

E-MAIL TO REBECCA

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INTRODUCTION

Near the end of the last century, we hired an associate professor to teach environmental law. She left after a couple of years to return to New York and shortly thereafter e-mailed me for a recommendation on a casebook for a natural resources law course that she was preparing to teach. At the time there were three alternatives. Barlowe Burke had just published a short casebook that examined minerals, water, and timber on private lands.¹ The book did not, however, discuss either wildlife or the Endangered Species Act ("ESA")—both topics that Rebecca wished to include. Eric Pearson had also recently published a casebook that included the ESA,² but the book was at least half environmental law, and Rebecca was already teaching a full-semester introduction course to environmental law. The third alternative was the book that I have always used, George Coggins, Charles Wilkinson, and John Leshy's Federal Public Land and Resources Law.³ Although Rebecca understood that public lands were too important to be left to Westerners, she thought that many of her students saw the United States as little changed from the famous Saul Steinberg New Yorker cover which could envision little of the country between the Hudson River and the Pacific Ocean—an exclusive focus on public lands was going to be a hard sell in The City. So I sent her some materials I had put together on wildlife and the ESA, and she cobbled together a class with her usual aplomb.

* Margaret Wilson Schimke Distinguished Professor of Law, University of Idaho. Thanks to Mike Blumm for setting up the panel, to him, Rob Fischman, Susan Kilgore, and Maureen Laflin for helpful comments on earlier versions, to Chris Taylor for helping me count, and to Reb for the loan of her name.

1. BARLOW BURKE, NATURAL RESOURCES: CASES AND MATERIALS (1998).

2. ERIC PEARSON, ENVIRONMENTAL AND NATURAL RESOURCES LAW (2002).

3. GEORGE COGGINS, CHARLES F. WILKINSON & JOHN D. LESHY, FEDERAL PUBLIC LAND AND RESOURCE LAW (4th ed, 2001).

Rebecca—Things have changed substantially since we last discussed natural resource casebooks. There are three new casebooks on natural resources:⁴

(1) Christine A. Klein, Federico Cheever, and Bret C. Birdsong, *Natural Resources Law: A Place-Based Book of Problems and Cases*;⁵

(2) Jan G. Laitos, Sandra B. Zellmer, Mary C. Wood, and Daniel H. Cole, *Natural Resources Law*;⁶ and

(3) James Rasband, James Salzman, and Mark Squillace, *Natural Resources Law and Policy*.⁷

All three books have sidestepped the Steinberg problem since their coverage is not restricted exclusively to the public lands and federal law. Nonetheless, the books all fall within "The Tradition."

I. THE TRADITION

In 1951, West published a new casebook by an associate professor at the University of Colorado: *Cases and Materials on the Law of Natural Resources* by Clyde Martz.⁸ The book reflected its time and the author's residence since it focused on the creation of private rights in resources⁹ and on Western pub-

4. There is an additional casebook in the pipeline. Eric T. Freyfogle is working on *NATURAL RESOURCES LAW: PRIVATE RIGHTS AND COLLECTIVE GOVERNANCE* (forthcoming 2007).

5. CHRISTINE A. KLEIN, FEDERICO CHEEVER & BRET C. BIRDSONG, *NATURAL RESOURCES LAW* (2005).

6. JAN G. LAITOS, DANIEL H. COLE, MARY C. WOOD & SANDI B. ZELLMER, *CASES AND MATERIALS ON NATURAL RESOURCES LAW* (2006).

7. JAMES RASBAND, JAMES SALZMAN & MARK SQUILLACE, *NATURAL RESOURCES LAW AND POLICY* (2004).

8. CLYDE O. MARTZ, *CASES AND MATERIALS ON THE LAW OF NATURAL RESOURCES* (1951).

9. The book brought together materials on the acquisition of water rights (41% of total pages), acquisition of mineral rights through location and lease (39%), acquisition of public lands (4%), the rights and liabilities associated with resource development (4%), and conservation (10%)—understood as restrictions on "wasteful exploitation of . . . natural resources." *Id.* at 994. It includes only thirteen pages (1%) on pollution and non-development uses: two pages on the National Parks, four pages on pollution of water courses as a private wrong, and seven pages on water pollution as a regulatory concern. *See id.*

Martz remained true to his position, calling the flurry of federal statutes that recreated natural resources law in the 1960s and 1970s the period of "environmental overreach." Clyde O. Martz, *Natural Resources Law: An Historical Perspective*, in *NATURAL RESOURCES POLICY AND LAW: TRENDS AND DIRECTIONS* 21, 24-25, 35-40 (Lawrence J. MacDonnell & Sarah F. Bates eds., 1993)—a perspective that reflects my experience of him when he was Solicitor at the Department

lic lands and their resources.¹⁰ You might pick up a copy sometime if you are interested in history since Martz's simple assumptions about the objectives of natural resource law and the need to rapidly develop resources so perfectly capture the Cold War mentality. Was it Amory Lovins who characterized the emphasis on rapid development of exhaustible resources such as oil as "strength through exhaustion"?¹¹

Martz's successors—the authors of what Mike Blumm calls the "subsequent generations of natural resource casebooks"¹²—have generally built upon his structure while questioning his assumption of the law's objectives and expanding the list of resources covered. The authors of the dominant book of the next generation of casebooks—George Cameron Coggins, Charles F. Wilkinson, and (beginning with the third edition) John D. Leshy ("CWL")¹³—also focus on Western public lands and re-

of the Interior at the end of the Carter Administration. For a different perspective on the early evolution of the law and the law school curriculum in this area, see A. Dan Tarlock, *Current Trends in the Development of an Environmental Curriculum*, in LAW AND THE ENVIRONMENT 297 (Malcolm F. Baldwin & James K. Page, Jr., eds., 1970).

10. Although the book did examine the riparian system of water rights, even here its coverage was focused on the West: of the fifteen cases on riparian rights, only four were from non-Western jurisdictions. See MARTZ, *supra* note 8.

11. Amory B. Lovins, *Energy Strategy: The Road Not Taken*, 55 FOREIGN AFFAIRS 65, 66 (1976) (attributing the policy to David Brower).

12. Michael C. Blumm & David H. Becker, *From Marts to the Twenty-First Century: A Half-Century of Natural Resources Law Casebooks and Pedagogy*, 78 U. COLO. L. REV. 647 (2007). Clyde Marts wrote the first casebook. MARTZ, *supra* note 8. The authors of the next casebook began their preface with the statement that "[t]his book is a successor to Marts, Cases on Natural Resources (1951), which pioneered the concept of teaching the law of resource development as a whole." FRANK J. TRELEASE, HAROLD S. BLOOMENTHAL & JOSEPH R. GERAUD, CASES AND MATERIALS ON NATURAL RESOURCES, at ix (1965).

Although the focus of both books is on water, oil and gas, and minerals, there are substantial content and structural differences. Trelease and his co-authors began with water rights, followed by mineral rights on the public lands, and concluded with mineral rights on private lands. The book was divided almost exactly into equal thirds. Like the Marts book, the Trelease book emphasized resource development and the acquisition of private interests in publicly owned resources. The book also demonstrates the incestuous genealogies in casebooks. In 1967, Trelease reprinted the water law materials from *Cases and Materials on Natural Resources* as *Cases and Materials on Water Law*. FRANK J. TRELEASE, CASES AND MATERIALS ON WATER LAW (1967). The current iteration of Trelease's water law casebook is GEORGE A. GOULD & DOUGLAS L. GRANT, CASES AND MATERIALS ON WATER LAW (6th ed. 2000).

13. GEORGE CAMERON COGGINS & CHARLES F. WILKINSON, FEDERAL PUBLIC LAND AND RESOURCES LAW (1981) and GEORGE CAMERON COGGINS, CHARLES F. WILKINSON, & JOHN D. LESHY, FEDERAL PUBLIC LAND AND RESOURCES LAW (3d ed. 1993) (hereinafter COGGINS ET AL., 3d ed.). The book was restructured and up-

sources. But, as Coggins and Wilkinson noted in the preface to the first edition of their casebook, their perspective reflected the legal universe of 1981. While the Martz casebook was “largely devoted to . . . issues relating to whether a private entity could use or acquire ownership of federal lands or resources,”¹⁴ Coggins and Wilkinson emphasized the public nature of the resources, turning Martz’s assumption into the primary inquiry, “Where lies the public interest?”¹⁵ In addition to rejecting the assumption that the law was concerned only with private development, CWL also expanded the subjects covered. They began with a history of public land law followed by two chapters on (federal) constitutional issues before concluding with seven chapters on individual resources: water, minerals, timber, range, wildlife, recreation, and preservation.¹⁶ The current, fifth edition follows the same structure with the addition of a chapter titled “Overarching Legal Doctrines”¹⁷—the public trust, National Environmental Policy Act (“NEPA”), planning statutes, and the ESA—before the chapters on individual resources.

The current crop of casebooks respond to this tradition—a new generation, reflecting the conflicted legacy of the federal legislation of the 1960s and 1970s. On the one hand, federal law (such as the ESA) has become increasingly important even where there are few federal lands. On the other hand, the broad political trend of the past two decades has been a shift in political responsibility from the federal to state governments—with a concomitant increase in the importance of state law. So, it is again a time of ferment and the result is a reexamination of the content of natural resources law and the line between it and environmental law.¹⁸

dated in 2002. GEORGE CAMERON COGGINS, CHARLES F. WILKINSON & JOHN D. LESHY, *FEDERAL PUBLIC LAND AND RESOURCES LAW* (5th ed. 2002) (hereinafter COGGINS ET AL., 5th ed.).

14. COGGINS & WILKINSON, *supra* note 13, at xxix.

15. *Id.* at xxii.

16. *See* COGGINS ET AL., 3d ed., *supra* note 13.

17. *See* COGGINS ET AL., 5th ed., *supra* note 13.

18. *See generally* Robert L. Fischman, *What is Natural Resources Law?*, 78 U. COLO. L. REV. 717 (2007) (examining where and how scholars draw the boundaries between natural resources law and other fields, especially environmental law).

II. REVISING THE TRADITION

The three new books—*Natural Resources Law: A Place-Based Book of Problems and Cases* by Christine A. Klein, Federico Cheever, and Bret C. Birdsong (“KCB”);¹⁹ *Natural Resources Law* by Jan G. Laitos, Sandra B. Zellmer, Mary C. Wood, and Daniel H. Cole (“LZWC”);²⁰ and *Natural Resources Law and Policy* by James Rasband, James Salzman, and Mark Squillace (“RSS”)²¹—are lineal descendants of this tradition. Although they are not limited to federal lands and have increased their coverage of state law, the authors continue to emphasize federal law²² and to focus on discrete resources such as timber, forage, or minerals.²³ I am going to focus on the differences between the books, rather than on their similarities, since it is the differences that are relevant in choosing among them. The differences between the books can be seen in the mix of resources covered, the perspectives that the authors have chosen to emphasize, and the “densities” of the books.

A. Different Resources

Although the casebooks cover many of the same resources, each offers a somewhat different mix:

19. KLEIN ET AL., *supra* note 5.

20. LAITOS ET AL., *supra* note 6.

21. RASBAND ET AL., *supra* note 7.

22. KCB includes 20 state cases out of 129 main cases (16%); LZWC uses 23 state cases out of 80 cases (29%); RSS has 10 states cases and 73 main cases (14%). For comparison, CWL contains a single state decision among its 105 main cases (less than 1%).

23. One of the forthcoming books, FREYFOGLE, *supra* note 4, rejects both the dominance of federal law (and the concomitant need for federal constitutional and administrative law) and the resource-by-resource pedagogical structure. Freyfogle argues that natural resources law has six fundamental tasks: (1) dividing nature into pieces (i.e., use rights); (2) defining the elements of these rights; (3) allocating the rights; (4) resolving conflicts among users; (5) integrating the rights into landscapes; and (6) providing mechanisms to adjust and reallocate rights over time. *See id.* The casebook is organized by these tasks.

Table 1: *Resources Covered by the Casebooks*

Resource	KCB	LZWC	RSS
Forage	X	X	X
Land		X	
Living Marine			X
Minerals	X	X	X
Multiple-Use Lands		X	X
Parks/Monuments	X	X	X
Timber	X	X	X
Water	X	X	X
Wetlands	X		
Wilderness	X	X	X
Wildlife	X	X	X
Wildlife Refuges		X	X

More importantly, the authors embed their coverage of resources within significantly different structural approaches. For example, KCB begin with a short introduction (3% of the total pages) to four recurring themes: the definition of natural resources, the definition of conservation, the differing concepts of trusts, and the importance of place. Structurally, KCB group their discussion of specific resources under three categories of land ownership: federal lands, non-federal lands, and transboundary resources. In addition to the analytical tools needed to discuss federal lands (the history of the public lands, constitutional law, and administrative law), the federal land section has three chapters on commodity resources (timber, forage, and minerals) and one chapter on land protection systems (the National Park System and the Wilderness Preservation System). The federal land section comprises 50% of the book, divided nearly evenly between the supporting materials and the resource chapters. The section on non-federal lands (13% of the book) is divided into three chapters: tribal lands, state lands, and private lands. The first two chapters examine different conceptions of trust relationships; the final chapter focuses on conservation easements and other private conservation mechanisms. The final section (33% of the book) concerns transboundary resources and is divided into four chapters: wildlife (including the ESA), water, wetlands, and wildfire. There is an intuitive feel to the tripartite division and KCB explore its implications. The final section, for example, addresses

whether transboundary resources such as water and wildlife share physical commonalities that might suggest useful legal analogies.

Like KCB, RSS follow the basic structural pattern pioneered by CWL: introduction, principles, and resources. They begin with an introductory chapter (6% of the book) entitled "Thinking About Natural Resources"²⁴ that examines three broad questions: what are natural resources, why they are difficult to manage, and what tools are available to do so (including both market and non-market approaches)? They follow with three chapters that examine the history of (1) the acquisition and allocation of federal lands, (2) the federal constitutional role in resource management, and (3) administrative law. These three chapters occupy nearly 25% of the book (compared with 44% in CWL) and are designed to provide the tools for the remainder of the book. The authors then examine seven resources: wildlife and biodiversity, living marine resources, protected lands, water, forage, minerals, and timber. The seven resource chapters are 76% of the book, with individual chapters ranging from 8% (forage) to 14% (water).

LZWC offer perhaps the most significant organizational departure from *The Tradition*. They begin with an introduction of four chapters (23%) relatively evenly divided among market economics, biodiversity, federal constitutional and administrative law, and environmental decisionmaking (e.g., NEPA). This is followed by an extended discussion (31%) of ownership of natural resources that—after an historical introduction—is divided into chapters on federal (45%), tribal (21%), state (15%), and private (20%) ownership of land. The authors then examine commodity resources including not only timber, minerals, and water, but also land (33%). These two sections ground the study of natural resources law in property law—a perspective that is echoed and questioned in the final section on conservation, preservation, and recreation (13%). This part covers wildlife (63%), recreation (15%), wild and scenic rivers (2%), and wilderness (4%).

The books thus offer slightly different mixes in resources—though I am not sure that I would select any of the books based on the mix alone since it is possible to tailor a casebook to your

24. RASBAND ET AL., *supra* note 7.

needs with supplemental material.²⁵ The more significant difference is the perspectives that the author's provide.

B. Different Perspectives

KCB define their casebook as "place-based"; RSS is a "law and policy" book; while LZWC fall back on the tried and true "cases and materials," though a more accurate subtitle might have been "patterns in resource ownership and regulation." As "place" implies, KCB focus on the specific. Both LZWC and RSS argue for more general patterns, but their focus differs: LZWC examine the property law origins of natural resource law by emphasizing different ownership patterns; RSS, on the other hand, are more concerned with the policy issues that help to define the field. These different foci lead to different materials: KCB's focus on place encourages a reliance on the factuality of cases; LZWC's patterns require a breadth of coverage that encourages heavily edited cases,²⁶ brief excerpts, and expository writing; RSS's emphasis on policy leads to the use of fewer but longer cases and more excerpts.

KCB's goal, they write, is "to communicate . . . the passion and excitement of place-based learning."²⁷ To that end, they include photographs and short introductory essays on the place where the main cases began. The notes following the cases also often draw attention to the relevance of place to an understanding of the cases. The apparent question is this: does place illuminate natural resource law? I think that the answer is, at least in some places, clearly yes. The law applicable to water rights in river basins such as the Colorado, the Columbia, and the Tennessee are unique—and these often transcend water to play at least some role in shaping other regional law. Similarly, resource use in the Pacific Northwest has different boundaries because of the battles that pit spotted owls against cheap timber. But, as timber production and its attendant environmental impacts move overseas, the timber industry has moved to the Southeast where it is now transforming itself into land-liquidating companies. In a globalizing economy, is acknowledging place only a romantic nod to the past, or is place

25. And, as will become apparent, the differences in topical coverage are often slight.

26. LZWC reduce many of their main cases to a page or less in the text.

27. KLEIN ET AL., *supra* note, at xxiii.

even more crucial? What *ought* to be our response to homogenization?

LZWC's focus on land and ownership as the basis of natural resources law is emphasized in a chapter that covers private ownership of land and another (in the section on commodity resources) that addresses the land resource. As the authors note, "Every chapter in this book concerns the land resource in some way."²⁸ This focus leads to recurrent discussion of markets and ecosystems, and of regulation and the concomitant constitutional limits. The focus on ownership also results in a greater coverage of private resource law. For example, in addition to federal timber law, there are sections on private forestry law (and state and federal regulation of private forest lands) and state forest lands. This allows the authors to compare and contrast the different management schemes that result. The material on private forest lands, for example, has a case study of the Headwaters Forest in northern California that includes a discussion of the California Forest Practices Act—and a comparison (that refers back to the earlier materials on federal land ownership) with the National Forest Management Act and the Federal Land Management and Policy Act.²⁹ Is the crucial pattern the type of ownership, or the resource itself? That is, do differing categories of ownership—private, tribal, state, and federal—themselves create or enhance commonalities that can be useful in understanding resource management?

RSS's focus on policy leads to a book that is full of excerpts highlighting the complexity of managing natural resources in the face of pervasive uncertainties and exploring a variety of perspectives on the resulting issues. By emphasizing policy, they "seek to drive home the point that problems affecting management of a particular resource share . . . theoretical and practical origins" with other resources.³⁰ Rather than embed the cases in a place, RSS thus push the students to see the universal—or, at least, the recurrent. Unlike LZWC, however, they focus on patterns arising from the characteristics of the resources rather than the types of ownership. Do resource management problems share commonalities that can be usefully generalized and applied? Again, I think the answer is yes

28. LAITOS ET AL., *supra* note 6, at 725.

29. *Id.* at 883–902.

30. RASBAND ET AL., *supra* note 7, at vii.

and no. Many resources have elements of commons—water and wildlife, for example, share common property, public ownership, and capture characteristics. Does the legal experience with the differing state water law regimes suggest options for wildlife and biodiversity?

All of the books, of course, offer some of these (and other) perspectives—it is the emphases that differ.

C. Different Densities

“Density” is as close as I have managed to come to a word that explains this aspect of the books. Some books are dense with material, others are less so. Perhaps I should have called it the “treatise factor”—i.e., the extent to which some casebooks aspire to provide a comprehensive discussion of the law. But this is also a less than perfect term.

Some numbers will help to explain what I mean—since you have some familiarity with CWL, I have included the numbers from their casebook for comparison:³¹

Table 2: Differing Densities

Types of Material	CWL	KCB	LZWC	RSS
Main Cases	105	129	80	73
Note Cases	823	209	1364	528
Excerpts	102	106	237	306
Statutes ³²	59 ³³	130	47	100
Pages ³⁴	1162	1086	1336	1258

These stabs at empirical research (“counting,” to be less grandiloquent) are less than perfect, of course. Note cases that are simply part of a string citation convey relatively little information; lengthy excerpts from articles, books, and other sources reveal the author’s perspective better than lifting a

31. See Appendices 1 and 2, *infra*.

32. This includes all legal instruments, e.g., statutes, regulations, and treaties.

33. CWL, of course, also have a statutory supplement. GEORGE CAMERON COGGINS, CHARLES F. WILKINSON & JOHN D. LESHY, *FEDERAL PUBLIC LAND AND RESOURCES LAW* (Supp. 2003).

34. I have included only textual pages—excluding both introductory and concluding materials such as prefaces, table of cases, and indices.

sentence or two. Nonetheless, the numbers do, I think, have some value.

KCB relies to a greater extent on main cases and statutes, while RSS relies more on excerpts from books, law reviews, other journals, and websites as well as text; LZWC falls somewhere between the other two in terms of the number of main cases and excerpts—but the authors emphasis is on breadth of coverage, at some cost in depth. The different content choices made by the authors raise several questions: is it necessary to show or can it just be said; can it just be said, or is there something else that is conveyed by cases; and is there any need for casebooks?

To make the point a bit more concretely, I will compare the books' different approaches to wildlife and the ESA. KCB's chapter on wildlife and the ESA includes twelve main cases, seventeen note cases, five excerpts, and eleven statutes in ninety-eight pages; in 106 pages, LZWC has eight main cases, 150 note cases, and nine excerpts from articles; RSS has five main cases, forty-four note cases, and thirty excerpts in 115 pages. Each of the books also covers different topics:

Table 3: Percentage of Coverage of Wildlife Topics

Wildlife Topics	KCB	LZWC	RSS
Federal Power	27% (26/96)	23% (24/106)	X ³⁵
ESA	68% (65/96)	41% (43/106)	75% (87/116)
Conservation Biology	7% (7/96)	16% (19/116)	
Private Law		11% (12/106)	
State Law		14% (15/106)	
Federal Statutes		15% (16/106)	
Wildlife Commons			10% (12/116)

Each casebook also makes different uses of its sources. KCB begins the chapter with a lengthy excerpt on conservation biology, and spreads the cases through the sections on federal constitutional law (four cases) and the ESA (eight cases). In LZWC, the chapter—primarily expository text—is divided into

35. RSS covers this topic in their second chapter, "The Historical and Constitutional Geography of Natural Resources Law," which includes *Kleppe v. New Mexico*, 426 U.S. 529 (1976), *Geer v. Connecticut*, 161 U.S. 519 (1896), *Missouri v. Holland*, 252 U.S. 416 (1920), and *Gibbs v. Babbitt*, 214 F.3d 483 (4th Cir. 2000). RASBAND ET AL., *supra* note 7.

five sections: private wildlife law focusing on the rule of capture and liability for wild animals (two cases), state wildlife law (one case), federal constitutional authority over wildlife (two cases), federal statutory protection for species (one case), and the ESA (two cases). In RSS, the introductory section on biodiversity relies primarily on excerpts; the second section on the history of wildlife law is a textual discussion of the relevant case law; it is not until the final section on the ESA that a student encounters a case. In addition, the case selection of main cases differs from book to book. KCB uses more “classic” and more Supreme Court cases, including *Geer v. Connecticut*,³⁶ *Missouri v. Holland*,³⁷ *Tennessee Valley Authority v. Hill*,³⁸ and *Sweet Home Chapter of Communities for a Greater Oregon v. Babbitt*.³⁹ LZWC’s coverage of a broader array of topics is reflected in the cases, which include *Pierson v. Post*,⁴⁰ a case on liability for injuries caused by wild animals kept in captivity; a case on cruelty to animals, *Kleppe v. New Mexico*;⁴¹ and *Sweet Home*. RSS includes only the *Sweet Home* decision in their chapter on wildlife—although they include *Geer* and *Holland* earlier in their book—preferring to present lower court decisions that raise more current issues.⁴² Finally, the simple number of statutes is somewhat misleading: KCB includes major portions of the ESA, sections 2–4, 7, and 9–11,⁴³ totaling more than nineteen pages (19% of the total chapter); in comparison, RSS includes only brief excerpts of statutory language, and LZWC describes rather than quotes the statutes.

I think the choices between saying and showing, on the one hand, and breadth versus depth, on the other, are the fundamental decisions that you have to make in choosing a casebook. What do you want to emphasize? What do you want to expose your student to—statutes, cases, or excerpts from a variety of perspectives? Similarly, do you want your students to see a wider range of resources that are necessarily treated in less depth, or fewer resources that are examined in more detail? Again—like the contrast between the specifics of place and the

36. 161 U.S. 519.

37. 252 U.S. 529.

38. 437 U.S. 153 (1978).

39. 515 U.S. 687 (1995).

40. 3 Cai. R. 175 (1805).

41. 426 U.S. 529.

42. See Appendix 2, *infra*.

43. See KLEIN ET AL., *supra* note 5, at 759–823.

overarching similarities among resources at some level of abstraction—each of the casebooks offers distinctly different balances.

CONCLUSIONS

So, you are probably asking yourself at this point, what *are* my conclusions?

I think that your choice depends upon your teaching style and the students in your classes. When I was preparing to write my casebook, I phoned Charles Wilkinson to ask for advice. “Use cases,” he said, “because they tell stories and stories engage students.” KCB’s emphasis on place should accentuate the story-line of the case law. But stories do not engage all students equally; for many, the policy issues are the pull of the law. For those students, RSS provides a bounty of perspectives. And LZWC is perhaps the most protean offering; they provide a smorgasbord that will allow you to construct a variety of courses that compare and contrast a number of resources.

Let me know what you decide—and how it works out.

Appendix 1: *Alphabetical List of Main Cases*

Cases	Location
1000 Friends v. Land Conservation & Development Comm'n (OR)	LZWC
ABKA Limited Partnership v. WA DNR (WA)	LZWC
Alaska Wildlife Alliance v. Jensen	LZWC
Algonquin Coal v. Northern Coal & Iron (PA)	RSS
Alsea Valley Alliance v. Evans	RSS
American Colloid v. Babbitt	LZWC
American Horse Protection Ass'n v. Watt	CWL
American Rivers v. Federal Energy Regulatory Comm'n	CWL
Amoco Production v. Southern Ute Indian Tribe	RSS
Andrus v. Charlestone Stone Products	CWL, RSS
Andrus v. Utah	CWL
Arbogast v. Pilot Rock Lumber Co. (OR)	RSS
Arizona v. California	CWL
Arizona Cattle Growers v. Fish & Wildlife Service	CWL, KCB
Avoyelles Sportsman League v. Marsh	KCB
Babbitt v. Sweet Home Chapter	CWL, KCB, LZWC, RSS
Bear Lodge Multiple Use Ass'n v. Babbitt	KCB, LZWC, RSS
Bicycle Trails Council v. Babbitt	KCB
Biodiversity Associates v. Cables	KCB
Bonds v. Carter (AR)	LZWC
Bormann v. Board of Supervisors (IA)	LZWC
Branson School District v. Romer	KCB
California v. Norton	KCB
California v. United States	CWL
California Coastal Comm'n v. Granite Rock Co.	CWL, KCB, RSS
Camfield v. United States	CWL, KCB
Cappaert v. United States	CWL, RSS
Castle v. Womble	CWL, RSS
Center for Biological Diversity v. Norton	LZWC
Central South Dakota Co-op Grazing Dist. v. Secretary	CWL, KCB
Citizens Against Burlington v. Busey	RSS
Citizens Comm to Save our Canyons v. USFS	LZWC
Citizens to Preserve Overton Park v. Volpe	KCB
Clouser v. Espy	RSS
Coalition for Canyon Preservation v. Slater	LZWC

Cole v. Ralph	KCB
Coleman v. United States	LZWC
Colorado River Indian Tribes v. Marsh	LZWC
Conner v. Burford	KCB
Conservation Law Fdn v. Secretary of the Interior	CWL
Conti v. United States	KCB
Copper Valley Machine Works v. Andrus	CWL
Daniel Ball, The	KCB
Daytona Beach v. Tona-Rama (FL)	KCB
Defenders of Wildlife v. Andrus (I)	CWL
Defenders of Wildlife v. Andrus (II)	CWL
Defenders of Wildlife v. Andrus (wolf)	CWL
Defenders of Wildlife v. Hull (AZ)	KCB
Defenders of Wildlife v. Norton	KCB
Department of Ecology v. Theodoratus (WA)	LZWC
Department of Transportation v. Public Citizen	LZWC
Douglas County v. Babbitt	LZWC
Dredge Corp. v. Conn	LZWC
Dubois v. USDA	KCB, LZWC
Duesing v. Udall	KCB
Duncan Energy Co. v. U.S. Forest Service	CWL
Edmonds Institute v. Babbitt	CWL
Empire Lodge Homeowners' Assn v. Moyer (CO)	LZWC
Environmental Protection Info Center v. Pacific Lumber	LZWC
Escondido Mutual Water v. La Jolla Band	CWL
Esplanade Properties v. City of Seattle	LZWC
Eureka Consolidated Mining v. Richmond	RSS
Fort Leavenworth R. Co. v. Lowe	CWL
Foster v. Seaton	RSS
Foust v. Lujan	KCB
Franco-American Charolaise v. Water Resources Bd. (OK)	RSS
Friends of the Boundary Waters v. Dombeck	KCB
Friends of the Shawangunks v. Clark	CWL
Fund for Animals v. Norton	KCB, LZWC
Fund for Animals v. Rice	KCB
Geer v. Connecticut	KCB, LZWC, RSS
Geomet Exploration v. Lucky Mc Uranium	CWL, LZWC
Gibbs v. Babbitt	KCB, RSS

Golden Condor v. Bell (ID)	LZWC
Good v. United States	KCB, LZWC
Gordonsville v. Zinn (VA)	KCB
Grayson v. Huntington (NY)	KCB
Great Northern Nekoosa Corp. v. United States	KCB
Grimaud v. United States	LZWC
Harris v. Brooks (AR)	RSS
Headwaters v. BLM	CWL
Hickel v. The Oil Shale Corp.	RSS
Highland Enterprises v. Barker (ID)	LZWC
Hinsdale Livestock v. United States	CWL
Hodel v. Virginia Surface Mining Assoc	LZWC
Holland Livestock Ranch v. United States	CWL
Hoover v. Crane (MI)	KCB
Hubbard v. Department of Ecology (WA)	RSS
Humane Society v. Glickman	CWL
Idaho Sporting Congress v. Rittenhouse	RSS
Idaho Watersheds Project v. Board of Land Comm'rs (ID)	RSS
Illinois Central R.R. v. Illinois	CWL, KCB, LZWC, RSS
Imperial Irrigation Dist v. California State Water (CA)	RSS
Inland Empire Public Lands Council v. Forest Service	CWL
International Snowmobile Mfg Assn v. Norton	LZWC
Intertribal Bison Co-op v. Babbitt	CWL
Irvine v. Rare Feline Breeding Center (IN)	LZWC
Irwin v. Phillips (CA)	KCB
Johnson v. M'Intosh	CWL, LZWC, RSS
Johnson v. United States	CWL
Kentuckians for the Commonwealth v. Rivenburgh	KCB, LZWC
Kerr-McGee v. Hodel	CWL
Kleissler v. U.S. Forest Service	KCB
Kleppe v. New Mexico	CWL, KCB, LZWC, RSS
Kleppe v. Sierra Club	CWL, KCB
Kootenai Env'tl Alliance v. Panhandle Yacht Club (ID)	KCB, LZWC
Kootenai Tribe v. Veneman	RSS
Lake Michigan Federation v. US Army Corps	LZWC
Lassen v. Arizona ex rel. Arizona Highway Dept	LZWC
Leo Sheep Co. v. United States	CWL

Light v. United States	CWL
Lucas v. South Carolina Coastal Council	KCB, RSS
Lujan v. Defenders of Wildlife	RSS
Lujan v. National Wildlife Federation	CWL, KCB, LZWC
Lyng v. Northwest Indian Cemetery Protective Ass'n	CWL, KCB
Madden v. Nature Conservancy	KCB
Magers-Fionof v. State (IA)	LZWC
Mailliard v. Willow Creek Ranch Co (CA)	LZWC
Marsh v. Oregon Natural Resources Council	KCB
Martin v. Kentucky Oak Mining Co. (KY)	RSS
Martin v. Waddell's Lessee	KCB
Matthews v. Bay Head Improvement Ass'n (NJ)	LZWC
Maurice Tanner	RSS
Mausolf v. Babbitt	KCB, LZWC
McKinley v. United States	CWL, RSS
Metcalf v. Daley	LZWC
Miccosukee Tribe v. S. Everglades Restoration	KCB
Miller v. United States	KCB
Mineral Policy Center v. Norton	KCB, LZWC
Minnesota v. Block	CWL, KCB, RSS
Minnesota v. Mille Lacs Band of Chippewa	KCB
Missouri v. Holland	KCB, RSS
Mobil Oil Exploration & Producing SE v. US	CWL, KCB
Montana v. United States	LZWC
Montana Coalition for Stream Access v. Hildreth (MT)	KCB
Morton v. Solambo Copper Mining Co.	CWL
Mount Emmons Mining Co v. Crested Butte (CO)	LZWC
Mountain States Legal Foundation v. Bush	RSS
Mountain States Legal Foundation v. Glickman	KCB
Mountain States Legal Foundation v. Hodel	CWL, RSS
Muckleshoot Indian Tribe v. US Forest Service	LZWC
National Ass'n of Homebuilders v. Babbitt	KCB
National Ass'n of Homebuilders v. Norton	KCB
National Audubon Society v. Hodel	CWL
National Audubon Society v. Superior Court (CA)	KCB
National Mining Ass'n v. Army Corps of Engineers	KCB
National Parks & Conservation Ass'n v. Babbitt	KCB
National Parks & Conservation Ass'n v. Bd State Lands (UT)	LZWC
National Park & Conservation Ass'n v. Stanton	CWL, KCB
National Wildlife Federation v. BLM	CWL, KCB, RSS

National Wildlife Federation v. Burford	CWL, LZWC
National Wildlife Federation v. Watt	CWL
National Wildlife Federation v. Whistler	KCB
Natural Resources Defense Council v. Daley I	RSS
Natural Resources Defense Council v. Daley II	RSS
Natural Resources Defense Council v. Hodel (DDC)	LZWC
Natural Resources Defense Council v. Hodel (D CA)	CWL, RSS
Natural Resources Defense Council v. Hodel (D NV)	CWL, KCB, RSS
Natural Resources Defense Council v. Morton	KCB
Neighbors of Cuddy Mountain v. U.S. Forest Service	CWL, LZWC
Neptune City v. Avon-by-the-Sea (NJ)	KCB
Newman v. RGA Wyoming Land Co (WY)	LZWC
Newton County Wildlife Ass'n v. U.S. Forest Service	CWL
Nollan v. California Coastal Comm'n	LZWC
North Carolina Fisheries Ass'n v. Daley	RSS
Northern Spotted Owl v. Hodel	CWL, RSS
Norton v. Southern Utah Wilderness Alliance	KCB, LZWC
Nuclear Energy Institute v. EPA	LZWC
Ohio Forestry Association v. Sierra Club	CWL, KCB, LZWC, RSS
Omaechevarria v. Idaho	CWL, KCB
Oregon Natural Desert Ass'n v. Green	CWL
Oregon Natural Desert Ass'n v. Singleton	LZWC
Oregon Natural Resources Council v. Lyng	CWL
Otteson v. United States	CWL
Okanogan v. National Marine Fisheries Service	KCB
Okanogan Highlands Alliance v. Williams	KCB
Pacific Rivers Council v. Thomas	CWL
Paige v. Farfield (CT)	KCB
Palila v. Hawaii Department of Land & Natural Resources	RSS
Palazzolo v. Rhode Island	KCB
Parker v. United States	KCB
Parkinson v. Board of Assessors I (MA)	KCB
Parkinson v. Board of Assessors II (MA)	KCB
Penn Central Transportation Co. v. New York	KCB
People v. Emmert (CO)	KCB
Perkins v. Bergland	CWL
Phillips Petroleum v. Mississippi	KCB
Pierson v. Post	LZWC
Pollard v. Hagan	CWL, KCB, LZWC
Prineville Sawmill Co. v. United States	CWL

Public Lands Council v. Babbitt	CWL, KCB, LZWC, RSS
PUD No. 1 v. Washington Department of Ecology	KCB
Puyallup Tribe v. Washington Department of Game	KCB
Rayonier Inc. v. United States	KCB
Reed v. Department of the Interior	CWL
Rio Grande Silvery Minnow v. Keys	KCB
Riverside Bayview Homes v. United States	LZWC
R.J.A., Inc. v. Water Users Association (CO)	KCB
Robertson v. Methow Valley Citizens Council	CWL, KCB, LZWC
Seiber v. United States	KCB
Sierra Club v. Clark	CWL
Sierra Club v. Department of the Interior I	CWL
Sierra Club v. Department of the Interior II	CWL, KCB
Sierra Club v. Department of the Interior III	RSS
Sierra Club v. Espy I	KCB, LZWC
Sierra Club v. Espy II	KCB, RSS
Sierra Club v. Glickman	CWL, KCB
Sierra Club v. Hodel	CWL, KCB, RSS
Sierra Club v. Lyng I	CWL
Sierra Club v. Lyng II	CWL
Sierra Club v. Marita	CWL, KCB, RSS
Sierra Club v. Martin	CWL
Sierra Club v. Morton	KCB
Sierra Club v. Peterson I	KCB
Sierra Club v. Peterson II	KCB
Sierra Club v. State Board of Forestry (CA)	RSS
Sierra Club v. United States	KCB
Sierra Club v. U.S. Forest Service	KCB
SL Group v. Go West Industries (CO)	LZWC
Sleeper, In re (NM)	RSS
Solid Waste Agency v. U.S. Army Corps of Engineers	KCB, LZWC
S. Florida Water Dist. v. Miccosukee Tribe	KCB
Southern Utah Wilderness Alliance v. Dabney	CWL, KCB
Southern Utah Wilderness Alliance v. Norton	RSS
Southern Utah Wilderness Alliance v. Thompson	CWL
Southwest Center for Biological Diversity v. Bureau	RSS
SW Florida Water Dist. v. Charlotte County (FL)	KCB
Spur Industries v. Del E. Webb Development Co (AZ)	LZWC
Sporhase v. Nebraska ex rel. Douglas	KCB
State v. Bonnewell (AZ)	LZWC

State v. Morros (Nev)	CWL
Stevens v. Cannon Beach (OR)	LZWC
Stewart v. Penny	CWL
Strahan v. Coxe	RSS
Sweet Home v. Babbitt	KCB, RSS
Tahoe-Sierra Preservation Council v. TRPA	KCB, LZWC
Tennessee Valley Authority v. Hill	CWL, KCB
Texaco v. Short	LZWC, RSS
Thomas v. Peterson	CWL, RSS
Thornton v. Fort Collins (CO)	KCB
Topaz Beryllium Co. United States	RSS
Tortorelli, In re (WA)	KCB
Tulare Lake Basin Water Storage Dist. v. U.S.	KCB, RSS
Tulare County v. Bush	CWL, RSS
Udall v. Tallman	CWL
Union Oil Co. v. Smith	CWL
Utah v. Andrus	CWL
United States v. Coleman	CWL, KCB, RSS
United States v. Curtis-Nevada Mines	CWL
United States v. Dion	LZWC
United States v. Fuller	CWL, KCB, RSS
United States v. Gardner	CWL, KCB
United States v. Gettysburg Electric R.	CWL
United States v. Gratiot	CWL
United States v. Grimaud	CWL, KCB
United States v. Gurley	
United States v. Locke	CWL, KCB, RSS
United States v. McClarity	RSS
United States v. Midwest Oil	CWL, RSS
United States v. Moon Lake Electric Ass'n	LZWC
United States v. New Mexico	CWL, KCB
United States v. Pittsburgh Pacific Co.	RSS
United States v. Riverside Bayview Homes	KCB
United States v. Rizzinelli	CWL, KCB
United States v. Shivers	CWL
United States v. Weiss	CWL, KCB
United States v. Winans	LZWC
United States ex rel. McLennan v. Wilbur	CWL
Utah v. United States	KCB
Utah Association of Counties v. Bush	KCB

Ventura County v. Gulf Oil Corp.	CWL, KCB
Village of Euclid v. Ambler Realty	LZWC
Village of Tequesta v. Jupiter Inlet Corp. (FL)	KCB
Washington v. WA State Commercial Passenger Fishing	LZWC
Washington v. United States	LZWC
Watt v. Western Nuclear	CWL
West Va. Div. Izaak Walton League v. Butz	KCB, RSS
Western Fuels-Utah, Inc. v. Lujan	LZWC
Whiteside Estates v. Highland Cove (NC)	LZWC
Wilderness Public Rights Fund v. Kleppe	CWL
Wilderness Society v. Morton	CWL
Wilderness Society v. U.S. Fish & Wildlife Service	KCB
Winters v. United States	KCB, RSS
Wisconsin v. Mitchels Pipeline Construction (WI)	KCB
Wyoming v. Franke	KCB
Wyoming v. United States	CWL, KCB, LZWC

**Appendix 2: Table of Percentages of Shared and Unique
Main Cases**

	CWL (105 cases)	KCB (80 cases)	LZWC (132 cases)	RSS (72 cases)
CWL	[43%(45/105)]*	16% (13/80)	27% (36/132)	35% (25/72)
KCB	12% (13/105)	[66%(53/80)]*	16% (22/132)	13% (9/72)
LZWC	34% (36/105)	28% (22/80)	[56%(74/132)]*	33% (23/72)
RSS	24% (25/105)	11% (9/80)	17% (23/132)	[35%(25/72)]*

* Unique cases; all four casebooks share only three main cases.

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