

DEBORAH A. SIVAS

Home

1200 College Avenue
Palo Alto, California 94306
(650) 424-9612

Work

559 Nathan Abbott Way
Stanford, California 94305
(650) 723-0325

EDUCATION

Stanford Law School

Doctor of Jurisprudence (1987)
With Distinction

University of California, Davis

Master of Science in Ecology (1984)
Concentration in Environmental Public Policy
Admitted to PhD program

Occidental College

Bachelor of Arts in Biology (1982)
Minor in Philosophy
Magna Cum Laude
Phi Beta Kappa (1981)

EXPERIENCE

1997 - present

Professor of Law and Clinic Director

Environmental Law Clinic
Stanford, California

Supervise student clinicians in representation of non-profit clients before state and federal agencies and courts, with a substantive focus on conservation of coastal and marine resources, protection of indigenous species and imperiled habitat, management of public lands, and emerging climate change issues; teach coastal law, policy and science course; occasionally guest lecture in other courses.

1996-1997

Principal

Gunther, Sivas & Walthall (dba Conservation Law Project)
San Francisco, California

Represented non-profit environmental organizations and grassroots citizen activists in administrative proceedings and litigation; worked with clients on developing public education/outreach campaigns.

1994-1996

Founding Legal Program Director

The Lands Council/Sierra Club Legal Defense Fund (now Earthjustice)
Seattle, Washington

Built legal program for Spokane-based umbrella forestry organization and, in partnership with Sierra Club Legal Defense Fund, developed litigation strategy for a network of grassroots groups in Eastern Washington, North Idaho, and Western Montana; litigated federal court cases targeted at reform of public land

management; provided training and legal support to citizen advocates and watchdog groups on administrative appeals and potential litigation; monitored and participated in regulatory and legislative developments affecting management of public lands; advised board and staff regarding miscellaneous legal issues.

1988 - 1994

Environmental Attorney

Heller, Ehrman, White & McAuliffe
San Francisco, California

Counseled private and public entities regarding compliance with broad range of federal and state environmental laws; negotiated with regulatory agencies regarding environmental cleanup and enforcement; provided written comments and oral testimony on state and federal used oil recycling, hazardous waste treatment, and other environmental regulatory matters; litigated in state and federal court under environmental and common law; handled several *pro bono* engagements.

1987-1988

Law Clerk

District Judge Judith N. Keep
U.S. District Court, Southern District of California

1986-1987

Graduate Research Assistant

Professor Robert C. Ellickson
Stanford Law School

Assisted in research and writing of *A Hypothesis of Wealth-Maximizing Norms: Evidence from the Whaling Industry*, 1989 JOURNAL OF LAW, ECONOMICS AND ORGANIZATION 83.

Summer 1986

Summer Law Clerk

Natural Resources Defense Council
San Francisco, California

Assisted attorney and resource specialist on legal and policy issues related to the federal Reclamation Reform Act of 1982 and agricultural water use in California; drafted FOIA appeals.

Summer Law Clerk

U.S. Environmental Protection Agency
Washington, D.C.

Drafted responses to comments regarding proposed underground storage tank regulations for publication in Federal Register; researched a variety of other environmental issues for Office of General Counsel.

Summer 1985

Summer Law Clerk

District Judge Thelton E. Henderson
U.S. District Court, Northern District of California

1983 - 1984

Graduate Research Assistant

Golden Empire Health Planning Center
Sacramento, California

Conducted extensive research and onsite interviews with local government officials in San Francisco Bay Area regarding legal strategies for managing hazardous materials used and generated by the electronics industry.

REPRESENTATIVE CASES

Center for Biological Diversity v. U.S. Dept. of the Interior, Case No. 07-1247 (D.C. Cir. 2008): Drafted *amicus* brief on behalf of two prominent academic resource economists on the issue of monetizing carbon emissions in challenge to five-year plan for offshore oil leasing; case pending.

Center for Biological Diversity v Brennan, Case No. C 06-7062 SBA (N.D. Cal. Aug. 21, 2007): Filed significant substantive *amicus* brief and supporting whistleblower declaration on behalf of Senator John Kerry and U.S. Representative Jay Inslee in successful challenge to administration's failure to prepare second National Assessment on Climate Change as required by Global Change Research Act.

Pacific Rivers Council v. Cal. Department of Fish and Game, Case No. 06CS01451 (Sacramento Superior Court, July, 2007): Successfully challenged State of California's failure for decades to prepare environmental impact report under CEQA for its trout stocking activities, which have decimated native amphibian and fish species.

Center for Biological Diversity v. National Highway Traffic Safety Administration, Case No. 06-71891 (9th Cir., filed Apr. 12, 2006): Successfully challenged NHTSA's failure to consider climate change impacts in setting new corporate average fuel economy standards for light trucks and SUVs.

California Native Plant Society v. U.S. Environmental Protection Agency, 2007 WL 2021796, Case No. C-06-3604 MJJ (N.D. Cal., July 10, 2007): Obtained preliminary injunction in NEPA and ESA challenge to three federal agencies' failure to evaluate cumulative impacts from regional development plan on vernal pool habitat occupied by four highly endangered species; case ongoing

Pit River Tribe v. U.S. Forest Service, 469 F.3d 768 (9th Cir. 2006): Successfully litigated environmental and Indian law claims to protect Native American sacred site in northeastern California from industrial development.

Friends of Hope Valley v. U.S. Forest Service, 203 Fed. App. 883 (9th Cir. 2006): Litigated motorized vs. non-motorized user conflict claims under NEPA, NFMA and other environmental statutes; matter partially remanded to agency; appeal dismissed for lack of finality.

Massachusetts v. U.S. Environmental Protection Agency, Case No. 05-1120 (U.S. 2006): Authored *amicus* brief to Supreme Court on behalf of four former EPA Administrators in support of states' successful argument that Clean Air Act provides statutory authority for regulation of greenhouse gas emissions.

Rapanos v. United States, 126 S.Ct. 2208 (2006): Authored *amicus* brief to Supreme Court on behalf of four former EPA Administrators in support of long-standing federal interpretation of phrase "waters of the United States" under the Clean Water Act.

Northwest Environmental Advocates v. U.S. Environmental Protection Agency, --- F.3d ----, 2008 WL 2813103 (9th Cir. July 23, 2008): Successfully litigated challenge to EPA's exemption of vessel discharges from NPDES permitting requirements under the Clean Water Act; appeal pending.

Center for Biological Diversity v. U.S. Bureau of Land Management, 422 F. Supp. 2d 1115 (N.D. Cal 2006) and Slip op., Case No. C 03-2509 SI (Aug. 30, 2004): Successfully litigated challenge to federal agency's Mojave Desert management plan for failure to protect endangered desert tortoise habitat from impacts caused by off-road vehicles and cattle grazing.

National Parks and Conservation Association v. Bureau of Land Management, Case No. ED CV 00-0041 RT (C.D. Cal. Sept. 20, 2005): Successfully litigated challenge to federal land exchange that will facilitate development of world's largest solid waste landfill adjacent to Joshua Tree National Park; appeal pending.

The Ocean Conservancy v. U.S. Environmental Protection Agency, Case No. C-04-1319 WHA (N.D. Cal. Nov. 30, 2005): Successfully negotiated settlement in case seeking to compel listing of certain California waterbodies as "impaired" under the Clean Water Act by invasive species; historic settlement in which EPA agreed for first time to consider invasive species as pollutants under the Clean Water Act.

Center for Biological Diversity v. U.S. Forest Service, 349 F.3d 1157 (9th Cir. 2003): Successfully litigated challenge to adequacy of federal agency's environmental review for southwestern goshawk management plan.

Ventura County Commercial Fisherman's Assoc. v. California Fish and Game Comm'n, 2004 WL 293565 (Cal. App. 2d Dist., Feb. 17, 2004): Successfully assisted California in defending establishment of Channel Islands marine protected areas from challenge by fishing industry.

Friends of Castle Rock State Park v. California Department of Parks and Recreation, Case No. 00CS01235 (Sacramento Superior Court, June 30, 2003): Settled CEQA challenge to management plan for Castle Rock State Park with agreement that State would undertake further environmental review of impacts to wilderness resources from expanded human activities.

Turtle Island Restoration Network v. National Marine Fisheries Service, 340 F.3d 969 (9th Cir. 2003): Successfully litigated claims to obtain ESA review and consultation for impacts of high seas longline fishing fleet on endangered sea turtles; fishery subsequently closed by NMFS due to adverse impacts on listed species.

Environmental Protection Information Center v. U.S. Forest Service, Case No. C-02-2708 JCS (N.D. Cal. Sept. 5, 2003): Successfully litigated NEPA challenge to federal agency's failure to prepare environment review for fire management plan; appeal voluntarily dismissed.

Eagle v. U.S. Department of Commerce, Case No. C-01-20591-JF (N.D. Cal. Apr.28, 2003): Successfully litigated challenge to federal agency's refusal to provide public interest fee waiver under Freedom of Information Act to Stanford Fisheries Policy Project.

Voices of the Wetlands v. California Water Resources Control Board, Case No. M54889 (Cal. Superior Ct. Mar. 11, 2003): Successfully challenged Clean Water Act permit for power plant expansion, raising statutory construction issues of first impression and obtaining remand to permitting agency; cross-appeals pending.

Cal Trout v. Norton, Case No. 97-3779 SI (N.D. Cal. Feb. 26, 2003): Successfully litigated ESA challenge to Department of Interior's failure to designate critical habitat for endangered Southern California fish species; obtained historic injunction enjoining any project approval pending designation; appeal voluntarily dismissed.

San Bruno Mountain Watch v. U.S. Fish and Wildlife Service, Case No. C 00-2485 (N.D. Cal. Jan. 6, 2003): Successfully negotiated consent decree in challenge to agency's failure to reinitiate ESA consultation for declining listed species on San Bruno Mountain.

San Francisco Baykeeper v. U.S. Army Corps of Engineers, 219 F. Supp. 2d 1001 (N.D. Cal. 2002): Litigated NEPA and ESA claims related to invasive species impacts from proposed expansion of Port of Oakland.

Natural Resources Defense Council v. Daley, 209 F.3d 747 (D.C. Cir. 2000): Filed *amicus* brief on behalf of Pacific Marine Conservation Council and Alaska Marine Conservation Council in successful litigation to summer flounder fishery management plan.

National Wildlife Federation v. Babbitt, 128 F. Supp. 2d 1274 (E.D. Cal. 2000): Successfully litigated NEPA and ESA challenge to Department of Interior's approval of habitat conservation plan for north Sacramento regional development without adequate endangered species protections; case of first impression interpreting statutory criteria for HCPs.

National Parks & Conservation Association v. U.S. Department of Transportation, 222 F.3d 677 (9th Cir. 2000): Briefed and argued petition for review challenging Federal Aviation Administration's failure under NEPA to consider and mitigate invasive species impacts from proposed internationalization of Maui airport.

Turtle Island Restoration Network v. National Marine Fisheries Service, Case No. C-00-1018 MJJ (N.D. Cal. Dec. 10, 2000): Successfully negotiated settlement to close 180,000 square miles of California coastal waters to drift gillnet fishing during certain seasons to protect endangered sea turtles and marine mammals.

Inland Empire Public Lands Council v. U.S. Forest Service, 88 F.3d 754 (9th Cir. 1996): Briefed and argued challenge to agency's failure to consider cumulative population impacts for imperiled indicator species in approving series of contiguous timber sales.

Earth Island Institute v. Brown, 28 F.3d 76 (9th Cir. 1994): Briefed and argued series of successful summary judgment and injunction motions under Marine Mammal Protection Act to protect dolphins in Eastern Tropical Pacific from impacts of yellowfin tuna fishing; following successful tuna boycott/media campaign resulting in "dolphin safe" labeling, court-order import restrictions, and responsive legislative action by Congress, remainder of case dismissed by appellate court on jurisdictional grounds.

Earth Island Institute v. Christopher, 6 F.3d 648 (9th Cir. 1993): Briefed and argued Endangered Species Act challenge to shrimp fishing practices that drown sea turtles.

PUBLICATIONS

A New Vision for California Ocean Governance: Comprehensive Ecosystem-Based Marine Zoning, 27 STANFORD ENVIRONMENTAL LAW JOURNAL 209-270 (Jan. 2008) (co-author)

Local Initiatives to Implement the Endangered Species Act: The Challenge of Developing Habitat Conservation Plans in ENDANGERED SPECIES ACT & FEDERALISM: EFFECTIVE SPECIES CONSERVATION THROUGH GREATER STATE COMMITMENT (Arha and Thompson eds., Resources for the Future) (forthcoming) (co-author)

Semi-Annual Revisions, BROWNFIELDS LAW AND PRACTICE: THE CLEANUP AND REDEVELOPMENT OF CONTAMINATED LAND (LexisNexis-Matthew Bender) (from 1997-2005 reviewed and updated four-volume treatise twice a year and authored new chapters)

- Principal chapter author or co-author:

- Nature and Effects of the Brownfields Problem* (Ch. 1)

- Liability of Parties to Brownfields Transactions Under CERCLA* (Ch. 4)

- Type of Site Investigations* (Ch. 9)

- National Priorities List (NPL) Cleanups* (Ch. 12)

- EPA Prospective Purchaser Agreements and Comfort/Status Letters* (Ch. 13)

- Underground Storage Tanks and RCRA Corrective Action* (Ch. 18)

- Asbestos Cleanups* (Ch. 19)

- State Voluntary Cleanup Programs* (numerous chapters)

- Author of significant chapter edits:

- Non-CERCLA Liability and Requirements that Can Impede Brownfields Development* (Ch. 5)

- Remediation and Redevelopment of Contaminated Federal Facilities* (Ch. 14)

- Institutional Controls* (Ch. 24)

- Tax Treatment of Environmental Remediation Costs* (Ch. 30)

Brownfields Cleanup and Development in ENVIRONMENTAL LAW AND PRACTICE GUIDE (LexisNexis-Matthew Bender) (2004)

Inactive Sites – The Superfund Process in ENVIRONMENTAL LAW AND PRACTICE GUIDE (LexisNexis-Matthew Bender) (2003)

Emerging Comprehensive Regulation of Medical Waste in THE LAW OF HAZARDOUS WASTE: MANAGEMENT, CLEANUP, LIABILITY AND LITIGATION (LexisNexis-Matthew Bender) (2001)

Groundwater Pollution from Agricultural Activities: Policies for Protection, STANFORD ENVIRONMENTAL LAW JOURNAL (1987-1988)

Managing the Electronic Industry's Hazardous Waste: Technology and Economics of Alternatives to Land Disposal, a report to the California Legislature (July 1985) (co-author)

HIGH TECH AND TOXICS: A GUIDE FOR LOCAL COMMUNITIES (October 1985) (co-author)

SELECTED PRESENTATIONS AND OPINION PIECES

Panelist, *Coastal Footprints: Minimizing Human Impacts, Maximizing Stewardship*, The Coastal Society, Redondo Beach, California (July 2, 2008)

Panelist, *Managing for a Healthy California Current Ecosystem Workshop*, COMPASS, U.C. Berkeley, Boalt Hall (Apr. 14, 2008)

Panel Moderator, *Taking it to the Courts: Litigating Climate Change*, Beyond Kyoto: The Future of International Climate Change Policy, U.C. Davis School of Law (Feb. 29, 2009)

Speaker, *A New Vision for California Ocean Governance: Comprehensive Ecosystem-Based Marine Zoning?*, Environmental Forum, Woods Institute for the Environment (Feb. 28, 2008)

Panelist, *Climate Change Impacts Under NEPA*, Law Seminars International Telebriefing (Dec. 18, 2007)

Guest, *Money for Breakfast*, Fox Business Network (Nov. 19, 2007) (discussing ruling in *CBD v. NHTSA* case on CAFÉ standards, greenhouse case emissions, and global warming)

Guest, *The Mike Feder Show*, Sirius Satellite Radio's Liberal Talk Show (May 21, 2007) (discussing argument in *CBD v. NHTSA* case on CAFÉ standards, greenhouse case emissions, and global warming)

Speaker, *Global Warming in the Courts: What Comes after Massachusetts v. EPA?*, Stanford Alumni Association Event (May 19, 2007)

Speaker, *Practical Aspects of Prosecuting Citizen Suits under Key State and Federal Statutes*, Cal. State Bar, Environmental Law Section Conference, "Private Enforcement of Environmental Law," Oakland, California (May 11, 2007)

Panelist, *Massachusetts v. EPA: Are You Prepared for the New Change in Climate?*, West Legalworks Webcast (Apr. 19, 2007)

Guest, *The EPA and Emission Control*, Forum, KQED Radio (Apr. 4, 2007)

Speaker, *Global Warming in the Courts: The Search for Judicial Remedies in the Face of Federal Inaction*, Winter Quarter Energy Seminar, Woods Institute for the Environment, Stanford, California (Jan. 31, 2007)

Author, *If court won't act, Congress must tackle climate change*, San Jose Mercury News (Dec. 4, 2006)

Panelist, *Clean Water Jurisdiction Under Attack: Rapanos and Carabell*, 24th Annual Public Interest Environmental Law Conference, Univ. of Oregon School of Law (Mar. 4, 2006)

Panelist, *Environmental Law in the U.S. Supreme Court: A Panel Discussion*, Annual Environmental Law Symposium, U.C. Davis School of Law (Sept. 2004)

Speaker, *ABC's: Practical Aspects of Bringing Citizen Suits*, Cal. State Bar, Environmental Law Section Conference, "Private Enforcement of Environmental Law: Prosecuting and Defending Citizen Suits," Oakland, California (June 25, 2004)

Speaker, *Protecting Living Marine Resources*, ABA Standing Committee on Environmental Law, 32nd National Spring Conference on the Environment, "Protecting Our Oceans: Legal and Policy Responses to Declining Marine Ecosystems," Baltimore, Maryland (June 11, 2004)

Author, *Should a permit be required for ballast water discharges? Point: Counterpoint*, Great Lakes Commission Advisor (Sept/Oct. 2003)

Speaker, *Federal Environmental Policy in 2003*, Thursday Morning Dialogue (Sept. 2003)

Speaker, *The Role of Invasive Species in the "Sixth Extinction" Crisis*, Quest Scholars Program, Stanford, California (July 2003)

Speaker, *United States Supreme Court Update: Recent Developments in Federalism, 11th Amendment Immunity, Standing, and Mootness*, Cal. State Bar, Environmental Law Section Conference, "Private Enforcement of Environmental Law: Prosecuting and Defending Citizen Suits," Oakland, California (Feb. 22, 2002)

Panelist, *Starting, Managing and Sustaining Environment Law Clinics*, NAELS Conference on Ocean & Environmental Law (Mar. 9, 2000)

Moderator and Panelist, *Treaty Rights Imperiled: Tribal Perspectives on the Columbia River Salmon Crisis* and *Starting, Managing, and Sustaining Environmental Clinics*, NAELS Conference on Ocean & Environmental Law (Mar. 11, 2000)

PROFESSIONAL AFFILIATIONS AND HONORS

Recipient, California Lawyer of the Year Award (2008)

Recipient, Pit River Tribe Award of Excellence (2007)

Recipient, Stanford Graduate Service Recognition Award (2005)

Recipient, Surfrider Foundation Recognition Award (1996)

Recipient, Cal. Waste Assoc. Certificate of Recognition for Used Oil Recycling Legislation (1992)

Co-Founder and President of the Board, American Environmental Safety Institute

President of the Board, Turtle Island Restoration Network

Member, California State Bar (1988)

Member, Washington State Bar (1994)

Admitted to: All Cal. and Wash. District Courts; Second, Ninth, and D.C. Circuit Courts of Appeal; U.S. Supreme Court