

Committee on Energy and Commerce  
Subcommittee on Environment and the Economy  
U.S House of Representatives

Oversight Hearing:

*The Role of the States in Protecting the Environment under Current Law*

February 15, 2013

Statement of Patrick Parenteau

Dear Chairman Shimkus and members of the Subcommittee.

I appreciate the opportunity to submit this brief statement for the record in the above captioned hearing. I am currently a professor of law and senior counsel to the Environmental and Natural Resources Law Clinic at Vermont Law School. I have been involved in drafting, litigating, administering, teaching, and writing about environmental law and policy for almost forty years. I have seen environmental law from virtually every perspective. I have represented environmental organizations seeking to enforce these laws as well as industries seeking to comply. As it relates to the topic of today's hearing my experience includes serving as Regional Counsel for Region I of the Environmental Protection Agency from 1984-87, and as Commissioner of the Vermont Department of Environmental Conservation from 1987-1990. In these roles I have had the opportunity to see exactly how the "cooperative federalism" model of many environmental laws actually work in practice. I would like to share a few perspectives that I hope will be of benefit to the subcommittee as it takes up important and difficult questions such as how to improve the management of coal combustion residue to better protect public health and the environment.

First, the basic model incorporated into all of the major pollution control statutes—air, water, waste—is that EPA sets the floor of protection for public health and the states are free to set more stringent standards. That model has worked successfully for over 40 years and has saved the lives and improved the health of countless Americans without impeding economic growth; in fact GDP has grown by over 200% over this period of environmental regulation. No matter where Americans live they can rest assured that the air they breathe, the water they drink and the land use is being protected. This was not always the case before the era of federal environmental laws. We do not want to go back to the pollution havens of the past. One only has to look at the stark images coming from Beijing, New Delhi, or Mexico City to see what can happen in the absence of strong national pollution control programs.

Second, there are many situations where the states cannot address the sources of pollution that originate beyond their borders. For example, the acid rain that was killing the lakes of the Adirondacks and damaging the forests here in Vermont was coming from coal-fired power plants in the Midwest. The problem was only addressed when Congress amended the Clean Air Act to set up a special market-based control program administered by EPA to reduce the emissions of sulfur dioxide coming from these distant plants. More recently in the Cross State Air Pollution Rule EPA was once again called upon to fashion a national control program to protect the health of residents in downwind states who were otherwise powerless to stop the pollution. Similar problems exist with water pollution. The dead zone in the Gulf of Mexico, which is causing tremendous economic harm to the states and communities that rely heavily on fishing and tourism, is the result of polluting discharges and runoff from point and nonpoint sources throughout the vast landscape of the Mississippi River watershed. No one state, or even a collection of states, can deal with a problem of this scope. Indeed, in the case of Chesapeake Bay, it was the states in the basin that turned to EPA for help in setting a TMDL (pollution budget) for nutrients to facilitate development of a market-based water quality trading program that the states are now in the process of implementing. A similar program has been established in Long Island Sound. In the Great Lakes EPA was called upon to set a standard for mercury that no one state had the authority to set.

Third, states often lack the capacity to deal with major problems even within their own borders. This was exactly the case with the discovery of Love Canal in the late '70s and the ensuing explosion of hazardous waste sites all across the country. One of the first sites to be listed on the National Priority List was the Pine Street Barge Canal in Burlington, Vermont. This was a technically challenging site to address; those responsible for the pollution had long since departed the scene; the current PRPs were reluctant to step forward and undertake a costly cleanup; and it was unclear what the best remedial option was. In short the state of Vermont did not have the wherewithal to tackle a problem like this. It took EPA and years of study, negotiation and experimentation to finally come up with a solution and a comprehensive settlement with affected parties. This story has been repeated at other hazardous waste sites in Vermont and in thousands of communities across the country. These sites simply would not have been cleaned up were it not for CERCLA and EPA. And of course the "polluter pays" concept imbedded in CERCLA's liability scheme, along with the prospective regulation of solid and hazardous wastes under RCRA, has led to significant improvement in reducing and properly handling hazardous materials.

Fourth, there is value in having EPA set uniform standards of performance that can be incorporated into permits; provided of course there is sufficient flexibility to account for unique circumstances and unexpected consequences. Most of the time, however, it is better for all concerned, including the public and the regulated entities, to have rules that are clear, specific

and relatively stable and predictable. By contrast a legal framework that leaves everything to the discretion of individual states is a recipe for failure. A perfect example is the management of hazardous wastes. The rule banning the disposal of liquid hazardous wastes in landfills has done a lot to protect underground sources of public drinking water and prevent future Superfund sites. It was a common sense rule but it took EPA to put it into effect. No state was willing to step forward and be the first to impose such a ban. Similarly, in the case of coal combustion residue, it would make sense to have consistent standards of siting, design and construction for waste impoundments. Even though site characteristics will vary and precise construction specifications will be needed to accommodate local conditions, the basic safety standards should be the same as they are for many other industrial activities. The same can be said of financial responsibility and closure requirements. These are simply elements of responsible environmental management that should apply everywhere. Industry should welcome the clear rules and level playing field that allows for sound business planning.

Fifth, there are times when having EPA backup is important even where a state has a good environmental regulatory program in place. The truth is that states do not always have the expertise, the resources, the authority or the political will to take actions required to protect public health and the environment. The cleanup of Boston Harbor is a case in point. When I arrived at EPA Region I in the summer of 1984 the harbor was a stinking mess. The treatment works were antiquated, the sludge was being disposed of on the outgoing tide and it was unsafe to swim or even walk the beaches at certain times of the year. And this was happening in a relatively wealthy and sophisticated metropolitan area in a state with a progressive government that prided itself on its environmental record. But it took a lawsuit by EPA to overcome the inertia, opposition and squabbling among the jurisdictions that were contributing to the problem but reluctant to shoulder the responsibility for the solutions. Today Boston Harbor is regarded as the "Great American Jewel." Without EPA this remarkable turnaround would not have been possible. Even in a State like Vermont, with its well-deserved reputation for environmental quality, EPA has had to step in and investigate pollution from dairy farms that are causing water quality problems in Lake Champlain. The point is that no state -- no matter how well intentioned -- can deal with every single environmental problem that needs attention. Having a strong and vigilant EPA at the ready is an important safety net for public health and environmental protection.

Finally I have read the Congressional Research Service report on H.R. 2273 and S. 3512 titled "Analysis of Proposals to Create a Coal Combustion Residuals Permit Program under RCRA." I understand this report has created some controversy within the subcommittee, and I have no wish to take sides in the political debate. What I can say from my experience as both a federal and state regulator is that the report raises important questions with the proposed legislation that need to be addressed if problems are to be avoided down the line. Specifically, the

regulatory framework proposed in section 4011 of both bills would in fact establish a novel and problematic structure for state-federal management of CCR. A detailed analysis of the CRS report and the subject bills is beyond the scope of this statement. But I do find myself in agreement with the report's overall conclusion that "the proposed amendments to RCRA include no provisions that would ensure state adoption and implementation of a CCR permit program that would result in the adoption and implementation of minimum federal standards necessary to protect human health and the environment from risks associated with CCR disposal." I would also note that EPA has raised many of the same questions and problems with the bills as the CRS report. I am particularly concerned by EPA's statement that HR 2273 "does not grant the EPA the authority to meaningfully evaluate the substance or adequacy of state CCR programs at the time of the initial certification." Unless corrected, this approach is guaranteed to create unnecessary conflict and confusion. Unless EPA and the states are on the same page when designing regulatory programs there is bound to be trouble. The regulated industries will be caught in the middle. The public will be confused and lose confidence in the regulators. Much time will be wasted trying to sort out disagreements and repair relationships. I have seen this happen and it is not good government. The program should be designed right the first time; the rules must be well crafted to accomplish the purpose of protecting public health; and everyone must be held accountable.

In closing I urge the committee to carefully consider the problems with the proposed bills identified in the CRS report and EPA comments. We have 40 years of experience with a system in which EPA and the states have collaborated in the important task of safeguarding the public health from proven environmental dangers such as the irresponsible disposal of CCR. In my view the only way this problem will be resolved is through a strong partnership between EPA and the states in the development and implementation of a national program grounded on science, fully transparent and with clear, enforceable standards of conduct.

Thank you for considering these observations.

**Last Updated December 3, 2012**

**PATRICK A. PARENTEAU, J.D., L.L.M.**

Vermont Law School  
Chelsea Street  
South Royalton, VT 05075  
802 763-8303  
pparenteau@vermontlaw.edu

Residence  
1318 Gove Hill Road  
Thetford Center, VT 05075  
802 785-4131  
patrick.parenteau@valley.net

**CURRENT POSITION**

Professor of Law and Senior Counsel, Environmental and Natural Resources Law Clinic

**EDUCATION**

1975 George Washington University, Washington, DC (L.L.M. in Environmental Law)

1972 Creighton University, Omaha, NE (J.D.)

1969 Regis University, Denver, CO (B.S.)

**TEACHING EXPERIENCE**

- 1993- present Professor of Law, Vermont Law School, South Royalton, VT. Currently teaching: Climate Change and the Law; Water Quality; Extinction and Climate Change; Law of Climate Adaptation (online course). Faculty Advisor, National Environmental Moot Court Team.
- 1998-2004 Adjunct Professor of Environmental Studies, Dartmouth College, Hanover, NH. .
- 1999 Visiting Professor, Washington University, St Louis, MO. Ecosystem Approaches to Natural Resource Conservation.
- 1979-1989 Summer Faculty, Vermont Law School. Wildlife and Forestry.
- 1986 Lecturer, Boston College Law School, Chestnut Hill, MA. Regulation of Air and Water Quality.
- 1982 Lecturer, Lewis & Clark Law School. Portland, OR. Wildlife Law.
- 1977-1978 Lecturer, George Washington University, Washington, DC. Natural Resources Law.
- 1975-1976 Natural Resources Law Institute Fellow, Northwestern School of Law, Lewis and Clark College, Portland, OR.

**TEACHING INTERESTS**

Subjects taught: The Administrative Procedure Act; The National Environmental Policy Act; The Clean Air Act; The Clean Water Act; The Resources Conservation and Recovery Act; Superfund; The Marine Mammal Protection Act; The Sustainable Fisheries Act; The Endangered Species Act; Riparian and Appropriation Doctrines; Public Trust Doctrine; Federal Reserved Water Rights; The National Forest Management Act; The Wilderness Act; The Federal Lands Policy and Management Act; The National Wildlife Refuge Restoration Act; Wildlife Law; Environmental Policy and Management; Property Rights

**Last Updated December 3, 2012**

and Takings; Environmental Litigation

Teaching methodologies: Socratic dialogue; simulations and role-playing; mock hearings and negotiations; problem-solving exercises; interdisciplinary case studies; field trips; stakeholder interviews; distance learning; web-based courses; power-point presentations.

Educational philosophy: Mastery of environmental law and policy requires literacy in a number of related fields: ecology, economics, ethics, law, and political science. To be a good environmental lawyer, one must first be a good lawyer, a creative problem solver; someone who can bring people together in constructive ways that lead to durable agreements to resolve complex problems. To be a good environmentalist, one must have a strong ethical foundation, a sincere respect for nature, and a commitment to leaving the world a better place, for all its inhabitants.

### **PROFESSIONAL EXPERIENCE**

2003-Present: Professor of Law and Senior Counsel Environmental and Natural Resources Law Clinic, Vermont Law School

2004-2008: Founding Director, Environmental and Natural Resources Law Clinic. ENRLC provides clinical training in environmental litigation, negotiation, and policy advocacy, and represents nonprofit conservation organizations and community groups in federal and state courts, administrative bodies, and legislatures.

1993-1999: Director, Environmental Law Center, Vermont Law School. Responsibilities included curriculum development, recruitment and admissions to masters' programs, faculty hiring and development, fund-raising, marketing and budgeting, career counseling, and outreach/public service. Started several new programs including First Nations Environmental Law Fellowship, Indian Country Environmental Justice Clinic, Environmental Semester in Washington, LLM in Environmental Law, and a dual degree master's program with the Tuck School of Business at Dartmouth College.

1991-1992: Special Counsel to U.S. Fish and Wildlife Service. Received special congressional appointment to represent USFWS in the Endangered Species Act exemption process involving the northern spotted owl controversy in the old growth forests of the Pacific Northwest.

1989-1993: Of Counsel, Perkins Coie, Portland, OR. Counseled and represented clients on wide range of environmental matters before regulatory agencies and state and federal courts. Drafted nation's first environmental audit privilege statute. Chaired Water Quality Advisory Committee for Oregon Department of Environmental Quality; negotiated cleanup of numerous hazardous waste sites.

1987-1989: Commissioner, Vermont Department of Environmental Conservation. Appointed by Governor Madeleine Kunin. Oversaw department that implemented all of the environmental programs in the state of Vermont. Implemented new programs for solid waste management, groundwater protection, wetlands conservation and enforcement. Secured passage of law creating nation's first Environmental Court. Won regional award for outstanding contributions to air quality improvement.

1984-1987 Regional Counsel, U.S. Environmental Protection Agency, Region I, Boston, MA. Senior Executive Service appointment. Responsible for managing legal staff and enforcement

## **Last Updated December 3, 2012**

- program for large regional office of federal regulatory agency. Oversaw development of Boston Harbor cleanup case. Developed cases that set national precedents for criminal enforcement, multi-party hazardous waste cleanups, and wetlands protection.
- 1980-1984: Vice President for Conservation, National Wildlife Federation, Washington, DC. Responsible for implementing advocacy programs of the nation's largest conservation organization. Directed lobbying and grassroots program that was instrumental in passage of major national environmental laws including Alaska Lands Bill, Coastal Barriers Resources Conservation Act, Superfund, and major amendments to Clean Air Act, Clean Water Act and Endangered Species Act. Supervised active litigation program handling cases of national importance. Oversaw research program that produced influential public policy studies.
- 1978-1980: Director of Resources Defense Division, National Wildlife Federation. Created innovative approach to conservation by hiring and organizing staff into interdisciplinary teams of lawyers, scientists, economists, and lobbyists assigned to subject matter areas (e.g., energy, public lands, wildlife). Enhanced NWF's reputation for responsible advocacy and policy research. Started an international program that has become a very influential NGO on global issues.
- 1976-1978: Counsel, National Wildlife Federation. Litigated precedent-setting cases under the Endangered Species Act, National Environmental Policy Act, Clean Water Act, and other laws. Established the Platte River Whooping Crane Trust as part of a settlement of major lawsuit; case is now used by the Kennedy School of Government as a case study for resolving natural resources disputes.
- 1972-1974: Staff Attorney, Legal Aid Society of Omaha, Nebraska. Handled cases for indigent clients. Litigated major federal cases involving civil rights, welfare, housing, segregation, consumer protection and prisoner's rights.

## **INTERNATIONAL EXPERIENCE**

- 2010      Brazil. Environmental Course for senior attorneys with Petrobras (state-owned oil company)
- 2006      Guatemala. Advised Pro Peten, an indigenous Mayan organization helping build sustainable communities in the Peten Region of Guatemala.
- 2004      Russia-Finland. Participated in International Environmental Law School. Faculty and students from Russia, the U.S., Finland, and Italy. Topic: Comparative Law of Protected Areas.
- 2004      China. Visit to Sun Yat-sen University in Guangzho for presentations, meetings and faculty colloquia.
- 2002      Petrozavodsk, Karelia. Participated in third annual International Environmental Law Summer School, which included students from Vermont Law School and the U. of Trento, Italy. Also organized and presented papers at a conference for Russian lawyers on citizen enforcement of environmental laws and protection of individual rights to a healthy environment.
- 2000      Petrozavodsk, Karelia. Helped develop and teach first annual International Environmental Law Summer School, hosted by PSU, which drew students from Republics in Northwest Russia and Scandinavian countries (Barents Sea Region). Advised PSU faculty and administrators on creation of environmental law center, which was launched the next year.

## **Last Updated December 3, 2012**

- 1999 Moscow, Russia and Petrozavodsk, Karelia. Participated in ABA-CEELI Conference on clinical legal education in Russia. Presented paper on environmental litigation. Met with faculty and administration of Petrozavodsk State University to discuss development of environmental curriculum including potential development of environmental clinic.
- 1997 Havana, Cuba. Member of multi-country delegation to promote inter-American dialogue on environmental issues. Presented paper at national conference; participated in workshops with government officials on development of Cuban environmental laws; met with Cuban Bar Association and judges.
- 1995 Visiting Lecturer, Petrozavodsk State University (PSU), Republic of Karelia, Russia. Lectured in several classes of the law faculty. Met with University officials to plan cooperative educational programs between PSU and VLS.
- 1994 Prague, Czech Republic. Developed and participated in one-week training program for government officials and NGO's on environmental enforcement sponsored by the Institute for Sustainable Communities with funding from USEPA.

## **PUBLICATIONS**

### **Book Chapters**

*Species and Ecosystem Impacts*, in *The Law of Adaptation to Climate Change* ABA 2012

*Go Back it's a Trap: On the Perils of Geologic Sequestration of Carbon Dioxide*, in *The Climate Reader* Carolina Press 2010

*Legal Authorities for Ecosystem-Based Management in U.S. Coastal and Ocean Areas* (with Don Baur and Jennifer Schor), in *Ocean and Coastal Law and Policy* (ABA (2008)

*Overview of Wildlife Law in the United States* (with Don Baur) in *Wildlife law: A Global Perspective* (ABA 2008)

*The Endangered Species Exemption Process and the God Squad*, in *The Endangered Species Act: Law, Policy and Perspectives*, American Bar Association (2002)

*Vermont Environmental Law*, in *Environmental Law Practice Guide: State and Federal Law*, Michael Gerrard (general editor) (Matthew Bender & Co. 2001)

*Overview of Federal Wildlife Law* (with Don Baur), in *Natural Resources Law Handbook* (Gov't. Institutes Inc. 1994)

*Wetlands Regulation Under The 404 Program*, in *Federal Wetlands Regulation* (Gov't. Institutes Inc. 1991)

### **Law Review Articles**

*Come Hell and High Water: Coping with the Unavoidable Consequences of Climate Disruption*, 34 *Vermont Law Rev.* 957 (2010)

*Lead Follow or Get Out of the Way: The States Tackle Climate Change with little Help from Washington*,



## **Last Updated December 3, 2012**

40 Connecticut L Rev. 1453 (2008)

*Whatever Industry Wants, Environmental Policy Under Bush II*, 14 Duke Env'tl Law & Policy Forum 363 (2004)

*Citizen Suits under the Endangered Species Act: Survival of the Fittest*, 10 Widener Law Rev. 321 (2004)

*Unreasonable Expectations: Why Palazzolo Is Not Entitled to Turn Silk Purse into A Sow's Ear*, 30 Boston College Environmental Affairs Law Review, 101 (2002)

*Rearranging the Deck Chairs: Endangered Species Act Reforms In An Era of Mass Extinction*, 22 William & Mary Law & Policy Review 2227 (1999)

*Fashioning A Comprehensive Environmental Review Code for Tribal Governments: Institutions and Processes* (with Dean Suagee), 21 American Indian Law Review 297 (1997)

*Who's Taking What? Property Rights, Endangered Species, and the Constitution*, 6 Fordham Environmental Law Review No. 3 (1996)

*All You Needed To Know About Environmental Law You Learned In Kindergarten*, 23 Environmental Law 223 (1993)

*The Big Chill: The Impact of Fleet Factors on Lenders* (with Craig Johnston), 20 Chemical Waste Litigation Reporter 380 (1990)

*Small Handles, Big Impacts: When Do Corps Permits Federalize Private Development?* 20 Environmental Law 747 (1990)

*The Effluent Limitations Controversy: Will Careless Draftsmanship Foil the Objectives of the Clean Water Act?* (with Nancy Tauman), 6 Ecology Law Quarterly 1 (1977)

*Regulation of Nuclear Powerplants: A Constitutional Dilemma for the States*, 6 Environmental Law 675 (1976)

*Public Assessment of Biological Technologies: Can NEPA Answer the Challenge?* (with Robert Catz), 64 Georgetown Law Journal 679 (1976)

## **Journal Articles**

*Last One Standing: The Roberts Court and Article III*, ABA Trends (November/December, 2009)

*Wetlands and Climate Change*, National Wetlands Newsletter, March 2009

*The First One Hundred Days: What President Obama should do to Confront the Climate Challenge*, Environmental Law Quarterly Currents, January 2009

*Conservation Science, Biodiversity, and the 2005 U.S. Forest Service Regulations* (with Barry Noon and Steve Trombulak) Conservation Biology, Vol. 19 No. (5 October 2005)

*Preemptive Surrender: How Corps Districts Are Giving Away Clean Water Act Jurisdiction*, National

## **Last Updated December 3, 2012**

Wetlands Newsletter (May-June 2005)

*Bushwhacked: The Impact of the Presidents Polices on Vermont*, Vermont Environmental Reporter (May/June 2004)

*A Biodiversity Plan for Vermont?* Vermont Environment Reporter (Summer 2001)

*She Runs With Wolves: In Memory of Mollie Beattie*, 14 Trumpeter 4 (1997)

*A Bum Rap for Vermont's Endangered Species Act*, The Vermont Bar Journal and Law Digest (October, 1995)

*Babbitt v Sweet Home: The Court Protects Endangered Species Habitat*, 5 Rivers 216 (1996)

*NEPA at Twenty*, 6 Environmental Forum 14 (1989)

*NEPA at Twenty: Disappointment or Success?* Audubon, p. 14 (March, 1990)

### **Opinion Pieces**

*In Praise of Public Interest Journalism* Huffington Post (October 2011)

*Environmental Clinic Works for People* Burlington Free Press (November 2004)

*Trashing Vermont*, The Rutland Herald (November 13, 2003)

*Playing Games with Critical Habitat*, Northern Woodlands (Sept/Oct 2003)

*Leahy's Careful Scrutiny Is Necessary*, Valley News (VT) (May 23, 2002)

*Don't Squander Best Chance To Clean Up Elizabeth Mine*, Valley News (VT)( March 23, 2002)

*Opponents Threaten To Unravel Champion Plan*, Burlington Free Press (VT)(Jan. 15, 2002)

*Court Should Nix Takings Argument*, Boston Globe (MA) (Jan. 7, 2002)

*Our Wetland Dominoes*, National Law Journal (Feb. 26, 2001)

*Coming EPA Policy Ruling Gives Court Opportunity to Clear the Air*, The Philadelphia Inquirer (PA) (Nov. 3, 2000)

*Let Regulation Evolve, Naturally*, Legal Times (May 13, 1996)

*25 Years of Environmental Progress Comes to a Screeching Halt*, Valley News (VT) (April 23, 1995)

*Another Broken Promise?* The Oregonian (OR) (Aug. 30, 1994)

*Lessons From Spotted Owl For Vermont*, Burlington Free Press (VT) (April 3, 1994)

*Court Finds New Basis for Liability* (with Craig Johnston and Mary Wood), The National Law Journal (May 13, 1991)

## **Last Updated December 3, 2012**

*Exporting Extinction—Or Building a Future?* Legal Times (Mar 4, 1991)

*Work to Protect People and Owl*, The Oregonian (April 24, 1990)

### **SELECTED PRESENTATIONS**

*Wetlands and Climate Change*, Association of State Wetlands Managers Annual Meeting, Portland Oregon September 16, 2008

*Is It Just Me or Is It Getting Hot in Here?* ABA Mid-Year Meeting, Clean Air Panel, Phoenix, Az. September 19, 2008

*The Role of State and Local Planning in Climate Change Mitigation and Adaptation*, Windham County Regional Planning Commission, Brattleboro, VT. September 30, 2008.

*Ecosystem Effects of Climate Change*, Massachusetts School of Law, Andover MA October 11, 2008

*Meltdown: Can Law Save the Arctic?* Yale School of Forestry and Environmental Studies, October 21, 2008

*Defining Waters of the United States After SWANCC*, The Association of State Wetlands Managers, Albuquerque, NM (October 2005)

*What's in a Name? The Bush Administration's Environmental Record*, The Society for Environmental Journalists 15<sup>th</sup> Annual Conference, Austin, TX (September 2005)

*Litigating the ESA Take Prohibition*, ALI/ABA Conference on the Law of Protected Species, Washington DC, (April 2004)

*Implications of Miccosukee*, ABA National Telecast (June 13, 2004)

*Clean Water Act Jurisdiction after SWANCC*, The Federalist Society, Nat'l Press Club Washington DC February, 2004

*The Public Trust Doctrine as a Background Principle of Property Law*, Symposium on the Palazzolo Case, Boston College Law School (March, 2002)

*Forestry and Biodiversity*, International Environmental Law School, Petrozavodsk State University, Karelia, Russia (June, 2001)

*Citizen Enforcement of Environmental Laws in the United States*, ABA-CEELI Conference, Moscow, Russia (May 1999)

### **MAJOR CASES**

*Residents Concerned About Omya v Omya, Inc.*, 2:05-CV-182 (U. S.D.C. Vt.) (Representing residents living next to mining operation that has contaminated groundwater)

*In re Vermont Yankee NPDES Permit Appeal*, Vermont Environmental Court (2008)(Represented

## Last Updated December 3, 2012

Connecticut River watershed Council in appeal of permit to discharge heated effluent to Connecticut River).

*Nulankeyutmonen Nkihtaqmikon v BIA*, 503 F.3d 18 (1<sup>st</sup> Cir. 2007)(Represented indigenous people opposed to LNG terminal on tribal sacred site)

*Rapanos v United States; Carabell v United States* (consolidated). Filed amicus brief in U.S. Supreme Court on behalf of Association of State Wetlands Managers and others in major Clean Water Act cases.

*National Wildlife Federation v Norton*, 386 F.Supp.2d 553 (D. Vt. 2005).Represented national conservation organizations in case challenging reclassification of the gray wolf under the Endangered Species Act.

*South.Fla. Water Mgt. Dist. v Miccosukee Tribe of Indians*, 541 U.S. 95 (2004). Filed amicus brief in U.S. Supreme Court on behalf of Association of State Wetland Managers in major Clean Water Act case.

*Kootenai Tribe v. Veneman*, 313 F.3d 1094 (9<sup>th</sup> Cir. 2003). Represented conservation interests in defense of the “Roadless Rule” for National Forests.

*Borden Ranch Partnerships v U.S. Army Corps of Engineers*, 537 U.S. 995 (2002). Filed amicus brief in U.S. Supreme Court on behalf of Association of State Wetland Managers in major Clean Water Act wetlands case.

*Palazzolo v. State of Rhode Island*, 121 S.Ct. 2448 (2001). Represented Dr. John Teal and group of distinguished scientists as *amici curiae* in a case involving constitutional challenge to state coastal wetlands protection program.

*National Audubon Society v. Hoffman*, 132 F.3d 7 (2d Cir. 1997). Represented conservation group in case involving management of roadless areas of National Forests.

*Babbitt v. Sweet Home*, 115 S.Ct. 2407 (1995). Represented Professor E. O. Wilson and group of distinguished scientists as *amici curiae* in case involving interpretation of the Endangered Species Act.

*Northwest Environmental Advocates v. City of Portland*, 11 F.3d 900 (9<sup>th</sup> Cir. 1993). Represented community groups in case involving cleanup of the Willamette River under the Clean Water Act.

*In Re Bureau of Land Management Application for Exemption from the Endangered Species Act Endangered Species Committee* (1992). Represented U.S. Fish and Wildlife Service in opposition to an exemption for timber sales in critical habitat of northern spotted owl.

*National Wildlife Federation v Gorsuch*, 639 F.2d 156 (DC Cir. 1982). Represented NWF in case seeking regulation of dams as point sources under the Clean Water Act.

*The Pittston Co. v. The Endangered Species Committee*, 14 ERC 1257 (D.DC 1980). Represented NWF in case challenging right of oil refinery to seek exemption from the Endangered Species Act for impacts to the bald eagle and right whale.

*North Slope Borough v. Andrus*, 642 F.2d 589 (DC Cir. 1980). Represented conservation organizations in challenge to oil and gas development in habitat of the endangered bowhead whale.

*Environmental Defense Fund v. Andrus*, 596 F.2d 848 (9<sup>th</sup> Cir. 1979). Represented conservation organizations as *amici curiae* in case applying Fish and Wildlife Coordination Act to federal water

**Last Updated December 3, 2012**

marketing program.

*State of Nebraska v. Rural Electrification Administration*, 12 ERC 1156 (D.Neb. 1978). Represented national conservation organizations in case challenging water diversions destroying critical habitat of the endangered whooping crane on the Platte River.

*National Wildlife Federation v Andrus*, 440 F.Supp. 1245 (D. DC 1977). Represented NWF in case challenging legality of hydro-power project on the San Juan River in New Mexico.

**PUBLIC SERVICE**

Advisory Board, Connecticut River Watershed Council  
Advisory Board, Association of State Wetland Managers  
Advisory Board, Climate Law Institute

**PROFESSIONAL ASSOCIATIONS**

Supreme Court Bar Association  
Oregon Bar Association  
Nebraska Bar Association  
Society of Conservation Biology

**AWARDS**

National Wildlife Federation, 2006 National Conservation Achievement Award