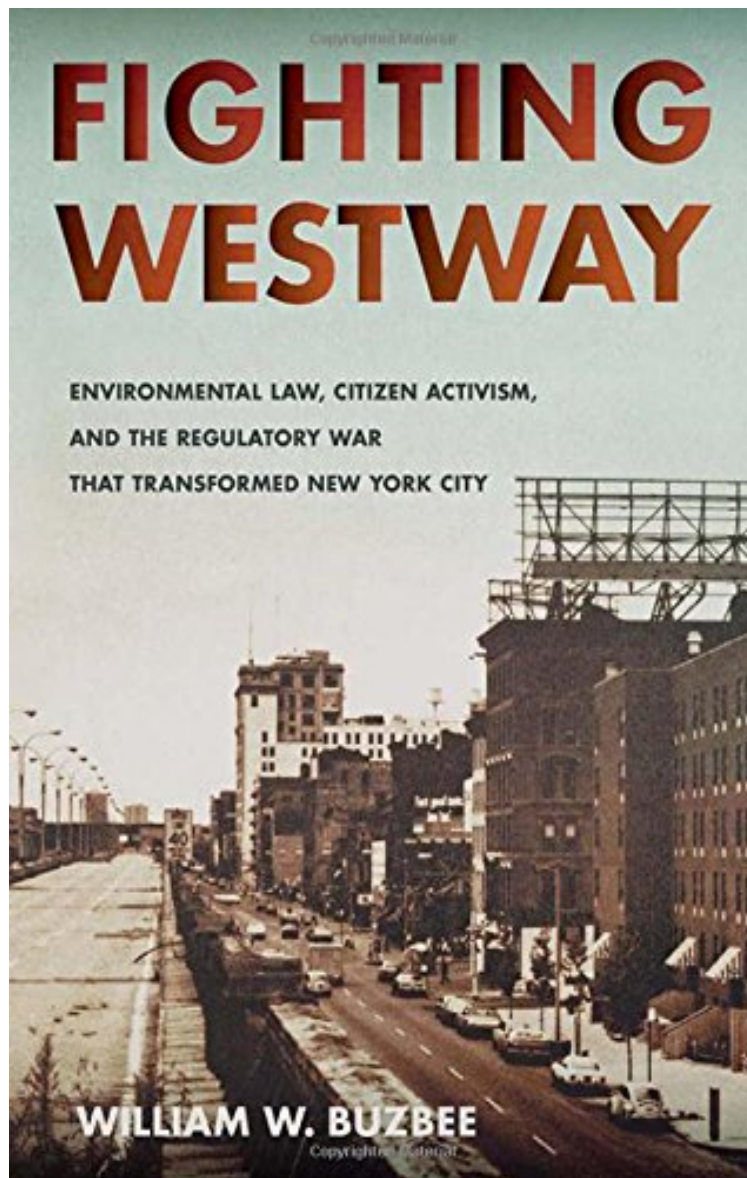


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Fighting Westway: Environmental Law, Citizen Activism, and the Regulatory War That Transformed New York City

William W. Buzbee

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William W. Buzbee : Fighting Westway: Environmental Law, Citizen Activism, and the Regulatory War That Transformed New York City before purchasing it in order to gage whether or not it would be worth my time, and all

praised *Fighting Westway: Environmental Law, Citizen Activism, and the Regulatory War That Transformed New York City*:

0 of 0 people found the following review helpful. Great read. By Bruce Friedrich Intriguing and well-written discussion of a defining case in environmental law. Great read. 2 of 2 people found the following review helpful. tells a good story. By Michael Lewyn In the beginning, Westway must have seemed like a highway project from heaven. While other highways sliced up neighborhoods, Westway was designed to run under a new waterfront park that was to be created by filling in a bit of the Hudson River; the aboveground land was to be used partially for the park and partially for housing and offices. The project's backers (including banks, real estate interests and construction unions) were so powerful that both the mayor of New York City and the governor of New York State campaigned against Westway and then were talked into flip-flopping after the election. How could such a project fail? Buzbee explains how both the law and the balance of political forces eventually turned against Westway. A few local activists feared the impact of the highway on the West Side of Manhattan, and believed that the money spend on Westway would be better spent on repairing New York's crumbling subways. After a few false starts, they discovered that the Clean Water Act might help their case. The Clean Water Act provides that waters may not be filled with land if doing so would harm fish and wildlife habitat. Government scientists discovered that the part of the Hudson River to be filled by Westway was habitat for the striped bass, and the bureaucrats favoring the project were never able to credibly establish that the striped bass could easily go elsewhere. Although the Army Corps of Engineers granted a permit to fill Westway, the scientific basis for its opinion was so wobbly, and their experts so confused and self-contradictory, that the courts repeatedly rejected its decisions. If Congress had favored the highway, it could have overridden the courts by amending the Clean Water Act. But the House actually voted 2-1 to kill Westway. Fiscal conservatives opposed Westway because it was unusually expensive (\$2 billion in 1980s dollars). Most New York Congresspeople opposed Westway because under then-existing federal law, the federal subsidies for Westway could be "traded in" for public transit, and New York's subway system needed a lot of help in the 1980s. The ultimate lesson of this book is that even a seemingly unstoppable project can be stopped by a few determined citizens- but only if they have the law on their side and local politicians are divided. 0 of 0 people found the following review helpful. Fascinating Bit Of New York History. By Luis A. Rovira This is no action book. It's not intended as entertainment so much as a scholarly work about a "war" between proponents and opponents of a radical development project. Yet it's so well written that it becomes entertaining and easy to read without delving into the exhaustive footnotes (though some are quite interesting and I confess to some "delving".) I also admit that a couple of court cases in this book kept me reading into late hours. Legal battles abound in books and popular entertainment. What's different in this true story is that it provides insight at yet another level of complexity from the usual stuff on the machinations of our government. Bill Buzbee comprehensively documents decades-long battles that intertwine not just the judicial and legislative processes, but also political influence, regulatory agencies, business interests, environmental peril, conflicting science, and the tireless dedication of common citizens fighting to improve their city. I come away with a much better appreciation for the kinds of pressure the powerful can exert on well-meaning career government employees. I had no concept of "judicial deference" to the regulatory process, nor the extent to which it falls on regulators to interpret laws in writing regulations to implement them. Readers who think that government officials take the creation of regulations lightly may find a new perspective. I have a new appreciation for the power that well written laws can wield, or by contrast, the ineffectiveness of toothless legislation. Judicial action can be an equalizer that even the powerful must respect. More than anything, I marveled at the power the common citizen can wield.

From 1971 to 1985, battles raged over Westway, a multibillion-dollar highway, development, and park project slated for placement in New York City. It would have projected far into the Hudson River, including massive new landfill extending several miles along Manhattans Lower West Side. The most expensive highway project ever proposed, Westway also provoked one of the highest stakes legal battles of its day. In *Fighting Westway*, William W. Buzbee reveals how environmentalists, citizens, their lawyers, and a growing opposition coalition, despite enormous resource disparities, were able to defeat this project supported by presidents, senators, governors, and mayors, much of the business community, and most unions. Although Westways defeat has been derided as lacking justification, Westways critics raised substantial and ultimately decisive objections. They questioned claimed project benefits and advocated trading federal Westway dollars for mass transit improvements. They also exposed illegally disregarded environmental risks, especially to increasingly scarce East Coast young striped bass often found in extraordinarily high numbers right where Westway was to be built. Drawing on archival records and interviews, Buzbee goes beyond the veneer of government actions and court rulings to illuminate the stakes, political pressures, and strategic moves and countermoves that shaped the Westway war, a fight involving all levels and branches of government, scientific conflict, strategic citizen action, and hearings, trials, and appeals in federal court. This Westway history illuminates how high-stakes regulatory battles are fought, the strategies and power of Americas environmental laws, ways urban priorities are contested, the clout of savvy citizen activists and effective lawyers, and how separation of powers and

federalism frameworks structure legal and political conflict. Whether readers seek an exciting tale of environmental, political, and legal conflict, to learn what really happened during these battles that transformed New York City, or to understand how modern legal frameworks shape high stakes regulatory wars, *Fighting Westway* will provide a good read.

"Written by a law professor, *Fighting Westway* is a carefully researched and clear narrative for a broad audience. For community and environmental activists as well as professionals, it is well worth the read because it vividly illustrates the depth and complexity of the struggle that was needed in order to beat back the giant deal." Tom Angotti, *The Independent* (January 2015)"Buzbee tells the history of Westway in chronological fashion, detailing each twist in the regulatory road leading to the project's cancellation in 1985. The drama lies not in the outcome but in how a small group of activists managed to defeat much of the New York City and Washington, D.C., political establishment. Buzbee makes a persuasive case that the outcomes of Westway and similar environmental conflicts reflect the complex intermingling of law, politics, and regulatory procedures."David Soll, *Journal of American History* (2015)"Buzbee provides an excellent explanation of regulatory processes and the limitations of both the CAA and NEPA. . . . But the real heart of the book is Buzbee's able and compelling explanation of the legal strategy, evidence, and reasoning behind the Westway verdicts. . . . [The book] is exceptionally well suited to undergraduate courses on environmental law and politics. . . . [and] it will give readers a clear understanding of how regulations work, how government institutions interact, and why it can be so difficult to stop a big project once it is underway."Sarah S. Elkind, *Environmental History* (2015)"A very interesting book that is exceptionally well suited to undergraduate courses on environmental law and politics will give readers a clear understanding of how regulations work, how government institutions interact, and why it can be so difficult to stop a big project once it is underway."Sarah Elkind, *Environmental History*(vol.21, no.1)"*Fighting Westway* is a rich and illuminating analysis of an important highway project - as viewed particularly through a regulatory lens. It will be valuable reading for those interested in the history of environmental policy, highways, neighborhood activism, and the complicated forces affecting cities' ability or not- to manage their own development." Francesco Russello Ammon, *Planning Perspectives* (May 2016)"Just as a military history combines the chronology of each side's moves and blunders, the capabilities of each army's weapons, and the personalities of the generals to explain the outcome of a war, Professor Buzbee weaves the stories of the Westway camps' political tactics, shifts in the doctrines of environmental regulation and citizen access to courts, and the biographies and decisions of individual stakeholders into a comprehensive and definitive history. Part tactical postmortem, part courtroom drama, and part "seamy tale" of political intrigue (p. 6), *Fighting Westway* will be of interest to lawyers, environmentalists, and historians alike."Harvard Law (Dec. 2014)"The Westway was envisioned by many prominent New Yorkers in the 1970s and early 1980s as a massive highway and commercial development along the city's Hudson River shore, generously financed with federal highway funds. But that vision was never fulfilled, for it aroused 14 years of intense opposition from a host of citizen groups, as chronicled here in detail by Buzbee (law, Emory Univ.). . . . This is an excellent study of how broadly written regulations can engender conflicts over their application to specific projects. It speaks strongly to students of public and environmental law as well as public administration. Summing Up: Highly recommended. Upper-division undergraduate, graduate, and research collections."W. C. Johnson, *CHOICE* (December 2014)"*Fighting Westway* is a fluid historical narrative that offers rich political discernments about a legendary case study of environmental politics. Buzbee's chronological account and legal analysis of the rise and fall of the proposed redevelopment of an interstate along the Lower West Side of Manhattan island is accomplished with an inspirational, firsthand, objective, third-party storyline. . . . The author, an experienced environmental scholar, is insightful on numerous fronts but is profound when discussing what he refers to as the regulatory war. . . . *Fighting Westway* draws on an incredible amount of research from the primary actors in the courtroom battles that ultimately defined Westways place in history. The story is a thoroughly detailed look into how regulatory policies function, are challenged, and can be altered. The importance of citizen activism in holding the relevant agencies accountable is great because the intent of environmental laws via citizen-suit provisions is a lesson that needs to be understood by public administrators and politicians."Nicholas Guehlstorf, *Law and Politics Book* (September 2014) "Finally! The first thorough, truthful account of one of the great environmental battles of the twentieth century! William W. Buzbee captures in rigorous detail the successful fight a group of dedicated citizens waged against the major economic and political powers of the day. Westway was a victory for honesty, principle, and the rule of law. Long live the Clean Water Act and the Hudson River striped bass!"John H. Adams, Founding Director, Natural Resources Defense Council, coauthor of *A Force for Nature* "Fighting Westway is the definitive account of the fifteen-year struggle over Westway. An infrastructure project proposed for Manhattan's West Side, Westway would have significantly changed the cityscape of New York City. William W. Buzbee tells the compelling story of how an unlikely collection of citizen activists, politicians, scientists, and public interest lawyers defeated a mega-project backed by New York's most powerful business and civic leaders. The dramatic story of the battle over Westway serves as a masterful case study of how today's regulatory wars are waged across the United States. By weaving together the many different, overlapping roles played by politics, regulatory agencies, environmental science, grassroots advocacy,

and public interest lawyering, Buzbee reveals the structure in which public policy is often made today."Richard Briffault, Joseph P. Chamberlain Professor of Legislation, Columbia University Law School, coauthor of *State and Local Government Law* "Finally we have a much-needed historical analysis of the embattled West Side Highway Project, known as Westway. It's a page-turner as the reader seeks reasons for, and the outcome of, the wars" that were fought over the future of Lower Manhattan's Hudson River waterfront from the 1971 Plan to the conclusive court decision. William W. Buzbee has amalgamated governmental, political, civic, and legal documents and interviews with participants into an insightful and thought-provoking story about the travails of a large physical project in the post-Robert Moses era. Ann L. Buttenwieser, author of *Manhattan Water-Bound* "Fighting Westway has much to teach us about the dynamics of environmental disputes, the role of courts, and the history of a great American city." Daniel Farber, Sho Sato Professor of Law and Co-Director, Center for Law, Energy the Environment, University of California, Berkeley, author of *Eco-Pragmatism* University of California, Berkeley, author of *Eco-Pragmatism* "Fighting Westway provides a deep and highly nuanced analysis of a landmark environmental battle that, though it took place two decades ago, remains highly relevant in today's fractious political economy." Thomas O. McGarity, Joe R. and Teresa Lozano Long Endowed Chair in Administrative Law, University of Texas School of Law, author of *Freedom to Harm: The Lasting Legacy of the Laissez Faire Revival* "William W. Buzbee's absorbing history unearths the complex and fascinating events, personalities, and regulations that conspired to create one of New York's most public failures of city planning and one of its most memorable triumphs of citizen activism. At the beginning of a new mayoral administration, this book is a timely reminder that urban advocacy is never out of fashion in the city that never sleeps." Elizabeth L. Bradley, author of *Knickerbocker* "Fighting Westway is a very good book on a rich topic. William W. Buzbee has done impressive research and is well acquainted with environmental litigation in general and his main protagonists in particular." Oliver A. Houck, Tulane University Law School, author of *Taking Back Eden: Eight Environmental Cases That Changed the World* About the Author William W. Buzbee is Professor of Law at Georgetown University Law Center. He is coauthor of *Environmental Protection: Law and Policy* and editor of *Preemption Choice: The Theory, Law, and Reality of Federalism's Core Question*. He has published in many leading law reviews.