treatment upgrades in four Latin American countries, reviewing European Union chemical control issues and developing an environmental benchmarking process that compares K-C to other worldwide health and hygiene companies. I also served for a number of years as the chair of the Corporate Environmental, Health and Safety Management Roundtable, a group of senior EHS officers from major U.S. multinational firms.

In 2006, I assumed responsibility for K-C’s Global Regulatory and Scientific Affairs functions in addition to my ongoing Environmental and Energy work. These new responsibilities include supervision of a variety of additional regulatory legal work in North America, Europe and elsewhere around the world. Included were the company’s Occupational Safety and Health staff and the company’s product-related regulatory staffs (Global Clinical Affairs, Global Product Safety, Global Regulatory Affairs and Corporate Quality Assurance). I also assumed responsibility for development and implementation of K-C’s Sustainability Program and Sustainability Planning Process. In this capacity, I served as K-C’s Liaison Delegate to the World Business Council for Sustainable Development.

I retired from K-C in May 2009, but continued to serve on the Company’s outside Sustainability Advisory Board for the next three years. I also continue to serve as a Board Member and Treasurer of the National
Environmental Education Foundation, and do Sustainability and environmental consulting for a number of companies.

What has always kept me going is the breadth of the work I do and the ability to, in effect, practice comparative, international environmental and regulatory law. The work is fascinating and I am fortunate to have been able to do it on a global scale.

2015

7. Legal Consulting

DAVID GARDINER & ASSOCIATES, Environmental Consultant

Jennifer Yelin Kefer ’01: Climate and Energy Consulting
Washington, DC

I went to law school as an environmentalist who recognized the benefits of a good legal education. Though my job description has evolved in the twelve years since graduation—from litigation to coalition building and advocacy—I have remained committed to protecting the environment. I have spent most of my professional life practicing as an environmental consultant. I chose this route because of the flexibility it affords. For the past nine years, I have successfully juggled my hours to allow me to pursue rewarding and meaningful work, while maximizing time with my two young children. Among other things, I have served as co-counsel on a major wetlands drainage case, ultimately helping protect 150,000 acres of frequently flooded farmland. I have helped mobilize the Jewish community around climate and energy issues, advocating for comprehensive and aggressive climate legislation. I have coordinated a diverse coalition of “non-traditional environmental advocates” and worked with a network of state groups to promote policies that would reduce the effects of both climate change itself and any steps we take to address it on low-income families. In short, I have consistently secured long-term, stable contracts while working on interesting issues. Rather than delving into the substance of my work, this narrative focuses on the pros and cons of consulting, particularly as a career path for a working mother.

After a federal clerkship, I worked for two years as an Associate Attorney at Earthjustice, the nonprofit “law firm for the environment.” When my first child was born, however, I began to explore opportunities that would allow me to achieve more of a work-life balance. I was not prepared to leave the workforce entirely; but neither was I prepared to continue working full time. I found the perfect match as a litigation consultant for the Environmental Defense Fund (EDF). EDF is known for its efforts to link science, economics and law to fashion solutions to environmental problems. For the next three years, I worked as co-counsel on a major wetlands drainage case. In that capacity, I helped develop our litigation strategy, reviewed the administrative record, prepared FOIA requests, and drafted and finalized briefs. During slow periods in the litigation process, I also prepared analytical reports on a number of related issues and represented EDF on Capitol Hill.

Five years as a litigating attorney taught me an important lesson: I don’t like litigation! A single case may last for years, with few short-term projects in between. I’ve since transitioned into more direct client interaction, building and managing coalitions, educating stakeholders, and advocating on behalf of clients on Capitol Hill. Instead of working on a single brief, I enter my office each day and immediately jot down a long list of things to do. I find it tremendously gratifying to cross tasks off the list on an hourly—rather than monthly—basis. I have discovered that I need short-term accomplishments to measure my success. I was unable to set these benchmarks for myself as a litigator.

I have been fortunate to work for much of the last nine years from a home office. This is an ideal fit for me. I can scan and email without leaving my desk. I am able to start work as soon as I wake up in the morning—often in my pajamas! I can take a lunch break in my own kitchen—and continue working while...
my lunch is cooking. Working from home has saved me nearly two hours each day on my commute. That, in turn, allows me two more hours to spend with my family—without compromising my productivity. In each of these ways, the situation has been ideal. As an environmental professional, I take particular pride in my home office. Coincidentally, I once prepared a report for a client quantifying the environmental benefits of telecommuting.

I do not think that working from home is a perfect match for everyone. I have heard others complain that it is isolating and that they miss contact with their coworkers. I can see how that could be frustrating. However, since I have flexible hours (for many years, I worked only three days a week), I have still had plenty of time to interact with other people. In my current position, I staff Hill visits and meet with coalition partners about once a week. Moreover, litigation itself is rather solitary—regardless of where you practice. While at Earthjustice, I spent the majority of my time doing legal research and writing, often behind a closed door. While I worked for clients, I did not interact with them on a daily basis. Most of my interactions were limited to telephone calls that I could still make from my home office. This did not change when I began consulting for EDF; however, the isolation was inherent in litigation, not consulting.

There are certainly downsides to working as a consultant. You are never truly integrated into the organization. While I worked for EDF for three years, I never learned about the inner workings of the organization. Nor did I receive regular performance reviews. Perhaps most critically, there is a certain uncertainty inherent in consulting. For several years, I had a series of three-month contracts. While I was confident that my client was pleased with my work, I perpetually felt like I could become unemployed at any moment.

This uncertainty led me to accept a position as an employee at a small environmental consulting firm (David Gardiner & Associates) several years ago. The decision came with a modest reduction in pay; however, the other terms of our agreement remained essentially unchanged. I continue to manage a diverse stakeholder coalition from my home office. I have also retained a contract with one of my previous clients, which provides some additional flexibility. At the same time, I no longer have to worry about job stability. I enjoy the work and have tremendous respect for the firm. And because I’m now an employee, I am a more official “part of the team.”

While in law school, I had never considered the possibility of consulting. Yet I had also not considered the pull I would feel to find a work-life balance once I started a family. For me, working as an environmental consultant has provided the perfect solution. I have consistently worked on critical environmental issues without compromising my commitment to my family. I went to law school to help protect the environment. I do that as a professional advocating for comprehensive climate legislation and clean energy policies; however, I also feel good about the personal choices I have made to live my values—from eliminating my commute to spending an afternoon with my children at a local nature center. As I write this narrative, I look at a print above my desk, which declares: “Justice, Justice, Shall Thou Pursue.” This has been the guiding principle behind both my personal and professional life. I went to Yale determined to help realize this mandate. Twelve years later, I continue to pursue it.

2013
B. Summer Interns

1. Federal Government

U.S. DEPARTMENT OF JUSTICE, ENVIRONMENT AND NATURAL RESOURCES DIVISION, ENVIRONMENTAL CRIMES SECTION

Rachel Saltzman Tennis ’11
Washington, DC

Having worked for a couple of environmental non-profits during college, I entered law school with the hope of trying a job in environmental law during my first summer. I applied for several jobs with government offices and NGOs and was fortunate to be offered a job with DOJ’s Environmental Crimes Section in December. I spent nine weeks working at ECS during my 1L summer.

The first major advantage I found to working at ECS was the opportunity to learn about criminal law generally in addition to the environmental provisions of several major environmental statutes. While I knew I had an interest in environmental law, I was not positive I wanted to be an environmental lawyer, and I found ECS to provide a good balance of specific and more broadly applicable experiences. Because I spent a large portion of the summer working on a case in the pre-indictment stage, I was also able to see how attorneys in Washington work with each other and with U.S. Attorneys elsewhere in the country when deciding how to charge a case.

My work consisted mainly of writing legal memoranda. The goal of most of these memos was to find out how a particular statutory provision had been interpreted in different jurisdictions. I also did some work analyzing the Sentencing Guidelines and determining how particular guidelines had been applied in different places. The attorneys in the office were very willing to take time to meet with me about my projects and about their own work, and were interested in hearing my opinion. One of my most interesting experiences was writing a memo on the same issue as an EPA attorney with whom a prosecutor in my office was working, coming to a different conclusion, and talking to the prosecutor about the analysis on both sides of the question. I also particularly enjoyed attending a Prosecution Review, where a prosecutor presented his case to the other attorneys in the office and solicited feedback from them about the way he was planning to charge the case.

My advice to incoming students would be to spend a little bit of time in the fall contacting YLS alumni through the Career Connections page and asking them about their jobs. I spoke with alumni in a few different government agencies before interviewing for my job at DOJ, and was thus able to compare the substance of the work at ECS with that of other offices and to gauge the enthusiasm with which my interviewer described his job. I would also suggest talking to 2Ls about their 1L summer experiences to find out what law students are able to do in different summer jobs.

Summer 2009
2. State Government

CALIFORNIA ATTORNEY GENERAL, ENVIRONMENT/NATURAL RESOURCES/ LAND LAW SECTIONS
Kathryn Boudouris ’11
Oakland, CA

Before entering law school, I worked as a paralegal—first for a small energy law firm and later for an environmental nonprofit. I had gravitated to energy and environmental law because I enjoyed the scientific aspects of those subjects. As a paralegal, I was able to observe lawyers practicing environmental law and to confirm my own interest in the field.

I remained unsure, however, about what type of workplace would suit me best. I knew that environmental practice could take many forms, and I was curious about the government sector. The California Attorney General’s Office sparked my interest because of its innovative work on climate change and other environmental problems. I also thought state-level work would provide a useful contrast to my previous experience, which had focused on federal law.

I applied for the internship online and was interviewed over the phone. Before accepting the internship, I consulted YLS students who had worked for the California Attorney General’s Office in the past.

My internship turned out to be a very positive experience. After gauging my interest in different projects, my supervisors ensured that I was exposed to a combination of policy work and litigation. I explored a variety of issues, from energy regulation to land use. I worked on research memoranda, regulatory filings, and official letters. I was invited to observe internal meetings, stakeholder meetings, and court proceedings. In sum, the internship was a quality program that allowed me to learn more about the substance of environmental law, as well as the practice of excellent environmental lawyers.

Summer 2009

3. Nonprofit Organizations

APPALACHIAN CITIZENS’ LAW CENTER
Leslie Couvillion ’14
Whiteburg, KY

As it came time to begin the 1L summer job search within just a few short months of starting law school, all I knew for sure was that I wanted to live and work someplace unlike anywhere I had been before; ideally, somewhere where I could combine my dual passions of environmental and social justice advocacy. Luckily, YLS’s public interest counselor put me in contact with an alumna who had completed a 3-year Equal Justice Works fellowship at the Appalachian Citizens’ Law Center, a small non-profit law office with a strong environmental practice located in the heart of the eastern Kentucky coalfields. It sounded like a perfect fit.

I initiated contact with the head attorney at ACLC during the late fall by sending a brief introductory email expressing my interest and inquiring about the application and interview process. He replied promptly, inviting me to send along my resume and a cover letter on December 1 (the earliest date a 1L could officially apply for a summer position), along with some links to articles about the office’s most high-profile cases. When the date rolled around, I sent my materials and received an offer later that same day. The office seems eager to welcome applicants from different regions of the country who are
genuinely committed to learning about Appalachia and the unique issues it faces. Overall, the entire interview process was remarkably casual and straightforward.

I was in for a bit of culture shock upon first arriving that following summer. Whitesburg, KY, is a rural Appalachian town of about 1200 people—making it the population hub of the region. A spattering of non-profits (most of them arts, music, and film-related) dot Main Street, attracting summer interns from all around the world who are drawn to the region’s unique culture. It is an exciting and stimulating place to be. This backdrop certainly infiltrates the office’s own culture and significantly shapes the experiences of its interns.

Rural Appalachian law practice is unsurprisingly relaxed and informal compared to what you may find at many of the New York and DC firms. The atmosphere was always congenial, and attorneys would frequently stop by one another’s office (or at the intern table downstairs) just to have a friendly 10-minute chat. The attorneys also seemed to have a great deal of freedom, setting their own schedules and determining their own workloads. On the flip side, each attorney was forced to take on a tremendous amount of sole responsibility given the office’s small size and limited resources. At the time I was there, ACLC had a total staff of just four people: three attorneys and an administrative assistant. Each attorney headed their own practice area: one focused on black lung benefits litigation; another on labor/employment law (specifically, workplace safety and whistle-blower protection for coal miners); and the third—my supervisor—on environmental issues.

The office’s environmental practice centers upon bringing citizen suits against strip-mining and mountain-top removal operations for violations of the Clean Water Act, as well as the Resource Conservation and Recovery Act and Surface Mining Reclamation and Control Act. The most surprising aspect was seeing the degree to which environmental attorneys often must engage in scientific data-collection and analysis to craft legal arguments. Much of my research involved evaluating whether the particular conditions on a client’s property met the necessary qualifications of an environmental statute. In general, the questions were intellectually stimulating and fun to research (for instance, is an abandoned mine shaft a “point source” under the Clean Water Act?).

Out-of-office excursions were a common treat. Nearly every week involved a “field trip” of some sort, giving interns the chance to accompany supervisors to administrative hearings, settlement negotiations, site visits, and house visits. In addition, I had the opportunity to witness oral arguments in the Sixth Circuit, attend EPA public comment hearings, and visit abandoned mines to take water quality samples and geographical survey measurements.

My experiences at ACLC solidified my interest in practicing public interest environmental law. Furthermore, witnessing first-hand the importance of being able to integrate scientific data into legal arguments inspired me to apply for the joint-degree program with Yale’s School of Forestry and Environmental Studies. This path has led me to my current internship at Riverkeeper, an environmental NGO just outside of New York City dedicated to preserving the Hudson River and protecting the city’s drinking water supply through a multi-disciplinary effort that combines law and science.

*Summer 2013*

**APPALACHIAN MOUNTAIN ADVOCATES**

*Casey Arnold ’14*

*Little Hocking, OH*

In the summer of 2012, I worked for a non-profit environmental law and policy organization called Appalachian Mountain Advocates in Lewisburg, WV. Officially, the organization's goal is to protect Central Appalachia’s communities, natural resources, and economy, and Appalmaid (as those in the office
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Telephone: (203) 432-1676
Fax: (203) 432-8423
E-mail: cdo.law@yale.edu
Website: www.law.yale.edu/student-life/career-development

Mailing Address: Career Development Office, Yale Law School, 127 Wall Street, New Haven, CT 06511
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