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Environmental Law and Policy

James Salzman and Barton H. Thompson, Jr.
 Foundation Press, 2003, ISBN: 1566629845, 306 pp.

How does one learn about environmental law and policy? Before this book was published, one either read Dan Farber and Roger Findlay's *Environmental Law in a Nutshell*—which is excellent but brief—or fought through one of the several environmental law casebooks, which also obligated the reader to pore through voluminous statutes and puzzle through impenetrable cases, as a second-year law student would. There was nothing for anybody except lazy law students and serious law students. This book fills a huge void. It provides more detail than Farber and Findlay's *Nutshell*, and yet does not bog the reader down in cases, statutes, and regulations. And because it avoids obfuscating the law for pedagogical purposes (as casebooks must do), it has the space to provide current information on cutting-edge scientific and legal research and provide it with an originality that makes it surprisingly easy to read. The usefulness of the book is thus by no means confined to law students and law professors. Indeed, I can think of at least three groups of people that should be very interested in this book: (i) those outside of the legal field, who wish to learn about environmental law without reading cases, statutes, and regulations; (ii) law professionals or law professors that need to familiarize themselves on one or several areas of environmental law (e.g., air pollution law); and (iii) environmental law professionals or environmental law professors seeking to familiarize themselves with some important economic, social, and policy issues confronting (and confounding) environmental law today. As an environmental law professor, I used the book to make sure there were no glaring gaps in my knowledge of environmental law and policy.

The book marches through the different areas of statutory regulation, much as the casebooks do. But the authors do much more—they bring together and summarize for each area of law the important statutory provisions, the relevant case law and regulations, the history of development of the area of law, and most importantly pertinent economic and social concepts. Too many environmental law treatments ignore or pay short shrift to this last part. And yet, it is increasingly clear that understanding and solving environmental problems require much more than mastery of the law. Salzman and Thompson have master's degrees in engineering and economics, respectively, and are experts not only in environmental law but also the social, economic, and scientific phenomena that animate environmental problems. They have brought their extralegal knowledge into this book, explaining, for example, how basic economic concepts such as public goods and externalities apply to environmental problems. This is not unusual—every respectable text on environmental law should include this. However, the book also includes brief primers on topics such as behavioral law and economics, that area of economics by which economists have coopted the work of Simon, Kahneman, Tversky, Knetsch, and others. It is important that the authors show how this school of thought can illuminate environmental problems, because many environmental law professors and the majority of environmental lawyers view economics as mere neoclassical dogma. This has not only contributed to disdain for economics, but has hindered problem solving. Lack of appreciation of the varied social and economic dimensions of environmental problems have contributed to our collective failure to adequately address them. To the extent that this book will help us understand the multidisciplinary approaches that are required to solve environmental problems, it is a welcome addition.

Thompson and Salzman are both pioneers in the teaching of environmental law by focusing on specific environmental *problems* or *case studies*. While the traditional teaching of environmental law has generally been accomplished by describing a statute and discussing a few key cases interpreting and applying the statute, Salzman and Thompson have instead taught by introducing students to a specific environmental problem and forcing them to analyze and solve the problem in an interdisciplinary manner. Students

are taught to apply not only cases, statutes, and regulations, but a variety of social and economic perspectives. What law students really need, then, is not a large book, but a small one such as this one, so that they can devote their energies to working through problems on their own. The Stanford Environmental Law Program maintains a website with an extensive collection of interesting case studies, problems that students can work through by applying the lessons of the book. An environmental law professor could well use this book and a dozen of the case studies as a basis for teaching an environmental law course.

I have slight quibbles with the book. It is a slight disappointment that although the book introduces many economic and socioeconomic concepts, it does not systematically apply them to the different substantive areas of law subsequently covered. For example, the authors could well have included a discussion of public goods when discussing wetlands, or have discussed the acid rain problem in terms of cross-boundary externalities. Perhaps even more importantly, the authors could have drawn upon their knowledge of how behavioral law and economics apply to environmental and resource problems. In an earlier law review article, Thompson has observed

that “egocentric interpretations of fairness” have inhibited people from solving common-pool resource problems, even when self-interest augured strongly for a cooperative solution.¹ Illustrations such as these would have highlighted the importance of multidisciplinary understandings.

These are, however, minor quibbles. This book is very much worth having. Freed from the pedagogical chore of orienting the book towards a traditional law teaching methodology, the authors organize and succinctly explain what is truly important in each area of environmental law. This is done masterfully, as one would expect from these two leading environmental experts.

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¹ Barton H. Thompson, *Tragically Difficult: Obstacles to Governing the Commons*, 30 ENVTL. LAW 241 (2000).

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