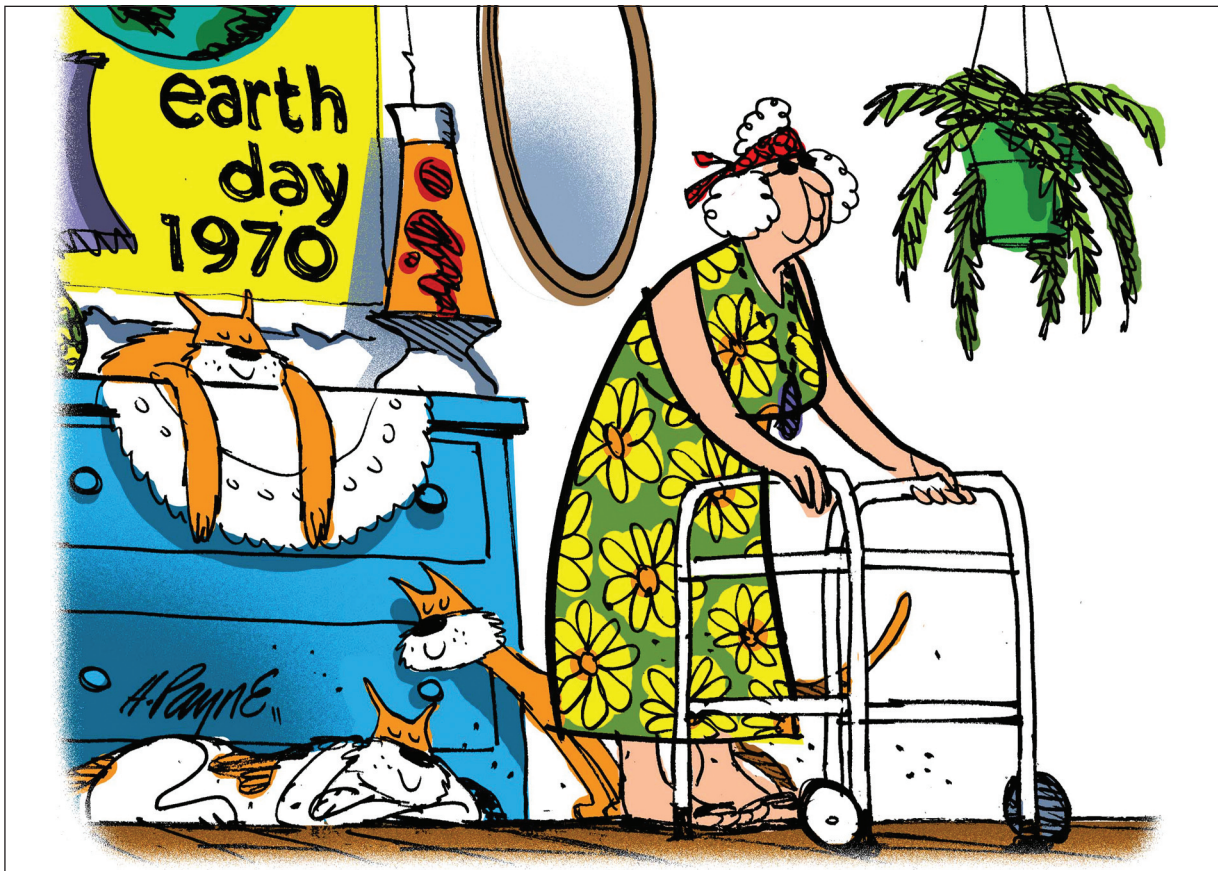


The Environmental FORUM[®]

Advancing Environmental Protection Through Analysis • Opinion • Debate



Has the Pizazz Gone Out of Environmental Protection?

Joint Pain

*The Clean Air Act's
Arteriosclerosis*

Toxicology

*Stakeholders and
the Role of Risk*

The Practice

*Changes Over the Next
Five to Ten Years*



THE FORUM

The Shape of the Practice Over the Next Five to Ten Years

Since the beginning of modern environmental law, statutes and rules have been hammered out with a vision for the future, but what is that vision? A few issues back, we asked a panel to reflect on the changes in environmental law and practice 40 years from now, the same period as separates us from the National Environmental Policy Act and early pollution control law. In this FORUM, we ask a panel of practitioners to look at the near-term horizon, earlier than the global issues that will dominate the far future as reflected in the earlier debate.

Just as in the long term, sustainable development will be a key factor in this near-term future, as poor countries begin to acquire the wealth and material comforts that the rich countries have

enjoyed for so long. Will they also begin to pollute at the same levels, or will they be guided on a softer path? Climate change will become an increasing facet of environmental practice, even for those clients seemingly facing other challenges, such as energy use. In the absence of driving federal law, can practitioners and their clients make progress in this area? Educating the current generation of environmental practitioners will be a key to realizing the goals of sustainability. Will today's practitioners be able to acquire the needed expertise in the fast-paced regulatory world they will inhabit? Concepts like the "triple bottom line" will be available for progressive practitioners pushing their clients toward sustainability. But can sustainable development be melded into the profit-seeking model that the modern corporation inhabits?

Education Key to Progress in Law Practices

PAULA SCHAUWECKER

The future of the environmental legal profession depends on our law schools, practitioners, and others in the profession offering opportunities for students to get hands-on, practical experience in which they can learn to think and act like a lawyer. But the future of environmental legal education will be judged not only on the success of our efforts to better train our young lawyers, but by our efforts as a profession to bring more diverse attorneys into our ranks. It is in both of these directions that environmental legal education will trend in the coming years.

In 2007, the Carnegie Foundation for the Advancement of Teaching published the results of its study of legal education in the United States and Canada. The report concluded that legal education should seek to unite the two sides of legal knowledge: formal knowledge and experience of practice. According to the report, “The existing common core of legal education needs to be expanded to provide students substantial experience with practice, as well as opportunities to wrestle with the issues of professionalism.”

In its June 2011 “Report to Members,” the New York State Bar Association provided the recommendations of its task force on the future of the practice of law. One conclusion, with regard to training new lawyers, was that increasingly, clients do not want to pay for the work of new lawyers, many of whom have never had any actual experience. The NYSBA task force, like the Carnegie study, concluded that new lawyers need more skills-based learning — and I am sure there are many other

studies that have reached the same conclusion.

At the same time that these studies and similar dialogues about the future of the profession are taking place, other conversations are occurring concerning the need for more diversity in the legal profession generally and among environmental lawyers in particular. Increasingly, in the same way clients and legal employers are looking for more practice-ready young attorneys to work on their matters, they are also requiring more diversity on their legal teams.

Clearly then, the environmental legal education we provide must bring practical, real-world opportunities for learning to the next generation of environmental lawyers. But we must also encourage more diverse students to want to pursue careers in environmental law and, once they are interested in doing so, we must do a better job getting them ready to practice and be successful. We are making progress on both fronts and I believe these trends will get even stronger in the next 5–10 years.

There are numerous ways in which law schools and environmental and natural resource professors are making strides to reach the goals of the Carnegie report to provide more skills-based learning. According to an informal survey by Madeline Kass, an environmental professor at Thomas Jefferson Law School, many environmental professors are incorporating case studies, role playing, and simulations as part of their classroom exercises.

In addition, many professors are focusing work throughout the semester on ongoing practical assignments such as negotiating disputes applying applicable state laws, engaging in mock administrative hearings and courtroom advocacy exercises, drafting interrogatories and document requests based on hypothetical sets of facts, and drafting legal memoranda for hypotheti-

cal clients with specific compliance concerns, to name a few. Moreover, many law schools offer experiential learning opportunities, such as environmental externships and clinics, which give students opportunities to work on actual cases with real clients. Law schools also host mock trials, such as Pace Law School’s National Environmental Law Moot Court competition and Stetson Law’s International Environmental Moot Competition.

On the diversity front, companies, law firms, non-profit organizations, and bar associations are placing increased emphasis and resources toward encouraging diverse candidates to choose a career in environmental law. Some organizations are partnering with law firms to provide internships, such as ELI’s Diversity Program and law clerk positions sponsored by Pfizer Inc., Beveridge & Diamond, P.C., and the ABA Section of Environment, Energy and Resources. SEER also offers diversity fellowships in environmental law, as does the New York State Bar Association through its Environmental Law Fellowship.

Law firms, bar associations, government agencies, and other organizations who have an environmental practice are offering more opportunities for diverse students to get hands-on practice, thus bringing not only more diverse attorneys to our practice, but attorneys with practical experience as well — an excellent combination that is highly successful and sure to grow in the coming years.

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