

## RESUME

### **Adam Babich**

Professor of Law

Director, Tulane Environmental Law Clinic

Tulane Law School

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## SUMMARY

Adam Babich received his J.D. from Yale Law School in 1983. He teaches law at Tulane University and directs the Tulane Environmental Law Clinic (TELC). Before joining Tulane, Babich was a Chicago-based litigator whose practice emphasized environmental and insurance-related disputes. He has also served as an environmental enforcement lawyer for the Colorado Attorney General, as adjunct attorney for the Environmental Defense Fund, and as a judicial law clerk for the Colorado Supreme Court. He has taught at Georgetown University Law Center, American University, and the University of Denver. His publications have been cited in more than 250 articles, treatises, and books, 4 judicial opinions, and one opinion of EPA's Environmental Appeals Board. Under his leadership, TELC has raised more than \$2.25 million in foundation grants, contributions, and attorney fee awards since May 2000 and received the New Orleans Chapter of the Federal Bar Association's Camille F. Gravel, Jr. Pro Bono Award.

## EDUCATION

Yale Law School, New Haven, Connecticut, J.D., 1983

University of Colorado School of Law, Boulder, Colorado, 1980-81

- Ranked first in a first year class of about 175 students (transferred to Yale in 1981)
- Am. Jur. Awards: Property, Criminal Law, Civil Procedure

National Institute of Trial Advocacy, Boulder, CO, 1985

Dickinson College, Carlisle, Pennsylvania, B.A., 1977 (Anthropology and German)

*University of Pennsylvania*, College of General Studies, Philadelphia, Pennsylvania, 1977  
(visiting student)

*Albert Ludwigs Universität*, Freiburg, Germany, 1975-76 (visiting student)

## TULANE CLASSES

*Regular term:*

- |                        |                              |                    |
|------------------------|------------------------------|--------------------|
| 1) Env'tl. Law Clinic; | 4) Clean Air Act;            | 7) Torts;          |
| 2) Administrative Law; | 5) Hazardous Wastes;         | 8) Legal Analysis. |
| 3) Pollution Control;  | 6) Env'tl. Advocacy Seminar; |                    |

Summer:

9) Comparative Environmental  
Law

10) Negotiation &  
Mediation

11) Marine Pollution

## PUBLICATIONS

*De-Lawyering Legislation & Environmental Law Clinics: Can the Preemption Doctrine Protect Public Participation Rights?*, 61 CASE W. RES. L. REV. \_\_ (forthcoming Summer, 2011)

*Protecting Public Participation* (with Brandon Sousa), ENVTL. F., (forthcoming May/June, 2011)

*Controversy, Conflicts, and Law School Clinics*, 17 CLINICAL L. REV. \_\_ (forthcoming Spring, 2011)

*Illegal Permit? Who Are You Going to Call? Your Local Environmental Law Clinic!* 39 Env'tl. L. Rep. (Env'tl. L. Inst.) 11051 (Nov. 2009)

*Ambitious Goals, Political Realities*, ENVTL. F., Jan./Feb. 2008, at 32

*The Apolitical Law School Clinic*, 11 CLINICAL L. REV. 447 (2005)

*A Reply to Wizner and Solomon's "Law as Politics,"* 11 CLINICAL L. REV. 481 (2005)

*The Apolitical Clinic*, TULANE LAW., Summ. 2004, at 10

*The Violator-Pays Rule*, ENVTL. F., May/June 2004, at 30

*The Wages of Sin: The Violator-Pays Rule for Environmental Citizen Suits*, 10 WIDENER L. REV. 219 (2003)

*Too Much Science in Environmental Law*, 28 COLUM. J. ENVTL. L. 119 (2003)

*Environmental Justice in Louisiana*, 51 LA. B.J. 90 (Aug. 2003)

*Too Much Science*, ENVTL. F., May/June 2003, at 36

*The Sting: How Louisiana's Emission Credit Trading System Dirties the Air*, SECOND GENERATION ISSUES COMM. NEWSL., May 2003, at 11

*How the Tulane Environmental Law Clinic Survived the Shintech Controversy and Rule XX Revisions: Some Questions and Answers*, 32 Env'tl. L. Rep. (Env'tl. L. Inst.) 11476 (Dec. 2002)

*Fee Shifting After Buckhannon*, 32 Env'tl. L. Rep. (Env'tl. L. Inst.) 10137 (Jan. 2002)

*Dodging a Bullet: Lessons from the Failed Hazardous Substance Recycling Rider to the Omnibus Appropriations Bill*, 29 Env'tl. L. Rep. (Env'tl. L. Inst.) 10131 (Mar. 1999)

*The Resource Conservation and Recovery Act* (ch. 3.6), in MINING ENVIRONMENTAL HANDBOOK (Jerrold J. Marcus ed., Imperial College Press 1997)

*Regulatory Reform and the Chevron Doctrine*, 26 Env'tl. L. Rep. (Env'tl. L. Inst.) 10587 (Nov. 1996)

*Our Federalism, Our Hazardous Waste, and Our Good Fortune*, 54 MD. L. REV. 1516 (1995) [excerpted in ROBERT L. FISCHMAN, ET AL., AN ENVIRONMENTAL LAW ANTHOLOGY (Anderson Pub. Co. 1996)]

*DOE's Promising First Step*, NAT'L ENVTL. ENFORCEMENT J., July 1995, at 3

*Citizen Suits: The Teeth in Public Participation*, 25 Env'tl. L. Rep. (Env'tl. L. Inst.) 10141 (Mar. 1995)

*What Next?* ENVTL. F., Nov./Dec. 1994, at 48

*Bringing Order to Records of Decision* (Book Review), 11 ENVTL. F., March/April 1994, at 11

*RCRA Imminent Hazard Authority: A Powerful Tool for Businesses, Governments, and Citizen Enforcers*, 24 Env'tl. L. Rep. (Env'tl. L. Inst.) 10122 (March 1994)

*Risk of Compromising a Vital Protection*, ROCKY MT. NEWS, Feb. 28, 1994 (Op-ed)

*Is RCRA Enforceable by Citizen Suit in States with Authorized Hazardous Waste Programs?*, 23 Env'tl. L. Rep. (Env'tl. L. Inst.) 10536 (Sept. 1993)

*Colorado* (ch. 47), in ENVIRONMENTAL LAW PRACTICE GUIDE (Matthew Bender 1992) (Named Best Law Book of 1992 by the Association of American Publishers)

*Understanding the New Era in Environmental Law*, 41 S.C.L. REV. 733 (1990), also pub. in ENVIRONMENTAL LAW (ch 10) (Michael C. Blumm ed., N.Y. Univ. Press 1992)

*Hazardous Waste at Federal Facilities* (ch. 1), in HAZARDOUS WASTE SITE INVESTIGATIONS: TOWARD BETTER DECISIONS (Richard B. Gammage & Barry A. Berven eds., 1992)

*A New Era in Environmental Law*, 20 COLO. LAW. 435 (1991)

*Circumventing Environmental Laws: Does the Sovereign Have a License to Pollute?*, NAT. RESOURCES & ENV'T, Summ. 1991, at 28

*Coming to Grips with Toxic Waste: The Need for Cooperative Federalism in the Superfund Program*, 19 Env'tl. L. Rep. (Env'tl. L. Inst.) 10009 (Jan. 1989)

*EPA no Superman in its Handling of Superfund*, ROCKY MT. NEWS, Jan. 6, 1989, at 70 (Op-ed), also published as *State and Local Governments, Not EPA, Must Handle Environmental Protection*, ATLANTA J. & CONST., Oct. 24, 1988, at 13

*Taking Charge: Local Governments and Hazardous Substances* (with Kent E. Hanson), in 1989 ZONING AND PLANNING LAW HANDBOOK (M. Dennison, ed.) 553 (1989); also published in COLO. MUNICIPALITIES, Sept./Oct. 1988, at 23; N.J. MUNICIPALITIES, Oct. 1988, at 24; ILL. MUN. REV., Oct. 1988, at 5; LA. MUN. REV., Nov./Dec. 1988, at 6; ALA. MUN. J., Sept. 1988, at 4; and 51 J. OF ENVT'L HEALTH 139 (1989)

*Restructuring Environmental Law*, 19 Env'tl. L. Rep. (Env'tl. L. Inst.) 10057 (Feb. 1989)

*Enforcing the Community's Right to Know About Chemical Hazards*, NAT'L ENVTL. ENFORCEMENT J., July 1989, at 3, also pub. in MUN. ATT'Y, Jan./Feb. 1989, at 4

*State Enforcement of CERCLA: The Idarado Decision in Perspective* (with K. Hanson), 20 Env't Rep. (BNA) 735 (Aug. 1989)

*Police our Federal Polluters*, DENVER POST, Jan. 14, 1989, at 7B (Op-ed), also published as *Revoke Order to End Mockery of Superfund*, ATLANTA J. & CONST., Feb. 3, 1989, at 19

*Declaratory and Injunctive Relief for States Under CERCLA* (with K. Hanson), 18 Env'tl. L. Rep. (Env'tl. L. Inst.) 10216 (June 1988)

*Local Governments and the Environment* (pt. 1), 18 COLO. LAW. 1997 (1988) (with Kent E. Hanson), also published in MUN. ATT'Y, July/Aug. 1988, at 1; MONT. LAW., Oct. 1988, at 5; FLA. BAR J., Dec. 1988, at 65; R.I. BAR J., Feb. 1989, at 9; W. VIR. LAW., Feb. 1989, at 24; and INTER ALIA, Mar./Apr. 1989, at 5

*Local Governments and the Environment—RCRA* (pt. 2) (with Kent E. Hanson), 18 COLO. LAW. 2159 (1988)

*Opportunities for Environmental Enforcement and Cost Recovery by Local Governments and Citizen Organizations* (with Kent E. Hanson), 18 Env'tl. L. Rep. (Env'tl. L. Inst.) 10165 (May 1988)

*Civil Procedure*, in 1986 ANNUAL SURVEY OF COLORADO LAW 11 (Beth E. Graham ed., 1987)

*Pendent Claims and CERCLA* (with Howard Kenison), W. NAT'L RESOURCE LITIG. DIG., Wtr. 1986, at 16

## **TEACHING EXPERIENCE**

### ***Law School***

Tulane Law School, Professor of Law, July 2007 to present; Associate Professor, May 2000-July 2007, TELC Director (May 2000-present). As TELC's director, Babich manages a budget of about \$420,000 and supervises a staff of four attorneys and one program coordinator. Each semester approximately 26 law students serve as TELC "student attorneys" and provide environmental legal services to actual clients. Under Babich's leadership, TELC has raised more than \$2 million in foundation grants, contributions, and attorney fee awards since May 2000. More information about TELC is available on line, at <http://www.tulane.edu/~telc>.

Georgetown University Law Center, Adjunct Professor, Spring Semester, 1996-1997, Course: Environmental Litigation and Compliance Seminar

University of Denver, College of Law, Lecturer in Law, Fall Semester, 1990, Course: Toxic and Hazardous Waste

### ***Graduate School***

University of Denver, University College, Adjunct Professor, 1991-93 (Environmental Policy and Management Masters Program), Courses: 1) Resource Conservation and Recovery Act Permitting and Compliance, and 2) Environmental Protection Law I

### ***Undergraduate School***

American University, Adjunct Professor, Spring Semester, 1997, Course: Environmental Law (an undergraduate course offered by the biology department)

### ***International Legal Assistance***

Tulane Institute for Environmental Law & Policy

- Presenter, Seminar for Dominican Republic Environmental Professionals: *The Role of U.S. Courts in Environmental Protection* (6/05)

American Bar Association Central and Eastern European Law Initiative

- Instructor for training of judges and prosecutors in and near Lviv, Ukraine (5/96)

- Contributor, “Analysis of the Draft Law Concerning Wastes” for the Republic of Moldova (6/97)

Environmental Law Institute, Training of judges and prosecutors in:

- Budapest, Hungary (5/97)
- Budapest, Hungary (6/96)
- Kiev, Ukraine (11/95)
- Buenos Aires, Mendoza, and Salta, Argentina (8/95)

Environmental Law Institute, Instructor, International Seminar on Citizen Suits (Acciones Populares y de Grupo) in Bogota, Columbia (9/94)

### ***Judicial Training***

Federal Judicial Center & Tulane Law School

- Program for U.S. Bankruptcy Judges, Environmental Liability (5/01)

Environmental Law Institute, Instructor for:

- Ohio Common Pleas Judges' Ass'n, Columbus, Ohio (12/93)
- Southwestern Judges' Conference, Albuquerque, NM (7/93).

### **OTHER EXPERIENCE**

***Private Practice***, Mar. 1997 to Mar. 2000—Environmental litigator with a Chicago-based law firm, Zevnik Horton Guibord & McGovern, emphasizing use of third-party liabilities and insurance assets to fund cleanup or containment of hazardous waste on behalf of members of the regulated community, municipalities, and investors in contaminated property.

***Environmental Law Institute*** (ELI), Feb. 1993 to Feb. 1997, Washington, D.C.—Director of Publications and Editor-in-Chief of *The Environmental Law Reporter*, responsible for management of ELI's publications division, including a budget of about \$1 million and a staff of thirteen, instructor in international training courses.

***Private Practice***, Jan. 1988 to Feb. 1993, Denver CO—Prosecuted and defended environmental cases before federal, state, and local courts and agencies. After two years of solo practice, helped found a Denver law firm, Gablehouse Epel & Babich, in Aug. 1992. Adjunct Attorney for the Environmental Defense Fund from Aug. 1991 through May 1992. Associate with Cornwell & Blakey from Jan. 1988 to July 1990, responsible for litigation under state and federal laws—including the Racketeer Influenced and Corrupt Organizations Act (RICO)—in federal district and bankruptcy courts. Lead counsel in litigation about the Rocky Flats nuclear weapons plant in which the court ordered a shutdown of a radioactive mixed-waste incinerator. Represented victims of hazardous waste contamination in a criminal restitution proceeding in the sentencing phase of U.S. v. Protex Indus., No. 87-CR-115 (D. Colo.), *aff'd*, 874 F.2d 740 (10th Cir. 1989)—the nation's first “knowing endangerment” conviction under the Resource Conservation and Recovery Act (RCRA).

***Colorado Attorney General's Office***, Sept. 1984 to Dec. 1987, Denver, CO—Assistant Attorney General, responsible for enforcing the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), RCRA, and the Toxic Substances Control Act. Counsel on seven

Superfund cases filed by Colorado in 1983 to clean up mining sites, uranium mills, a metals processing plant, and the U.S. Army's Rocky Mountain Arsenal—a nerve gas storage facility and pesticide plant. Presented key witnesses and delivered the state's final closing argument during the nation's first full-scale Superfund remedy trial—*Colorado v. Idarado Mining Co.*

*Colorado Supreme Court*, Sept. 1983 to Aug. 1984—Judicial Law Clerk for Deputy Chief Justice Jean E. Dubofsky, responsible for analysis of statutory and constitutional issues in criminal and civil law; prepared draft opinions and memoranda evaluating petitions for certiorari review.

*Computer Operator*, Dec. 1978 to Aug. 1980 (before law school), Philadelphia, PA—administered a DEC PDP 11-70 system at the U.S. Environmental Protection Agency, Region III, for Computer Sciences Corp. Before that, operated computers for Timeshare, Inc. (Blue Bell, PA) to generate tax returns and utility invoices.

### PRESENTATIONS

*The Preemption Doctrine and Public Participation Rights*, Case Western Reserve Law Review Symposium, "Government Speech: The Government's Ability to Compel and Restrict Speech," Cleveland, OH (11/19/10)<sup>1</sup>

Panelist, Student National Medical Association Advocacy & Equity Tour Town Hall Meeting, New Orleans, La. (10/16/10)

Panelist, *Professional Responsibility and Environmental Ethics*, ABA Section of Environment, Energy, and Resources 2010 Annual Meeting, New Orleans, La. (10/1/10)

Panelist, *Regulatory Governance Roundtable—Feasibility & Cost Benefit Analysis*, Law & Society Association 2010 Annual Meeting, Chicago, Il. (5/29/10)

Panelist, *Building an Environmental Case*, Environmental Law Institute Public Interest Skills Workshop, D.C. (3/27/10)

*Cultivating Values: Developing Law Students into Citizen Lawyers*, Association of American Law Schools Section on Clinical Legal Education Panel Discussion, New Orleans, LA (1/9/10)

*Emergency Response and Solid Waste Regulations*, Joint Georgetown University and Loyola University class on law and policy in the wake of Hurricane Katrina, New Orleans, LA (9/9/07)

*Working with Law School Clinics*, Waterkeeper Alliance Conference, New Orleans, LA (6/7/07)

*Environmental Justice*, American Association of Law Libraries. Southeastern Chapter Annual Meeting, Baton Rouge, LA (4/13/07)

*Post-Katrina Environmental Justice*, The Continuing Aftermath of Hurricane Katrina, Texas Southern University, Houston (3/06)

*Louisiana Environmental Justice*, Young Leadership Council "One Book One New Orleans" Panel Discussion on Race and Civil Rights, New Orleans (3/05)

*Managing Environmental Cases*, Council of Canadian Administrative Tribunals 3rd International Conference, Toronto (6/04)

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<sup>1</sup> <http://fn.case.edu/2010/11/19/government-speech-the-government%E2%80%99s-ability-to-compel-and-restrict-speech-panel-one-government-control-of-school-curricula-and-law-clinics>

*The Future of Environmental Law Clinics*, Regional Meeting of Environmental Law Societies, White Plains, NY (3/04)

*The Role of the Tulane Environmental Law Clinic*, Air and Waste Management Association (Louisiana Section), New Orleans, LA (1/04)

Moderator, William Gates, Sr. & Chuck Collins, *America's Wealth Gap and the Case for Preserving the Estate Tax*, New Orleans, LA (12/03)

Panelist, *Anthropologists and Effective Environmental Justice Policy*, American Anthropological Association, Chicago, IL (11/03)

*Legal Initiatives of the Tulane Environmental Law Clinic*, Louisiana State Bar Association Environmental Section Seminar, New Orleans, LA (11/03)

*Current Attacks on the Clean Air Act*, New Orleans Group of the Sierra Club Monthly Program, New Orleans, LA (11/03)

*Environmental Justice*, Society of Env'tl Journalists, 13th Annual Conf., New Orleans, LA (9/03)

*Environmental Issues Facing Louisiana's Next Governor*, LSU Law Center Environmental Roundtable, Baton Rouge, LA (5/03)

Luncheon Speaker, National Petrochemical and Refiners Association National Environmental & Safety Conference, New Orleans, LA (4/03)

*Environmental Justice in Louisiana*, Women for a Better Louisiana, New Orleans, LA (4/03)

*The Violator Pays Rule for Environmental Citizen Suits*, Widener Symposium: Citizen Suits at Thirty Something, Wilmington, DE (4/03)

*New Source Review Issues and Clean Air Act Title V*, EPA Clean Air Act Title V Advanced Training, San Francisco, Cal. (3/03)

*New Source Review Issues and Clean Air Act Title V*, EPA Clean Air Act Title V Advanced Training, Durham, NC (5/02)

Panelist, *Environmental Justice*, Tulane Law School Environment 2002 Conference (3/02)

*Writing Effective Comment Letters*, EPA Clean Air Act Title V Training, Houston TX (12/02)

*Clean Air Act Meets the Real World: Ozone Attainment in the Baton Rouge Area*, Louisiana State Bar Association Environmental Law Section Annual Seminar, New Orleans, LA (11/01)

*Legal Ethics & Representation on Environmental Justice Issues*, 17th Annual NAACP Lawyers' Continuing Legal Education Seminar, New Orleans, LA (7/01)

Panelist, *Environmental Standards in Central and Eastern Europe*; Moderator, *Clean Air and the Future: Trading and Compliance*, Tulane Law School Environment 2001 Conference (3/01)

*Recent Developments in Environmental Law*, 12th Annual Tulane Law School CLE by the Hour, New Orleans, LA (12/00)

*Class Action Update*, 21st Annual Advanced ALI-ABA Course on Hazardous Wastes, Superfund, and Toxic Substances, DC (10/99)

*Toxic Torts*, 20th Annual Advanced ALI-ABA Course on Hazardous Wastes, Superfund, and Toxic Substances, DC (11/98)

*Resource Conservation and Recovery Act*, ELI Boot Camp Course on Environmental Law, Bethesda, MD (11/98)

*Hazardous Waste Law*, ELI Boot Camp Course on Environmental Law, Alexandria, VA (11/97)

*Natural Resource Damages*, 19th Annual Advanced ALI-ABA Course on Hazardous Wastes, Superfund, and Toxic Substances, DC (11/97)

Introduction to RCRA and CERCLA, ALI-ABA Environmental Law Course, DC (2/97)

*Strategies for Environmental Law Research*, ELI Boot Camp Course on Environmental Law, Alexandria, VA (11/96)

Program co-chair, 18th Annual Advanced American Law Institute-American Bar Association (ALI-ABA) Course on Hazardous Wastes, Superfund, and Toxic Substances, DC (10/96)

*Risk-Based Remediation*, Hazardous Waste Solvents in Subsurface Environments, Northwest Center for Occupational Health and Safety, Seattle, WA (9/96)

*The Proposed Hazardous Waste Identification Rule*, ALI-ABA Environmental Law Course, DC (2/96)

Program co-chair, 17th Annual Advanced American Law Institute-American Bar Association (ALI-ABA) Course on Hazardous Wastes, Superfund, and Toxic Substances, DC (10/95)

*Oversight and Regulation of DOE Facilities*, Advisory Committee on External Regulation of Department of Energy Nuclear Safety, Santa Fe, NM (7/95)

*Evaluation of Regulatory Measures*, National Research Council, Committee to Evaluate the Science, Engineering, and Health Basis of the DOE's Environmental Management Program, Evaluation of Regulatory Measures Workshop, DC (6/95)

*Overview of Environmental Statutes*, U.S. EPA National Enforcement Training Institute, Basic Environmental Enforcement Course, Denver, CO (5/95)

*Cooperative Federalism and Hazardous Waste*, Quinn, Ward and Kershaw Environmental Symposium, University of Maryland School of Law, Baltimore, MD (4/95)

*Environmental Federalism*, Aspen Institute, The Environment in the 21st Century, Aspen, CO (3/95)

*Recent Developments in Hazardous Waste and Toxic Tort Law*, ALI-ABA Environmental Law Course, DC (2/95)

Program co-chair, 16th Annual Advanced American Law Institute-American Bar Association (ALI-ABA) Course on Hazardous Wastes, Superfund, and Toxic Substances, DC (10/94)

*Superfund and RCRA*, ALI-ABA Environmental Law Course, DC (2/94)

*Enforcement of the Clean Air Act Amendments*, Rubber Manufacturers Association Clean Air Workshop, Herndon, VA (11/93)

*RCRA Programs and Enforcement*, ALI-ABA Hazardous Wastes, Superfund, and Toxic Substances Course, DC (10/93)

*Private Cost Recovery and Contribution Actions Under the Superfund Act*, ALI-ABA Environmental Litigation Course, Boulder, CO (6/93)

*Corporate Environmental Management*, Rocky Mountain Mineral Law Foundation, Denver, CO (2/93)

*Citizen Suits at Federal Facilities*, Government Institutes, Inc. Federal Facility 1992 Environmental Update, Denver, CO (8/92)

*U.S. Department of Energy Implementation of RCRA and CERCLA*, National Research Council Workshop on Critical Issues in Environmental Remediation, Woods Hole, MA (7/92)

*Hazardous Waste In Colorado*, Nat. Business Institute, Denver, CO (9/91)

*Hazardous Materials on Construction Projects*, Associated General Contractors of Colorado, Denver, CO (6/91)

Program chair, *When Business Becomes A Crime: Anticipating & Managing the Complexities of Civil/Criminal Practice*, University of Denver College of Law Institute for Advanced Legal Studies, Denver, CO (5/91)

*Citizen Enforcement of the 1990 Clean Air Act Amendments*, University of Denver College of Law Institute for Advanced Legal Studies, Denver, CO (4/91)

*An Overview of Environmental Law/Toxic Tort Practice*, Colorado Trial Lawyers Association Environmental and Toxic Torts Seminar, Denver, CO (2/91)

*Enforcement at Federal Facilities*, Executive Enterprises, Inc. Environmental Compliance at Federal Facilities Conference, DC (6/90)

*Overview of Environmental Regulation and Impact of Environmental Liability on Real Estate Transactions and Sales of Businesses*, Prof. Ed. Systems, Inc. Env'tl Law for the General Practitioner in Colorado Seminar, Denver, CO (6/90)

*Citizen Enforcement at Rocky Flats: A Case Study*, University of Denver College of Law Institute for Advanced Legal Studies, Denver, CO (6/90)

*Hazardous Waste at Federal Facilities*, Oak Ridge National Laboratory Life Sciences Symposium, Gatlinburg, TN (5/90)

*Recycling, Sham Recycling, and the Definition of Waste under RCRA*, Western States Hazardous Waste Project, Keystone, CO (5/90)

*The Effect of Environmental Statutes on Real Estate Transactions*, POETS (an association of Denver real estate lawyers), Denver, CO (Dec. 1989)

*Parallel Civil/Criminal Proceedings: The Rocky Flats Experience*, Colo. Bar Ass'n, Denver, CO (10/89)

*State and Local Governments and Toxic Waste*, ALI-ABA Hazardous Wastes, Superfund, and Toxic Substances Course, DC (12/88)

*Local Governmental Enforcement and Cost-Recovery Actions*, Inside Superfund Conf., Arlington, VA (10/88)

*Municipal Rights and Liabilities Under Superfund*, Colo. Municipal League, Annual Seminar on Municipal Law, Keystone, CO (10/88)

*Superfund and Hazardous Waste*, Colorado County Attorneys Association Seminar, Crested Butte, CO (6/88)

*Environmental Litigation for Private Plaintiffs and Local Governments*, Colo. Hazardous Waste Management Soc., Denver, CO (June 1988)

*A State Perspective on RCRA and CERCLA Enforcement at Mining Sites*, U.S. EPA, Western Regional Mining and Smelting Enforcement Conference, Denver, CO (3/86)

#### **SELECTED REPORTED CASES**

*Louisiana Environmental Action Network v. Jackson*, 685 F.Supp.2d 43 (D.D.C. 2010)

*Concerned Citizens Around Murphy v. Murphy Oil USA, Inc.*, 686 F. Supp. 2d 663 (E.D. La. 2010)

*O'Reilly v. U.S. Army Corps of Engineers*, 477 F.3d 225 (5<sup>th</sup> Cir. 2007)

*South Coast Air Quality Management Dist. v. EPA*, 472 F.3d 882 (D.C. Cir. 2006), *clarified on denial of reh'g*, 489 F.3d 1245 (D.C. Cir. 2007), *cert. denied* 552 U.S. 1140 (Jan. 14, 2008).

*Holy Cross Neighborhood Ass'n v. U.S. Army Corps of Engineers*, 455 F. Supp. 2d 532 (E.D. La. 2006) (summary judgment).

*Gulf Restoration Network v. U.S. Dept. of Transp.*, 452 F.3d 362 (5th Cir. 2006).

*St. Bernard Citizens for Environmental Quality, Inc. v. Chalmette Refining, L.L.C.*, 399 F. Supp. 2d 726 (E.D. La. 2005) (second summary judgment ruling); 354 F. Supp. 2d 697 (E.D. La. 2005) (liability & standing); 348 F. Supp. 2d 765 (E.D. La. 2004) (motion to stay).

*Louisiana Environmental Action Network v. EPA*, 382 F.3d 575 (5th Cir. 2004).

*Oakville Community Action Group v. Indus. Pipe, Inc.*, 55 ERC (BNA) 1519 (E.D. La. 2002).

*Fireman's Fund Insurance Co. v. City of Lodi*, 41 F. Supp.2d 1100 (E.D. Cal., 1999) (summary judgment), *aff'd in part & rev'd in part* 302 F.3d. 928 (2002).

*Connecticut Indemnity Co. v. Superior Court*, 73 Cal. App. 4th 540, 86 Cal. Rptr. 2d 515 (Cal. App. 3 Dist., 1999), *rev'd*, 3 P.3d 868, 98 Cal. Rptr. 2d 221 (July 24, 2000).

*Sierra Club v. Chemical Handling Corp.*, 24 Env'tl. L. Rep. (Env'tl. L. Inst.) 20180 (D. Colo. Nov. 16, 1993) (amended judgment); 824 F. Supp. 195 (D. Colo. 1993) (on reconsideration); 35 Env't Rep. Cas. (BNA) 1562 (D. Colo. 1992) (summary judgment); 778 F. Supp. 24 (D. Colo. 1991) (standing); 778 F. Supp. 25 (D. Colo. 1991) (jurisdiction).

*New Mexico v. Watkins*, 783 F. Supp. 633 (D.D.C. 1992) (summary judgment; injunction), *aff'd in part & rev'd in part* 969 F.2d 1122 (D.C. Cir. 1992).

*Orchard Lane Road Ass'n v. Pete Lien & Sons, Inc.*, 34 Env't Rep. Cas. (BNA) 1749 (D. Colo. 1992) (summary judgment), *appeal denied as moot* 24 Env'tl. L. Rep. (Env'tl. L. Inst.) 20804 (10th Cir. Jan. 24, 1994).

*Sierra Club v. Dep't of Energy* (No. 89-B-181), 770 F. Supp. 578 (D. Colo. 1991) (injunction); 734 F. Supp. 946 (D. Colo. 1990) (summary judgment); 24 Env'tl. L. Rep. (Env'tl. L. Inst.) 20181 (D. Colo. Feb. 28, 1990) (contractor's motion to dismiss).

*Sierra Club v. Dep't of Energy* (No. 89-B-978), 33 Env't Rep. Cas. (BNA) 1720, 22 Env'tl. L. Rep. (Env'tl. L. Inst.) 20076 (D. Colo. 1991) (attorney fees).

*Sierra Club v. Lujan*, 728 F. Supp. 1513 (D. Colo. 1990), *aff'd* 931 F.2d 1421 (10th Cir. 1991), *vacated* 504 U.S. 902 (1992), *rev'd on remand* 972 F.2d 312, (10th Cir. 1992) (sovereign immunity); 21 Env'tl. L. Rep. (Env'tl. L. Inst.) 20,120 (D. Colo. May 24, 1990) (liability).

*Colo. v. Idarado Mining Co.*, 707 F. Supp. 1227 (D. Colo. 1989) (injunction following trial), modified 735 F. Supp 368 (D. Colo. 1990), *rev'd in part* 916 F.2d 1486 (10th Cir. 1990), *cert. denied* 499 U.S. 960 (1991).

*Colo. v. Army*, 707 F. Supp. 1562 (D. Colo. 1989) (ruling on preliminary injunction motion).

*Colo. v. Asarco, Inc.*, 616 F. Supp. 822 (D. Colo. 1985) (motion to dismiss); 16 Env'tl. L. Rep. (Env'tl. L. Inst.) 20561 (D. Colo. 1985) (liability).

## **TESTIMONY**

*Statement on behalf of the Environmental Defense Fund* before the Colorado Board of Health on Proposed Regulations Governing Administrative Enforcement of the Colorado Hazardous Waste Management Act, Denver, CO (8/91).

*Statement on behalf of the Environmental Defense Fund* before the Nuclear Waste Technical Review Board Panel on Transportation and Systems, Denver, CO (8/91).

*Statement on behalf of Sierra Club* on H.R. 918 (“The Mineral Exploration and Development Act of 1991”) before the U.S. House of Representatives Committee on Interior and Insular Affairs, Subcommittee on Mining and Natural Resources, Denver, CO (4/91).

## **BAR ADMISSIONS**

Admitted in: Louisiana, California, Colorado, Illinois (inactive), and Washington, D.C. and before the U.S. Supreme Court, the U.S. Courts of Appeals for the D.C., Ninth, Tenth, and Fifth Circuits, and the U.S. District Courts for the Districts of Columbia and Colorado, the Northern and Eastern Districts of California, the Northern District of Illinois (Trial Bar), and the Eastern, Western and Middle Districts of Louisiana.

## **MISCELLANEOUS**

Director of Organization (the Tulane Environmental Law Clinic) awarded the New Orleans Chapter of the Federal Bar Association’s Camille F. Gravel, Jr. Pro Bono Award (7/23/2010).

Member, Board of Directors, Environmental Integrity Project, Washington D.C., 2005 to 2009.

Member, Independent Scientific Peer Review Teams for: (1) evaluation of the Savannah River Site's Management Action Plan (report issued 9/96); and (2) evaluation of a groundwater corrective action plan for facilities at DOE's Savannah River Site (report issued 10/95).

Member, EPA’s National Advisory Council for Environmental Policy and Technology Subcommittee on Radiation Cleanup Regulations (appointed 10/1993).

Member, National Research Council Environmental Restoration Priority System Panel. (The National Research Council is the principal operating agency of the National Academy of Sciences) (Appointed 10/1992).

Named Professional Conservationist of the Year, 1991, by Sierra Club’s Rocky Mountain Chapter.

Publications have been cited in more than 250 articles and books, 4 judicial opinions, and one administrative decision.