

## 2022 Environmental Law Conference at Yosemite

### *Recent Environmental Law Developments in SCOTUS, 9th Circuit Court of Appeals, and the California Supreme Court*

Moderator: Richard Frank

Speakers: Rachael Salcido, Holly Doremus, Kevin Poloncarz

#### **Conference Reference Materials**

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CLA ENVIRONMENTAL LAW SECTION  
2022 Yosemite Conference

**KEY, RECENT ENVIRONMENTAL LAW  
DEVELOPMENTS IN THE U.S. SUPREME COURT,  
THE NINTH CIRCUIT COURT OF APPEALS &  
THE CALIFORNIA SUPREME COURT –  
AN ANNOTATED BIBLIOGRAPHY <sup>1</sup>**

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<sup>2</sup> The research assistance of King Hall law student Annette Brennan ('23) and Georgetown Law student Julie Tolmie ('24) is gratefully acknowledged.

## U.S. SUPREME COURT

### Decided Cases

*Mississippi v. Tennessee* (November 22, 2021) 142 S.Ct. 31 (Mississippi may not claim sovereign right, title, and exclusive interest in groundwater naturally stored within its borders but within a multistate aquifer system extending beyond state lines; when groundwater is in multistate aquifer, it is subject to equitable apportionment among states).

*Louisiana v. Biden* (May 26, 2022, Order 21A658) 142 S.Ct. 2750 (In unsigned order, Supreme Court declined to bar Biden administration from implementing Executive Order directing federal agencies to assess cost of carbon emissions in their regulatory decision-making (decision below reported at 2022 WL 866282)).

*U.S. v. Washington* (June 21, 2022) 142 S.Ct. 1976 (State of Washington's workers' compensation scheme, establishing presumption that cancers and other health conditions contracted by workers at federal radioactive cleanup site were occupational diseases, facially discriminated against federal government and its contractors, thereby violating Supremacy Clause).

*West Virginia v. U.S. Environmental Protection Agency* (June 30, 2022) 142 S.Ct. 2587 (In promulgating Clean Power Plan (CPP), EPA exceeded statutory authority delegated by Congress; pursuant to newly-announced "major questions doctrine," in certain "extraordinary" cases involving statutes that confer authority upon an administrative agency, agency must point to clear congressional authorization for regulatory authority it claims; in §111(d) of Clean Air Act, establishing New Source Performance Standards program for stationary sources of air pollution, Congress did not grant EPA authority to devise GHG emissions caps based on "generation-shifting" approach agency took in CPP).

### Pending Cases

*Sackett v. U.S. Environmental Protection Agency*, No. 21-454, *cert. granted*, [decision below reported at 8 F.4th 1075 (9th Cir. 2021)] (Whether Ninth Circuit articulated and applied proper legal standard for determining whether portions of landowners' property are "waters of the United States" for purposes of establishing Clean Water Act §404 wetlands jurisdiction).

*National Pork Producers Council v. Ross*, No. 21-468, *cert. granted*, Mar. 28, 2022 [decision below reported at 6 F.4th 1021 (9th Cir. 2021)] (Whether California ballot initiative prohibiting sale of pork from animals confined in manner inconsistent with California humane animal standards violates Dormant Commerce Clause principles).

## U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT

### Decided Cases

*Wilkins v. United States* (9<sup>th</sup> Cir. Sept. 15, 2021) 13 F.4th 791 (Quiet title action brought against U.S. on or near national forest lands lacked subject matter jurisdiction because applicable statute of limitations was jurisdictional and had expired).

*Food & Water Watch v. U.S. Environmental Protection Agency* (9<sup>th</sup> Cir. December 16, 2021) 20 F.4th 506 (EPA arbitrarily and capriciously issued Clean Water Act permit to Controlled Animal Feeding Operations in Idaho because permit lacked sufficient monitoring conditions to ensure wastewater discharge compliance).

*Inland Empire Waterkeeper v. Corona Clay Co.* (9<sup>th</sup> Cir. September 20, 2021) 17 F.4th 825 (Because a failure to provide information about water pollution discharge violations could increase risk of harm to recreational users of nearby river, plaintiffs had standing to bring Clean Water Act citizen suit).

*Lake v. Ohana Military Communities LLC* (9<sup>th</sup> Cir. September 27, 2021) 14 F.4th 993 (In state law-based pesticide contamination case, Honolulu shares jurisdiction with federal government over Marine Corps Base Hawaii (MCBH); federal question jurisdiction did not exist and did not provide basis for case's removal to federal court).

*Upper Missouri Waterkeeper v. U.S. Environmental Protection Agency* (9<sup>th</sup> Cir. October 6, 2021) 15 F.4th 966 (Clean Water Act does not preclude EPA from taking compliance costs into account when approving pollutant discharge variance requests to approved water quality standards; regulation governing variances did not require compliance with "highest attainable condition" at outset of variance's term, nor did it require compliance with base water quality standards by end of variance's term).

*Southwest Fair Housing Council v. Maricopa Domestic Water Improvement Dist.* (9<sup>th</sup> Cir. November 12, 2021) 17 F.4th 950 (Although water utility's practice of requiring customers living in public housing to pay larger security deposit than other non-public housing customers had significant, adverse, and disproportionate effect on Black and Native American customers, and unmarried women with children, practice served legitimate business justification in significant way, and was not implemented for discriminatory reason; Fair Housing Council's disparate-impact claim under Fair Housing Act therefore fails).

*Center for Community Action and Environmental Justice v. FAA* (9<sup>th</sup> Cir. November 18, 2021) 18 F.4th 592 (FAA's NEPA analysis of construction and operation of air cargo facility at public airport was not deficient because it used single general study area to evaluate multiple potential environmental impacts; findings of significant impact in environmental impact report prepared under California Environmental Quality Act did not require FAA to prepare separate environmental impact statement under NEPA).

*Newtok Village v. Patrick* (9<sup>th</sup> Cir. December 22, 2021) 21 F.4th 608 (Following severe coastline erosion forcing Alaska Native Village to relocate to new inland location, conflict between two Village factions arose and one faction sued other in federal court; federal courts, however, lack subject matter jurisdiction because issue involved did not arise under federal law).

*Grondal v. USA* (9<sup>th</sup> Cir. December 30, 2021) 21 F.4th 1140 (Bureau of Indian Affairs, as holder of legal title to Native American lands held in trust by United States for Native Americans, has standing to bring claims for trespass and ejection against expired RV lessees on trust property).

*Western Watersheds Project v. Haaland* (9<sup>th</sup> Cir., January 5, 2022) 22 F.4th 828 (Upholding oil and gas developers' authority to intervene in environmental organizations' lawsuit challenging Bureau of Land Management's issuance of oil and gas leases in western states).

*Ballinger v. City of Oakland* (9<sup>th</sup> Cir. February 1, 2022) 24 F.4th 1287 (City of Oakland's Tenant relocation fee is not an unconstitutional taking of private property without compensation but, rather, a constitutional regulation of the landlord-tenant relationship).

*Mountain Communities for Fire Safety v. Elliott* (9<sup>th</sup> Cir. February 4, 2022) 25 F.4th 667 (U.S. Forest Service approval of commercial tree thinning in overcrowded areas of national forest for health and fire mitigation project consistent with National Forest Management Act and does not trigger NEPA environmental review requirement).

*Los Padres Forestwatch v. U.S. Forest Service* (9<sup>th</sup> Cir. February 4, 2022) 25 F.4th 649 (Logging large diameter trees on national forest lands violates Roadless Area Conservation Rule, due to lack of evidence demonstrating U.S. Forest Service applied technical expertise to conclude project complies with Rule).

*Grand Canyon Trust v. Provencio* (9<sup>th</sup> Cir. February 22, 2022) 26 F.4th 815 (In determining a uranium mine's profitability under federal Mining Act, U.S. Forest Service may ignore "sunk costs" in making Valid Existing Rights determination for mine owners).

*Navajo Nation v. USDOJ* (9<sup>th</sup> Cir. February 17, 2022) 26 F.4th 794 (Lower court erred in dismissing Navajo Nation's breach of trust lawsuit against U.S. Department of the Interior for Department's failure to consider Nation's as-yet-undetermined water rights to Columbia River Basin; district court has jurisdiction to resolve Nation's legal claims).

*Friends of Animals v. U.S. Fish and Wildlife Service* (9<sup>th</sup> Cir. March 4, 2022) 28 F.4th 19 (USFWS' experimental "barred owl removal project," which may incidentally take barred owls to protect spotted owl habitat produces "net conservation benefit" for the endangered species and is therefore permitted under ESA; this experimental program does not require new EIS under NEPA).

*Friends of Alaska Nat'l Wildlife Refuges v. Haaland* (9<sup>th</sup> Cir. March 16, 2022) 29 F.4th 432 (US. Secretary of the Interior has authority under Alaska National Interest Lands Conservation Act to approve land exchange agreement to facilitate construction of road between Native Village and

Cold Bay in Alaska; land exchange agreement balances environmental needs with economic and social needs of Alaska natives).

*B&G Foods North America v. Embry* (9<sup>th</sup> Cir. March 17, 2022) 29 F.4th 527 (Under *Noerr-Pennington* doctrine, claims brought to enforce California’s Proposition 65 constitute protected petitioning activities; however, Proposition 65 defendants may overcome plaintiff’s immunity by evincing a sham exception).

*California Chamber of Commerce v. Council for Education and Research on Toxics* (9<sup>th</sup> Cir. March 17, 2022) 29 F.4th 468 (Given the robust disagreement among scientific experts over whether acrylamide in food causes cancer, California Chamber of Commerce was likely to succeed on merits of its claim that Proposition 65-mandated warnings on food products containing acrylamide violates the First Amendment of the U.S. Constitution; injunction prohibiting California Attorney General and those in privity from filing lawsuits to enforce Proposition 65 notices on food and beverage products containing acrylamide not an impermissible prior restraint and therefore upheld).

*California Public Utilities Commission v. FERC* (9<sup>th</sup> Cir. March 17, 2022) 29 F.4th 454 (Upholding principle that PG&E’s membership in California Independent System Operator (CAISO) is voluntary; thus, FERC regulations allowing PG&E to receive “incentive adders” (upward adjustments to the company’s return on equity) to induce voluntary CAISO membership were permissible).

*National Family Farm Coalition v. U.S. Environmental Protection Agency* (9<sup>th</sup> Cir. March 17, 2022) 29 F.4th 509 (Following 2020 decision in which Ninth Circuit vacated EPA’s conditional registration of three herbicides as violating FIFRA, plaintiffs’ attorney’s fee claims should be calculated based on market rate in the legal community in which each plaintiff’s attorney is located, not where case is litigated).

*New Harvest Christian Fellowship v. City of Salinas* (9<sup>th</sup> Cir. March 22, 2022) 29 F.4th 596 (City ordinance prohibiting religious and other assemblies from operating on ground floor of buildings facing Main Street within downtown area facially violates federal Religious Land Use and Institutionalized Persons Act; however, plaintiff failed to demonstrate substantial burden on its religious exercise because of ordinance).

*350 Montana v. Haaland* (9<sup>th</sup> Cir. April 4, 2022) 29 F.4th 1158 (Department of the Interior violated NEPA by failing to provide convincing statement as to how expected emission from coal mine expansion of 190 million tons of GHGs--0.44% of the total annual GHGs emitted globally--was insignificant; DOI is required to use social cost of carbon to quantify harm to environment, and also found it unclear whether DOI had other available metric to quantify the impact of proposed project; case remanded to district court to determine whether EIS required for project).

*Central Sierra Environmental Resource Center v. Stanislaus National Forest* (9<sup>th</sup> Cir. April 4, 2022) 30 F.4th 929 (Upholding U.S. Forest Service’s authority to allow livestock grazing in Stanislaus National Forest; rather than follow California’s Porter-Cologne Act and §313 of Clean Water Act, USFS need only implement Best Management Practices and follow Management Agency Agreement which recognizes California State Water Resources Control Board as management agency to implement water management plans).

*Safari Club International v. Haaland* (9<sup>th</sup> Cir. April 19, 2022) 31 F.4th 1157 (Affirming Alaska National Interest Lands Conservation Act preserves federal government’s plenary power over public lands , including Kenai National Wildlife Refuge, in Alaska; U.S. Fish and Wildlife Service did not exceed its statutory authority in enacting the Kenai Rule, which bans baiting of Kenai Refuge brown bears or in closing Skilak Wildlife Recreation Area to certain activities; ANILCA-based federal regulations prevail over conflicting Alaska state hunting regulations).

*County of San Mateo v. Chevron Corp.* (9<sup>th</sup> Cir. April 19, 2022) 32 F.4th 733 (Affirming district court’s remand to state court multiple, state law-based climate lawsuits California local governments filed against fossil fuel companies, following companies’ attempted removal of cases to federal court; removal inappropriate because no substantial federal issue raised. The connection between defendants’ conduct on federal locations and plaintiff’s alleged injuries was too attenuated to be governed by federal law).

*Natural Resources Defense Council v. U.S. Environmental Protection Agency* (9<sup>th</sup> Cir. April 20, 2022) 31 F.4th 1203 (EPA’s denial of NRDC’s private party petition to cancel registration of glyphosate, a pesticide registered under FIFRA in the United States for use in household pet products, not supported by substantial evidence; EPA failed to provide reasoned explanation for its denial of NRDC’s petition and made several arbitrary calculations).

*Assn. des Eleveurs de Canards v. Bonta* (9<sup>th</sup> Cir. May 6, 2022) 33 F. 4th 1107 (California statute banning in-state sale of poultry products resulting from force-feeding of birds for purposes of enlarging birds’ livers beyond normal size was not preempted by federal Poultry Products Inspection Act, nor did California law violate Dormant Commerce Clause principles).

*San Francisco Herring Assoc. v. U.S. Dep’t. of Interior* (9<sup>th</sup> Cir. May 10, 2022) 33 F. 4th 1146 (Golden Gate National Recreation Area Act give National Park Service authority to regulate offshore waters; Park Service can therefore enforce commercial fishing prohibition that applies generally in national parks).

*Center for Biological Diversity v. U.S. Fish and Wildlife Service* (9<sup>th</sup> Cir. May 22, 2022) 33 F.4th 1202 (U.S. Fish and Wildlife Service’s decision to approve open-pit copper mining plan of operations based on its incorrect assumption that company’s mining claims were valid under federal Mining Law was arbitrary and capricious).

*Environmental Defense Center v. Bureau of Ocean Energy Management* (9<sup>th</sup> Cir. June 3, 2022) 36 F. 4th 850 2022 (Federal Bureau of Ocean Energy Management (BOEM) violated National Environmental Policy Act when it prepared environmental assessment (EA) and finding of no significant impact (FONSI) regarding federal proposal to allow oil well stimulation treatments,

including fracking, off coast of California; BOEM's EA was inadequate because it failed to take "hard look" at potential environmental consequences as mandated by NEPA, and a full environmental impact statement was warranted; BOEM further erred by failing to undertake consultation with federal wildlife agencies as required under Endangered Species Act, and by failing to undertake federal consistency review as mandated under Coastal Zone Management Act).

*Natural Resources Defense Council v. U.S. Environmental Protection Agency* (9<sup>th</sup> Cir. June 17, 2022) 38 F. 4th 34 (EPA's denial of petition to cancel registration of pesticide due to safety concerns invalidated as contrary to EPA's own prior assumptions and statements and was not supported by substantial evidence).

*Apache Stronghold v. United States* (9<sup>th</sup> Cir. June 24, 2022) 38 F.4th 742 (Federal government's conveyance of lands sacred to Apache nation to mining companies did not violate Religious Freedom Restoration Act or Free Exercise Clause of U.S. Constitution).

*California River Watch v. City of Vacaville* (9<sup>th</sup> Cir. July 1, 2022) 39 F.4th 624 (City violated federal Resource Conservation and Recovery Act by transporting the industrial chemical and human carcinogen hexavalent chromium through its drinking water distribution system).

*City & County of Honolulu v. Sunoco* (9<sup>th</sup> Cir. July 7, 2022) 39 F.4th 1101 (City and County of Honolulu's climate change damage actions against oil and gas companies based on state tort claims should be decided in state court rather than federal court; companies' attempted removal of case to federal court deemed improper and case remanded to state court).

*Tulelake Irrigation Dist. v. U.S. Fish & Wildlife Service*, (9<sup>th</sup> Cir. July 18, 2022) 40 F.4th 930 (Federal Kuchel Act requires U.S. Fish and Wildlife Service to regulate pattern of leasing in federal wildlife refuges to ensure consistency with proper waterfowl management; Kuchel Act characterizes waterfowl management, not agriculture, as major purpose of wildlife refuges at issue).

*Audubon Society of Portland v. Haaland* (9<sup>th</sup> Cir. July 18, 2022) 40 F.4th 917 (U.S. Fish and Wildlife Service, by adopting combined environmental impact statement and comprehensive conservation plan for two national wildlife refuges, did not violate National Wildlife Refuge System Improvement Act, Kuchel Act, or NEPA; nor did USFWS act arbitrarily and capriciously by authorizing continuation of current pattern of agricultural leasing).

*Audubon Society of Portland v. Haaland*, (9<sup>th</sup> Cir. July 18, 2022) 40. F.4th 967 (U.S. Fish and Wildlife Service did not act in an arbitrary, capricious, or otherwise unlawful manner by adopting Comprehensive Conservation Plan for five National Wildlife Refuges in Klamath Basin National Wildlife Refuge Complex; USFWS took a sufficiently "hard look" at pesticide impacts and effects of managed livestock grazing on sage-grouse and suckerfish; USFWS also considered reasonable range of alternatives in continuing managed livestock grazing, and so did not violate NEPA).



*California State Water Resources Control Board v. Federal Energy Regulatory Commission* (9<sup>th</sup> Cir. August 4, 2022) \_ F.4th \_ . 2022 D.A.R. 8383 (California State Water Resources Control Board was not engaged in coordinated effort with hydroelectric water project applicants to delay federal certification under Clean Water Act section 401 because the Board merely acquiesced in the applicants’ decisions; therefore, the Board had not waived its authority to issue section 401 certifications for those applicants).

### **Pending Cases**

*Pascua Yaqui v. U.S. Environmental Protection Agency* (D. Az. August 30, 2021) (Whether district court properly vacated Trump Administration’s “Navigable Water Protection Rule” upon granting of EPA’s motion for voluntary remand).

*Center for Food Safety v. Wheeler* (9<sup>th</sup> Cir. No. 19-72109) (Whether U.S. Environmental Protection Agency’s registration of pesticide sulfoxaflor violates Endangered Species Act and/or Federal Insecticide Fungicide and Rodenticide Act).

*County of Maui v. Chevron USA Inc.* (9<sup>th</sup> Cir. No. 21-15318) [decision below reported at 2021 WL 531237] (Whether fossil fuel companies are financially liable under state common law principles, including public nuisance, negligence, and trespass, for impacts of climate change).

*California Restaurant Assn. v. City of Berkeley* (9<sup>th</sup> Cir. No. No. 21-16278) [decision below reported at 547 F.Supp.3d 878] (whether City of Berkeley ordinance banning natural gas piping in most new buildings is preempted by the federal Energy Policy and Conservation Act).

## **OTHER NOTABLE U.S. CIRCUIT COURT OF APPEALS CASES**

### **Decided Cases**

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### **Pending Cases**

*State of California v. Wheeler*, No. 20-1357 (D.C. Cir.) (Whether Environmental Protection Agency’s rollback of Obama-era methane rules promulgated under Clean Air Act is arbitrary and capricious, in violation of Administrative Procedure Act).

*District of Columbia v. Exxon Mobil Corp.*, No. 1:20-cv-01932 (D.C. Cir.) (Whether oil and gas companies violated federal Consumer Protection Procedure Act by misleading consumers regarding companies' central role in causing climate change).

*Texas v. EPA*, No. 22-1031 (D.C. Cir.) (Whether EPA's revised GHG standards for light-duty vehicles for model years 2023-2026 are unlawful, including because, under the "Major Questions" doctrine, Section 202 of the Clean Air Act provides no clear statement delegating to EPA the authority to establish vehicle standards that force a shift away from the internal combustion engine to electric vehicles).

*Ohio v. EPA*, No. 22-1081 (D.C. Cir.) (Whether EPA's grant of a waiver of federal preemption under Section 209 of the Clean Air Act allowing California to enforce its own GHG and zero-emissions vehicle standards for light-duty vehicles is unlawful because (i) Section 209 violates the Equal Sovereign Doctrine, (ii) such state standards are preempted by NHTSA's authority to establish fuel economy standards, and (iii) the Clean Air Act provides no clear statement delegating to EPA the authority to cause a shift to electric vehicles).

*Viasat Inc. v. FCC*, No. 21-1123 (D.C. Cir.) (Whether FCC may grant permission to plaintiffs' competitor SpaceX to bring thousands of satellites into low-earth orbit without environmental review).

*Illinois Commerce Commission v. Federal Energy Regulatory Commission*, No. 20-1645 (7th Cir.) (Whether FERC's order directing PJM Interconnection to expand its Minimum Offer Price Rule to include generators that receive state subsidies, a resource class largely composed of renewables, violates Federal Power Act).

*Upstate Forever v. Kinder Morgan Energy Partners*, No. 17-1640 (4th Cir.) (Whether NPDES permit is required under Clean Water Act when ruptured underground pipe discharges petroleum to groundwater that has direct hydrological connection to nearby surface water tributaries and wetlands).

## **CALIFORNIA SUPREME COURT**

### **Decided Cases**

*Presbyterian Camp & Conf. Centers, Inc. v. Superior Court of Santa Barbara*, (Dec. 27, 2021) 12 Cal.5th 493 (Corporation whose employee negligently or unlawfully started fire should be held vicariously liable for cost of suppressing the fire; Cal. Health & Safety Code §§13009 and 13009.1, under which California's Department of Forestry and Fire Protection sought recovery for government fire suppression costs, incorporate common law theory of respondeat superior).

*County of Butte v. Department of Water Resources*, (August 1, 2022) \_ Cal.5th \_, 2022 WL 3023670 (Federal Power Act (FPA) does not categorically preempt application of California Environmental Quality Act (CEQA) when state is acting on its own behalf and exercising its discretion in deciding to pursue federal licensing for hydroelectric dam project; issue of whether FPA preempts state court challenges to state environmental impact report prepared under CEQA to comply with Clean Water Act section 401's federal water quality certification requirements, was not properly presented and therefore not addressed by the court).

### **Pending Cases**

*Chevron USA v. County of Monterey*, No. S271869 [superseded Court of Appeal decision previously reported at (2021) 70 Cal.App.5th 153] (Whether state law governing oil and gas operational methods and practices preempt county ordinances banning land uses in support of new oil and gas wells).

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# Recent Environmental Law Developments in SCOTUS, 9<sup>th</sup> Circuit Court of Appeals, and the California Supreme Court

## Speaker Biography's

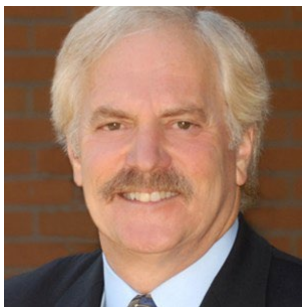
**Moderator: Richard Frank**, Professor of Environmental Practice and Director of the California Environmental Law & Policy Center at UC Davis School of Law

Richard Frank is Professor of Environmental Practice and Director of the California Environmental Law & Policy Center at the University of California, Davis School of Law. There he teaches courses in water law, environmental law, natural resources law, ocean and coastal law, comparative environmental law and related topics.

From 2006-2010, Frank served as Executive Director of the Center for Law, Energy & the Environment and as a Lecturer in Residence at the U.C. Berkeley School of Law.

From 1977-2006, he served in various legal capacities with the California Department of Justice, culminating as Chief Deputy Attorney General for Legal Affairs (2003-06). During most of his career with the Department, Frank focused on constitutional, environmental, land use, water and public land management issues.

Since leaving the California Department of Justice in 2006, Frank has served on a number of California state policymaking and advisory bodies. He served on the Board of Directors of the California High Speed Rail Authority from 2013-15. Mr. Frank received his law degree from the University of California at Davis in 1974.



**Speakers:**

**Rachael Salcido**, Professor of Law, University of the Pacific McGeorge School of Law

Professor Rachael Salcido began her academic career at McGeorge School of Law in 2003. She regularly teaches courses in property, environmental law, natural resources law, ocean and coastal law, and climate change. She is the founder and co-director of the Water and Environmental Law Certificate of Concentration, through which she helps students pursue their interest in environmental law and connects students with careers in the field. Professor Salcido's scholarship explores the relationship between public participation and environmental law. She has recently published on issues related to plastic pollution and environmental justice. She is currently serving as President of the Foundation for Natural Resources and Energy Law (formerly Rocky Mountain Mineral Law Foundation). Professor Salcido is a graduate of U.C. Davis King Hall School of Law and formerly practiced environmental law in San Francisco.



**Holly Doremus**, Professor of Environmental Regulation and Co-Director, Law of the Sea Institute, UC Berkeley Law

Holly Doremus is the James H. House and Hiram H. Hurd Professor of Environmental Regulation at the University of California, Berkeley; Director of the Law of the Sea Institute; and Co-Faculty Director of the UC Berkeley Institute for Parks, People, and Biodiversity. She is an elected Fellow of the American Association for the Advancement of Science. She holds a B.S. in biology from Trinity College (Hartford, CT), Ph.D. in plant physiology from Cornell University, and J.D. from UC Berkeley. Her scholarship focuses on biodiversity protection, water law, the intersection between property rights and environmental regulation, and the interrelationship of environmental law and science.



**Kevin Poloncarz, Partner, Covington & Burling LLP**

Kevin Poloncarz is a partner with Covington & Burling LLP. He is ranked by *Chambers* among the nation's top five climate change lawyers and California's top eight environmental lawyers. On behalf of a coalition of major power companies, he argued the key statutory point upon which the D.C. Circuit struck down the Trump Administration's repeal of the Clean Power Plan, and then represented those companies in last term's landmark climate case, *West Virginia v. EPA*. He is on the board of the Environmental Law Institute and the Center for Applied Environmental Law and Policy; a fellow and regent of the American College of Environmental Lawyers; and on the advisory board and council of NYU School of Law's Institute for Policy Integrity at and State Energy and Environmental Law Center. A graduate of the University of Chicago Law School, this coming spring he will be teaching the Climate Law & Policy course at Stanford Law School.

