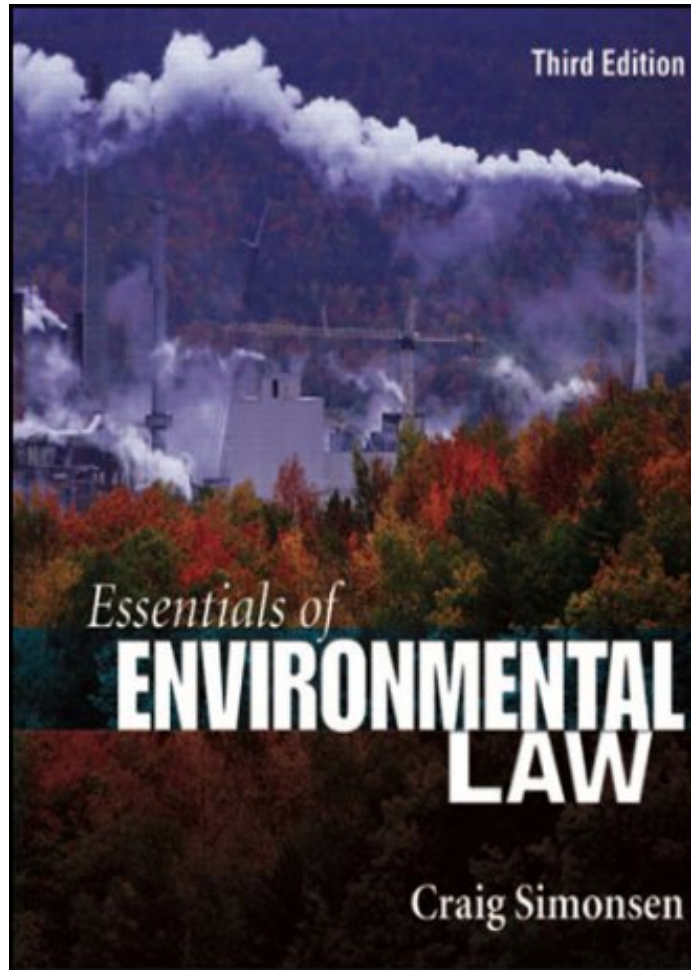


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Essentials of Environmental Law (3rd Edition)

Craig B. Simonsen

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Craig B. Simonsen : Essentials of Environmental Law (3rd Edition) before purchasing it in order to gage whether or not it would be worth my time, and all praised Essentials of Environmental Law (3rd Edition):

0 of 0 people found the following review helpful. Five StarsBy C. DunlapAwesome.0 of 0 people found the following review helpful. Five StarsBy Ashley FinwallWhat my College Professor recommended for the class.....lots of useful information for my Environmental Law class0 of 0 people found the following review helpful. It's a textbook...By no pen name....This is for my Enviro Law class, and according to our professor, this textbook was the "least dry reading" of the other textbooks he reviewed. Pretty easy read, not bad at all for a book about laws!

This book fills the need for a comprehensive review of the environmental law field, and it incorporates the day-to-day

activities and projects that paralegals may find themselves doing when working in the area. This new edition incorporates substantial updates and revisions to all of the chapters, and adds for the first time a comprehensive chapter on the Endangered Species Act. Also, learning tools are added including chapter segments or highlights including cases for discussion, computer laboratory projects, and Internet sites.

From the Back Cover
Written by 12 nationally known experts in environmental law—paralegals, lawyers who are former paralegals, and attorneys who work closely with paralegals in environmental law—this book includes substantive reviews of major environmental laws, with practical discussion of how paralegals support attorneys, governments, and businesses in environmental law matters. Features chapter-length coverage of each major environmental law, with history of the Act, provisions, enforcement, etc. Clean Air Act. Clean Water Act. Toxic Substances Control Act. Resources Conservation and Recovery Act. Comprehensive Environmental Response, Compensation, and Liability Act. Emergency Planning and Community Right to Know Act. Endangered Species Act. National Environmental Policy Act. Administrative Law and Procedure.
About the Author
Craig Simonsen is a senior environmental and litigation paralegal at Seyfarth Shaw LLP, in Chicago, Illinois. Craig has also been an adjunct instructor for environmental law for the Paralegal Studies Program at the former Mallinckrodt College in Wilmette, Illinois, and the Roosevelt University Program, in Chicago, Illinois. Craig is also an author and managing editor of another Pearson Prentice Hall Legal Series title, *Computer-Aided Legal Research (CALR) on The Internet* (2006), and the *Environmental Law Resource Guide* (1995), published by Clark Boardman and Callaghan. Craig has spoken on environmental law topics at the several of the Air and Waste Management Association's Annual Conferences, at the Solid Waste Association of North America's (SWANA) WasteCon 2008, at the American Industrial Hygiene Association's 2007 Conference and Exposition, and at the WasteExpo 2007 Conference.
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Everything You Need to Know About Environmental Law, You Learned in Kindergarten by Patrick A. Parenteau
As you can tell from the title, I'm introducing a little levity, a bit of balance, into the serious business of environmental law. Environmentalists and lawyers who practice in the environmental field are so damned serious about regulations that they just squelch any kind of creativity or freedom of expression. They are a very sober crowd. Somewhere along the line you might have noticed that there's a fair amount of jargon in the environmental field; you've got the EPA telling the PRPs to do the RI/FS under the NCP or they're going to be hit with a 106 order for treble damages with no pre-enforcement review. And after the RIGS, the PRPs are going to have to do the RD and the RA according to the ROD based on the ARARs. Of course, this only applies to NPL sites and not CERCLIS sites. Clear enough? And the jargon is not just confined to the pollution control side of the field; it infects natural resources management as well. For example, the BLM should have done an EIS on ORVs but elected instead to do a FONSI on EP and was successfully sued by SCLDF under NEPA and the APA. The court rejected BLM's defense that the EA was tiered to a programmatic EIS under the decadal management plan under FLPMA. That's what we lawyers in the field have to deal with day in and day out, and it probably mystifies normal people as to what all these acronyms the alphabet soup of laws and regulations and technical terms really mean. Is it really that inaccessible to the common mind? Do you have to be part of some strange religion to understand the deep, dark secrets of environmental law? No! It all comes down to a lot of common-sense understanding and simple principles. So what I thought I'd do is to go through Robert Fulghum's *All I Really Need to Know I Learned in Kindergarten* and see whether the rules that were announced to us in kindergarten have any relevance to environmental law. The first lesson is Sharing. Paraphrasing Chief Seattle, "The Earth doesn't belong to us, we belong to the Earth. We don't so much inherit the land from our forebears as we borrow it from our descendants." I don't think we've improved on that clear, penetrating vision of our relationship with the earth with all our fancy ideas and technical jargon about environmental law and natural resource management. Leopold, whose *A Sand County Almanac* is a conservation bible for many, talked about how we're all creatures of a place; the more we have a sense of the place, the more we understand the place, and the more we listen to the earth, the greater appreciation we'll have of the earth and the better care we will take of it under the classic stewardship ethic. Gifford Pinchot, founder of our national forest management system, also wrote about a conservation philosophy, one that would maximize the benefits for the greatest number of people through careful management and stewardship of nature resources. John Stuart Mill acknowledged in an economic context the utilitarian value of trying to get the maximum benefit from resources. The concepts of maximum sustainable yield and multiple use are the foundations of management of public lands. It's no small task to manage RVs and backpackers on the same lands, jet boats and wind surfers on the same river, mining uses and wilderness experiences in the same forests. Furthermore, that's only in the context of current uses and doesn't consider generational aspects what we leave behind for our children and grandchildren. Sharing everything is clearly something with which we're struggling in the area of natural resource management. Biodiversity the concept of maximizing the number of species in their natural evolutionary relationships to the systems that support them, whether it's the rainforests of South America or Indonesia, or the Douglas fir forests of the Northwest is important to us all because ecosystems have all sorts of interesting interconnections that we only dimly perceive. Biodiversity is shared both locally and globally. Forests and peatbogs fix carbon and prevent gases from reaching the upper atmosphere that may

cause global warming. All of these things are phenomena that we're only beginning to understand. The management and conservation of some of these biological resources have global and permanent implications for life on earth. Sharing those resources and understanding how to share those resources is a real challenge. Sharing is a simple rule but difficult to apply. The second lesson is Play Fair. Playing fair in the environmental context means setting clear, understandable ground rules for everyone to follow. Government sets those rules, and industry is required to comply. Citizen groups play the role of watchdog to make sure everybody does what they are supposed to do and that the government enforces the rules. Environmental rules designed to protect air, water, and land are being enforced vigorously and diligently. But those rules must also be fair. Frankly, environmental rules are not always fair. It's a constant struggle to adjust and modify those rules to make them more fair. Rules that aren't fair quickly lose support; a system that lacks fundamental fairness is doomed. In fact, you can make a cogent argument that unfair rules are worse than no rules. From an industry standpoint, fairness means a level playing field. If government is going to intervene in the market context and "internalize the external costs" of environmental pollution, it must do so in a way that doesn't benefit one segment of the industry versus another. Of course, in the global market it's extremely complicated to try to maintain a competitive advantage between one country and another. But leveling the playing field is something that industry looks to government to do correctly and fairly. The Superfund is a good example of an unfair rule, and nobody makes any bones about it. Courts in their decisions are fond of saying fairness plays no role in the Superfund program. One can't say the Superfund is totally unfair, but one can certainly find examples of how the liability scheme sometimes overreaches as it is applied in a retroactive, unforgiving, all-consuming manner. The rules also have to be applied fairly and enforced even-handedly. The main purpose of governmental enforcement of the rules is not so much punishing the malfasant as it is to protect the people who do comply with the rules. It's a whole different way of looking at enforcement, but that's really what it's all about. If people are going to go to the trouble to learn the rules, spend the money it takes to comply with the rules, hire the consultants, hire the lawyers, install and maintain the equipment, audit the performance, and make changes as necessary, at least they deserve to know that it's not going to place them at an economic disadvantage. That's what fairness in the enforcement context should mean. Unfortunately, the expression "the government is fond of shooting the volunteer" is often true. Industries and businesses that step up to tackle an environmental problem, to undertake the auditing or compliance program, are too often the ones that government singles out for enforcement. Why? Because they have raised their profiles above the rest of the pack and make an easy target. One of the major debates now is what use should be made of self-audits and internal environmental reports. The government insists on the right to access all information that business or industry might use in an audit. But is this fair? By auditing you look for problems in your compliance program. You look for violations. You document and track those problems to correct them, which costs time and money. Correction involves training programs and a lot of complicated investments in an area where the amount of regulation makes it inevitable that a business will be in violation at any given time. The sheer number of regulations, the fact that they're always changing, the fact that they're subject to interpretation, and the fact that the equipment on which you rely doesn't always announce that it's going to fail, make violation almost inevitable. The question is: how much can government use the information collected by businesses that are trying legitimately, in good faith, as good corporate citizens, to discover the problems and the violations they might have? There have been instances where the government has prosecuted businesses and individuals based on information gathered through self-audits. What kind of an incentive does that create for industry? The Uniform Sentencing Guidelines' are another example of a good idea to objectify fair sentencing for criminal defendants. But unless they're intelligently applied with some judgment, they can work unfairly. Because of the strict liability nature of most environmental statutes, virtually every violation can be prosecuted as a criminal offense. The third lesson is Don't Hit People. In the environmental context, hitting people comes down to introducing poisons and other chemicals into their environment. The "knowing-endangerment" provisions, the more recently added provisions of the Clean Air and Clean Water Acts,⁶ recognize that businesses that work with hazardous materials now have a duty to take even greater care not to expose people unnecessarily and beyond the limits of their permits. The fourth rule is Put Things Back Where You Found Them. John Muir said everything in the universe is hooked to everything else. Aldo Leopold said the first rule of intelligent tinkering is to save all the pieces. The idea of putting things back where you found them is one of the primary principles of environmental management and environmental ethics. In strip mining, it means reclaiming the land. Sometimes what you reclaim is a little different than it was when you started, but you must make an...