

## **Final Report**

### **Summer 2010 Liman Fellowship in Public Interest Law**

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As a Liman Summer Fellow, I worked at the California Environmental Protection Agency (Cal/EPA), a state cabinet-level agency within the government of California. Cal/EPA is composed of six boards, departments, and offices (BDOs). Among these, I worked as a legal intern for the Office of the Secretary, which oversees all six BDOs and coordinates their actions, and the Department of Toxic Substances Control. Cal/EPA is responsible for directing the state's environmental research, regulating and administering California's environmental protection programs, and regulating the cleanup of hazardous waste.

My internship time was spent alternately shadowing the Special Counsel to the Secretary and working on research assignments on my own. In shadowing the Special Counsel, one of my supervisors, I sat in on staff meetings with Secretary of Cal/EPA Linda Adams and her immediate staff, participated in regular weekly meetings with the legal counsel directors of the BDOs, and attended case-related meetings to discuss the progression of litigation issues in which Cal/EPA was involved. I also hosted and attended three Environmental Law Institute classes that introduced the field of environmental law and discussed the legal background and current application of hazardous waste laws (CERCLA and RCRA) and land use laws (NEPA and the ESA). These classes were directed by prominent and very knowledgeable actors in environmental law and included handouts and slides with which to follow along. I learned an incredible amount from these relatively short classes that introduced the environmental law field in a broader way than my legal internship itself could and summarized the legal background that informed many of my research projects. The rest of my time I would spend going through records and doing research in the law library as well as with Westlaw to compile memos on various legal issues.

My main research projects included dealing with Public Records Act requests, composing memos on government official ethics policies, and drafting research reports on hazardous waste management policies. The Public Record Act requests required me to find the documents requested and go through them to approve what must be released to the public and what must be redacted (such as confidential communications to the Governor's office or personal information). This sometimes involved sifting through thousands of pages of documents at a time with great care. I worked on two major memos involving government ethics policies, one of which dealt with the "revolving door" policy and what sort of post-government employment and employment-seeking limitations government employees would be subject to. This case was particular in that the government official in question had very broad job responsibilities related to climate change initiatives, and I needed to research how these responsibilities would or would not legally limit his employment opportunities in the private sector. I also drafted responses to fee exemption requests from corporations that owed the Department of Toxic Substances money for disposing of the waste they generated and also wrote memos on hazardous waste management regulations.

One thing that surprised me in my work was how different the substance of the legal work was in contrast to what I had expected. I thought I would be doing more work in the enforcement of environmental policies on non-complying entities, but learned that such litigation-driven environmental enforcement is taken up largely outside of the Cal/EPA, which enforces its policies instead simply through its regional supervisors handing down the rules. Rather, I handled such cases on the other end—I had to respond to sometimes extremely tedious and demanding Public Record Act requests from private citizens that burdened (and in one case, even harassed) the Cal/EPA’s workstaff and also sorted documents for a case in which the Sierra club was suing for the Cal/EPA disclose documents. Through these experiences and the Environmental Law Institute classes, I learned that while grassroots public-interest law plays a vital role in environmental law enforcement, it also plays a critical role in providing transparency and the application of public input into the work of government agencies that work, at first blush, “on their same side”.

A particularly memorable moment for me during this internship occurred when my supervisor in the Department of Toxic Substances Control took me to the State Archives in order to retrieve documents that would supplement my research on a legal memo I was working on. The memo addressed the existing statutes, case precedents, and pattern of statutory interpretation evinced by the EPA (national) in advice letters to analyze how it interpreted a regulation prohibiting the storage of hazardous waste within 50 feet of a facility’s property line. I was looking for whether, and how, an exception could be made for a hazardous waste treatment facility in Southern California that received and delivered its waste from railcars whose tracks ran within 50 feet of the property line. The track clearly could not be moved, and there was only empty land on the other side so that no substantial public harm existed, but it did violate the hazardous waste regulation.

When we went to the State Archives the librarians had already collected the documents we had requested before visiting, which included bill files and some documents on microfilm. I went through the bill files page by page, looking for clues about the original creation of the “50-foot regulation” law in its legislative history that might explain whether the authors of the legislation intended it to be applied so stringently in a case such as ours. It was an amazing experience to look through these original documents, many of which were covered in scribbles by their previous readers asking clarification on certain lines, correcting minor grammatical points, and posing so many detailed questions about how the law would work in different situations and whether other regulations might be more effective. The amount of attention and work that went into drafting this law impressed me greatly—hardly any detail went uncontested. Yet at the same time, I was not able to find a solid answer to the legal question I had come to research. I found the reasoning behind how the law was crafted, but that reasoning seemed simply to have not been able to imagine a situation like the one on which I was working. The legislative history stayed largely silent on whether or not my facility was violating federal regulations.

This experience really impressed on me both the importance of detail in the writing and interpretation of law and of how dynamic law can be. The silence in the legislative history was a space for lawyers to find and argue and set a precedent, to unravel the loopholes that are unavoidable in laws that must cover such a wide array of activities with great precision at the risk of great harm to the public. I was deeply affected by the intricacy, especially in environmental law, that seems sometimes mundane but is necessary for the law’s vitality. Because of this experience, I have begun to consider work involved with the advising of environmental policy writing as well as my original goal to be an environmental lawyer.

Nonetheless, whatever my final career plans, this internship solidified my goal to attend law school and study environmental law.

If there is one suggestion I might make to the Liman Program, it would be to provide access to more practical work support (or access to such support) to its fellows before the commencement of their internships. Because of the nature of the Liman Summer Fellowship and the unique opportunity it presents for undergraduates to engage in legal work, I feel that other fellows may have shared my experience of feeling, in the beginning, thrown into the deep end on the first days of work. The two fellow interns I worked alongside of were both rising 3L's and were well versed in both legal research and basic environmental law from law school. Therefore, the Environmental Law Institute classes were especially important to me in providing background on the field of environmental law, and my supervisor and fellow interns taught me bit-by-bit how to navigate a law library and use Westlaw. I was lucky to have such a supportive environment, but the Liman Program might consider compiling lists of resources that could provide introductions to the major fields of public interest law and also directing fellows to resources that provide a crash course in legal research so that they might better hit the ground running in their internships and be more likely to participate in higher-level work.

In closing, I just want to reiterate my sincere appreciation to the Liman Fellowship organizers for providing me this amazing opportunity to experience environmental legal work. My internship was a truly rewarding experience I could not have had were it not for the generous Liman Fellowship and the tireless support of its organizers. I want to thank in particular Ms. Leslie Gerwin, whose patience and dedicated personal advocacy for me in the throes of internship placement-seeking made my fellowship possible (and flattered me nearly to tears). I fully intend for my future studies and career path to build upon the experiences I have gained this summer and hope I might be able to provide guidance for future Liman fellows.

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*This report has been reviewed and approved by Marilee Hanson and Steve Koyasako at Cal/EPA.*