Fall 1988

Air Pollution

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Recommended Citation
Available at: https://digitalrepository.unm.edu/nrj/vol28/iss4/13

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AIR POLLUTION
MARK SQUILLACE
Anderson Publishing Co. 1988

With the explosion of both environmental law and materials to teach it, environmental law teachers must make choices about their educational goals. Possibilities abound. Teachers may be interested in exposing students to the perennial policy questions that environmental decisionmakers face: federal-state relations, cost-benefit questions, risk assessment and scientific uncertainty. On the other hand, they may choose to use environmental legislation and cases as the vehicle for teaching the whole body of federal administrative law. The desire to train environmental litigators might shape still another version of an environmental law course.

In the early seventies, the sources of environmental law were few and relatively simple. The common law offered developments in nuisance, legislation was largely found in the state health codes, and federal enforcement frequently became a matter of deciding who, if anyone, had standing to litigate. Unsurprisingly, the authors of the early casebooks responded by combing the federal statutes to find a considerable amount of relevant law in the body of legislation regulating public lands, energy, and natural resources. Now with a federal Environmental Protection Agency that is responsible for comprehensive management of air quality, hazardous wastes, toxic substances, surface water and large pockets of groundwater, casebooks that try to cover the full range of topics that have environmental ramifications are simply too unwieldy to use for class. They fail to allow the flexibility needed by the teacher who must teach the typical three-credit course. Since coverage of all this material is impossible, teachers often adopt a book, assign relatively little of it, and supplement it heavily with their own materials. This makes both students and deans angry. Deans hate to foot the printing costs. Students resent buying an expensive book and using little of it.

By offering this paper-bound volume covering only air pollution as part of a three-part series with earlier volumes respectively focused on NEPA and water pollution (including hazardous wastes), Professor Squillace and his colleague, Professor Battle, author of the first two volumes, have identified and filled a void in the teaching materials available for teaching environmental law to law students. Their modular concept, the coverage of major environmental law issues in separate volumes, increases the teacher's flexibility and at the same time reduces student frustration. Realistic teachers know that they can treat either air pollution or water...
pollution comprehensively, but not both. They also know that it is essentially redundant to march through more than one major federal-state environmental program. The attractiveness of this series is that a teacher may choose either air or water, combine that with NEPA and general administrative law principles, and thereby put together a coherent and complete first environmental law course.

Taken by itself, Squillace's *Air Pollution* is a valuable contribution. His choice and presentation of cases is excellent. Most impressive is his editing of these technical cases. To an admirable extent, he has managed to remove confusing technical details while preserving those salient scientific issues which the environmental lawyer must confront. Notes following the cases generally succeed in provoking deeper analysis of the questions presented by the cases. In all of these respects, the book is excellent for the first environmental law course.

If *Air Pollution* has a weakness, it is only that in one respect it fails to live up to its author's aspirations that it serve as a book suitable for an advanced course which would focus only on air quality. It is just too general for that purpose. The author needs to present more complex problems for advanced students if he wishes to promote the sort of rigorous analysis and deeper understanding of multi-faceted, interdisciplinary air pollution problems that advanced students ought to have. As the book for the first course though, I can recommend it for adoption without reservation.

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