

# Eric Biber

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## EXPERIENCE

**University of California, Berkeley, School of Law**, *Professor of Law*, 2012-present,  
*Assistant Professor of Law*, 2006-12.

Classes taught: Property, Environmental Law, Public Lands and Natural Resources Law, Biodiversity Law, Federal Indian Law, Energy Law, Land-Use Law, Environmental Law Writing Seminar (supervision of student scholarship in environmental law), Environmental Law Colloquium (works-in-progress environmental legal scholarship series), Environmental Law Practice Project (supervision of student drafting of amicus briefs).

**University of Chicago Law School**, *Visiting Assistant Professor of Law*, Fall 2011.

Classes taught: Environmental Law and Policy, Climate Change Law and Policy.

**University of Denver Sturm College of Law**, Denver, CO, *Adjunct Professor of Law*, Fall 2005.

Class taught: Public Lands Law.

**Earthjustice**, Denver, CO, *Associate Attorney*, 2003–06.

Litigated public lands and endangered species cases in the Intermountain West.

**Judge Judith Rogers, United States Court of Appeals, D.C. Circuit**, Washington, DC,  
*Law clerk*. 2002–03.

**Judge Carlos Lucero, United States Court of Appeals, Tenth Circuit**, Denver, CO,  
*Law clerk*. 2001–02.

## EDUCATION

**Yale Law School**, New Haven, CT. J.D., June 2001.

**Yale School of Forestry & Environmental Studies**, New Haven, CT. Masters of Environmental Science with a focus in Conservation Biology, May 2001.

**Harvard College**, Cambridge, MA. A.B. *summa cum laude* in Government, June 1995.

## PUBLICATIONS

NATURAL RESOURCES LAW: A PLACE-BASED BOOK OF PROBLEMS AND CASES (4<sup>th</sup> ed. 2018)  
(with Christine Klein, Fred Cheever, Bret Birdsong, and Alexandra Klass)

*Regulating Business Innovation As Policy Disruption: From the Model T to Airbnb*, 70 VAND. L. REV. 1561 (2017) (with Sarah Light, J.B. Ruhl, and Jim Salzman)

*Law in the Anthropocene Epoch*, 106 GEO. L.J. 1 (2017)

*Presidents, Parliaments, and Legal Change: Quantifying the Effect of Political Systems in Comparative Environmental Law*, 35 VA. ENVTL. L.J. 357 (2017) (with Sari Graben)

## PUBLICATIONS (cont.)

*The Political Economy of Decarbonization: A Research Agenda*, 82 BROOKLYN L. REV. 605 (2017) (with Nina Kelsey and Jonas Meckling)

*Presidents Lack the Authority to Abolish or Diminish National Monuments*, 103 VA. L. REV. ONLINE 55 (2017) (with Mark Squillace, Sean Hecht, and Nick Bryner)

*Looking Toward the Future of Judicial Review for Public Lands*, 32 J. LAND USE & ENVTL. L. (forthcoming 2017)

*Merging paleobiology with conservation biology to guide the future of terrestrial ecosystems*, 355 SCIENCE 594 (2017) (with Anthony D. Barnosky, *et al.*)

WILDLIFE LAW: CASES AND MATERIALS (3<sup>rd</sup> ed. 2017) (with Dale Goble, Eric Freyfogle, Fred Cheever, and Annecoos Wiersema)

*U.S. Federal Fire and Forest Policy: Emphasizing Resilience in Dry Forests*, 7 ECOSPHERE 1 (2016) (with Scott L. Stephens, Brandon M. Collins, and Peter Z. Fule).

*The National Park Service Organic Act and Climate Change*, 56 NAT. RESOURCES J. 193 (2016) (with Elisabeth Long Esposito)

*The Admissions Clause*, National Constitution Center, Interactive Constitution Project (2016) (with Thomas Colby)

*The Nature and the Scope of the Equal Footing Doctrine*, National Constitution Center, Interactive Constitution Project (2016)

*Winning Coalitions for Climate Policy*, 349 SCIENCE 1170 (2015) (with Jonas Meckling, Nina Kelsey, and John Zysman)

*When Does Legal Flexibility Work in Environmental Law?*, 42 ECOLOGY L. Q. 787 (2015) (with Josh Eagle)

Selected for republication in the *Land Use and Environmental Law Review* as one of the top ten environmental law review articles of 2015-16.

*Is the Endangered Species Act Constitutional? How the Utah Prairie Dog Case May Impact California*, STATE BAR OF CALIFORNIA ENVIRONMENTAL LAW NEWS Vol. 24, No. 1 (2015) (with Elise O'Dea).

*The Permit Power Revisited: The Theory and Practice of Regulatory Permits in the Administrative State*, 64 DUKE L.J. 133 (2014) (with J.B. Ruhl).

Selected for republication in the *Environmental Law and Policy Annual Review*, as one of top policy-relevant environmental law articles from 2014-15.

Selected for re-publication in the *Land Use and Environmental Law Review* as one of the top ten environmental law review articles of 2014-15.

*Craig and Ruhl's Model Adaptive Management Procedures Act: Proposed Amendments*, 51 IDAHO L. REV. 257 (2014)

## PUBLICATIONS (cont.)

*The Wilderness Act and Climate Change Adaptation*, 44 ENVTL. L. 623 (2014) (with Elisabeth Long).

*Management for mountain pine beetle outbreak suppression: Does relevant science support current policy?* 5 FORESTS 103-33 (2014) (with Diana Six and Elisabeth Long).

*The Challenge of Collecting and Using Environmental Monitoring Data*, 18 ECOLOGY & SOCIETY 68 (2013).

*Adaptive Management and the Future of Environmental Law*, 46 AKRON L. REV. 933 (2013).

*Cultivating a Green Political Landscape: Lessons for Climate Change Policy from the Defeat of California's Proposition 23*, 66 VAND. L. REV. 399 (2013).

*Social and Legal Effects on Monitoring and Adaptive Management: A Case Study of National Forest Grazing Allotments, 1927-2007*, 26 SOCIETY & NATURAL RESOURCES 86 (2013) (with Nathan Sayre and Greta Marchesi).

*Citizen Involvement in the U.S. Endangered Species Act*, 337 SCIENCE 802 (2012) (with Berry Brosi).

Response, *The More the Merrier: Multiple Agencies and the Future of Administrative Law Scholarship*, 125 HARV. L. REV. FORUM (2012) (on-line supplement to the HARV. L. REV.).

*Which Science? Whose Science? How Scientific Disciplines Can Shape Environmental Law*, 79 UNIV. CHICAGO L. REV. 471 (2012).

*The Problem of Environmental Monitoring*, 83 UNIV. COLO. L. REV. 1 (2011).

Honorable Mention, *Environmental Law and Policy Annual Review*, selected as one of top policy-relevant environmental law articles from 2011-12.

Selected for re-publication in the *Land Use and Environmental Law Review* as one of the top ten environmental law review articles of 2012.

*Officious Intermeddlers or Citizen Experts? Petitions and Public Production of Information in Environmental Law* (with Berry Brosi), 58 UCLA L. REV. 321 (2010).

Selected for presentation at the Stanford/Yale Junior Faculty Forum, June 2010.

Selected for re-publication in the *Land Use and Environmental Law Review* as one of the top ten environmental law review articles of 2011.

*Climate Change, Causation, and Delayed Harm*, 37 HOFSTRA L. REV. 975 (2009).

*Climate Change and Backlash*, 17 N.Y.U. ENVTL. L.J. 1295 (2009).

*Too Many Things to Do: How to Deal with the Dysfunctions of Multiple-Goal Agencies* 33 HARV. ENVTL. L. REV. 1 (2009).

Selected for presentation at the Stanford/Yale Junior Faculty Forum, June 2008.

*Ripeness and Standing in Environmental Law* (with Amanda Leiter), American Bar Association Section on Environment, Energy, and Resources Constitutional Law Committee Newsletter, Vol. 5, No. 2 (June 2009).

## **PUBLICATIONS (cont.)**

*Statistical Inference, Type II Error, and Decision-Making Under the U.S. Endangered Species Act* (with Berry Brosi), 7 *FRONTIERS IN ECOLOGY AND ENVIRONMENT* 487 (2009).

*Stopping the Conversation: Amended ESA Section 7 Regulations Put Species At Risk* (with Cynthia Drew), 36 *ECOLOGY LAW CURRENTS* 139 (2009) (online version of *ECOLOGY LAW QUARTERLY*).

*Restoring Public Trust in the Public Lands: An Agenda for the New Administration* (with Holly Doremus, Dan Farber, Rick Frank, and Joe Sax), 36 *ECOLOGY LAW CURRENTS* 159 (2009) (online version of *ECOLOGY LAW QUARTERLY*).

*The Importance of Resource Allocation in Administrative Law*, 60 *ADMIN. L. REV.* 1 (2008).

*Two Sides of the Same Coin: Judicial Review under Sections 706(1) and 706(2) of the Administrative Procedure Act*, 26 *VA. ENVTL. L.J.* 461 (2008).

*The Price of Admission: Causes, Effects, and Patterns of Conditions Imposed on States Entering the Union*, 46 *AM. J. LEGAL HIST.* 119 (2004).

*Habitat Analysis of a Rare Dragonfly (Williamsonia lintneri) in Rhode Island*, 9 *NORTHEASTERN NATURALIST* 341 (2002).

*Patterns of Endemic Extinctions Among Island Bird Species*, 25 *ECOGRAPHY* 661 (2002).

Comment, *The Application of the Endangered Species Act to the Protection of Freshwater Mussels: A Case Study*, 32 *ENVTL. L.* 91 (2002).

Case Note, *A House with a View*, 109 *YALE L.J.* 849 (2000).

Note, *Exploring Regulatory Options for Controlling the Introduction of Non-Indigenous Species to the United States*, 18 *VA. ENVTL. L.J.* 375 (1999).

## **PRESENTATIONS AND AWARDS**

“The Political Economy of Decarbonization: A Research Agenda,” Federal Institute of Technology, Zurich, Switzerland, November 2017.

“The Political Economy of Decarbonization: A Research Agenda,” Climate Policy Workshop, University of California, Berkeley, October 2017.

“Law in the Anthropocene Epoch,” Georgetown Law School, Environmental Law Workshop, February 2017.

“Keeping It *All* In the Ground,” American Association of Law Schools, Section on Natural Resources and Environmental Law, Annual Conference Presentation, San Francisco, January 2017 (paper selected through peer review process for presentation) (with Jordan Diamond).

“The Future of Public Lands Law and the Courts,” Florida State University, Conference on Environmental Law Without Courts, September 2016.

## **PRESENTATIONS AND AWARDS (cont.)**

Co-organizer and participant, workshop on “Climate policy leadership by California and Germany,” AHEAD (collaborative project between Resources for the Future, UC Berkeley, and the Potsdam Climate Institute), Berlin, Germany, May 2016.

“Law in the Anthropocene Epoch,” University of Denver Law School, Environmental Law Workshop, March 2016.

“The Political Economy of Decarbonization: A Research Agenda,” at the Trager Symposium on The Post-Carbon World: Advances in Legal and Social Theory, Brooklyn Law School, February 2016.

“The Permit Power Revisited: The Theory and Practice of Regulatory Permits in the Administrative State,” Environmental Law Institute and Vanderbilt Law School, February 2016 (paper selected by leading practitioners and policymakers as one of top policy-relevant environmental law articles of 2014-15).

Presenter, Symposium on Conservation Paleobiology, University of California, Berkeley, September 2015.

Presenter, Conference on “The Constitution and the Administrative State,” Stanford Law School, April 2015.

Participant, Workshop on “Predicting Legal Outcomes,” Stanford Law School, May 2015.

Presenter, workshops on permitting programs and design hosted by the Administrative Conference of the United States, Washington, DC, January-February 2015.

Invited participant, workshop on “The Model Adaptive Management Procedures Act,” George Washington University Law School, Washington, DC, September 2014.

“When Does Legal Flexibility Work in Environmental Law?” Searle Roundtable on Climate Change and Natural Preservation, Northwestern University Law School, July 2014.

“The Wilderness Act and Climate Change”, Conference on The Wilderness Act at 50, Invited Presenter, Lewis and Clark Law School, Portland, Oregon, April 2014.

Junior Environmental Law Scholars Workshop, Invited Senior Faculty Commentator, Lewis and Clark Law School, Portland, Oregon, April 2014.

“The Problem of Environmental Monitoring,” Environmental Law Institute and Vanderbilt Law School, February 2013 (paper selected by leading practitioners and policymakers as one of top policy-relevant environmental law articles of 2011-12).

The Endangered Species Act at 40, Plenary Session Presenter, The Wildlife Society, Western Section, Annual Conference, Sacramento, California, January 2013.

“Citizen Involvement in the U.S. Endangered Species Act,” Presented at Panel on Endangered Species Act Implementation: Successes and Challenges, The Wildlife Society, Western

Section, Annual Conference, Sacramento, California, January 2013.

## **PRESENTATIONS AND AWARDS (cont.)**

Discussant, Conference on Empirical Legal Studies, Stanford Law School, November 2012.

“Adaptive Management and the Future of Environmental Law,” University of Akron Law School, Conference on the Future of Environmental and Natural Resources Law, September 2012.

“Which Science? Whose Science? How Scientific Disciplines Can Shape Environmental Law,” University of Chicago Law School, October 2011.

“Which Science? Whose Science? How Scientific Disciplines Can Shape Environmental Law,” Annual Colloquium on Environmental Law Scholarship, Vermont Law School, South Royalton, Vermont, September 2011.

“The Problem of Environmental Monitoring,” Soil and Water Conservation Society annual meeting, Washington, DC, July 2011.

“Which Science? Whose Science? How Scientific Disciplines Can Shape Environmental Law,” Law and Society conference, San Francisco, California, June 2011.

“Which Science? Whose Science? How Scientific Disciplines Can Shape Environmental Law,” University of Maine, School of Law, Portland, Maine, May 2011.

“The Globalization of Forest Law,” Federal University of Rio Grande do Sol, Porto Allegre, Brazil, March 2011.

“The Globalization of Forest Law,” Federal University of Parana, Curitiba, Brazil, March 2011.

“Environmental Law’s Monitoring Problem,” Emory Law School, Atlanta, Georgia, October 2010.

“Environmental Law’s Monitoring Problem,” Annual Colloquium on Environmental Law Scholarship, Vermont Law School, South Royalton, Vermont, October 2010.

“Officious Intermeddlers or Citizen Experts? Petitions and Public Production of Information in Environmental Law,” Stanford/Yale Junior Faculty Forum, Yale Law School, June 2010 (paper selected through blind, peer-review process in national competition among junior legal scholars as one of two best papers in environmental law).

“Officious Intermeddlers or Citizen Experts? Petitions and Public Production of Information in Environmental Law,” Stanford University Public Law and Political Economy Conference, June 2010.

UC Regents Junior Faculty Fellow, summer 2010.

“Officious Intermeddlers or Citizen Experts? Petitions and Public Production of Information in Environmental Law,” Arizona State University, West/Southwest Junior Legal Scholars

Workshop, March 2010.

## **PRESENTATIONS AND AWARDS (cont.)**

“The Globalization of Natural Resources Law,” University of Colorado, Climate Change Works-in-Progress Symposium, August 2009.

“Climate Change and Backlash,” Natural Resource Law Teachers Conference, Rocky Mountain Mineral Law Foundation, Chico Springs, Montana, May 2009.

“Climate Change and Backlash,” Ohio State University, March 2009.

“Climate Change and Backlash,” Michigan State University, March 2009.

“Causation, Delayed Harm, and Climate Change,” Hofstra University, Conference on Energy and the Environment: Empowering Consumers, March 2009.

“The Sting of the Long Tail: Climate Change, Backlash and the Problem of Delayed Harm,” University of South Carolina, November 2008.

“The Sting of the Long Tail: Climate Change, Backlash and the Problem of Delayed Harm,” Florida State University, November 2008.

“Too Many Things to Do: How to Deal with the Dysfunctions of Multiple-Goal Agencies,” Stanford/Yale Junior Faculty Forum, Yale Law School, June 2008 (paper selected through blind, peer-review process in national competition among junior legal scholars as one of two best papers in administrative law).

“Statistical Inference, Type II Error, and Decisionmaking Under the US Endangered Species Act,” Conference on Law, Ethics, and Life Sciences, University of Louisville Brandeis School of Law, October 2007.

## **ACADEMIC AND PROFESSIONAL SERVICE**

Author, amicus brief on behalf of environmental groups in *Wilson v. County of Napa* (Cal. Ct. App., First App. Dist. Case No. A149153)

Co-author, amicus brief on behalf of environmental law professors in *Bohmker v. Oregon* (U.S. Court of Appeals for the Ninth Circuit, Case No. 16-35262)

Consultant, Administrative Conference of the United States, Summer 2015 (prepared analysis of permitting systems among federal regulatory agencies and best practices for structuring permitting systems and drafted recommendations that were adopted by the Conference for all federal agencies)

Testimony on proposed legislation for National Forests, U.S. House of Representatives, Committee on Natural Resources, Subcommittee on Federal Lands, June 2015.

Co-author, amicus brief on behalf of environmental law professors in *People v. Rinehart*, (Cal. Supreme Ct. Case No. S222620, 2015).

## ACADEMIC AND PROFESSIONAL SERVICE (cont.)

Author, amicus brief on behalf of environmental economists in *California Chamber of Commerce v. California Air Resources Board* (Cal. Ct. App., Third App. Dist., Case Nos. C075930 and C0759954, 2015).

Co-director, Cannabis Research Center, UC Berkeley (2018-present).

Law School Appointments Committee (2018-19).

Law School Task Force on Experiential Education, UC Berkeley School of Law (2014-17) (co-chair of committee doing complete review of experiential education at law school).

Environmental Law Clinic Search Committee, UC Berkeley School of Law (2014) (member of hiring committee for inaugural director of new environmental law clinic).

Director, Environmental and Energy Law Programs, UC Berkeley School of Law (2014-present).

Financial Aid Committee, UC Berkeley School of Law (member 2007-08, chair 2008-09, 2014-15).

Curriculum Committee, UC Berkeley School of Law (chair 2011-12).

Judicial Clerkship Coordinator, UC Berkeley School of Law (2008-09).

Clerkships Committee, UC Berkeley School of Law (member 2013-14).

Admissions Committee, UC Berkeley School of Law (2012-13, 2013-14).

Coordinating Committee, Teaching Institute, UC Berkeley School of Law (2013) (helped set up inaugural annual retreat for faculty and lecturers on teaching methodology).

Ciriacy-Wantrup Postdoctoral Fellowship Committee, UC Berkeley College of Natural Resources (member 2008-2014, chair 2014-present) (selection committee for postdoctoral fellowships in natural resource economics and political economy).

Peer Reviewer, *Land Use and Environmental Law Review* (2011-present).

Peer Reviewer for Oxford University Press, LexisNexis Press, West Publications, *Law and Social Inquiry*, *Conservation Biology*, *Fire Ecology*, Earthscan Press.

Proposal reviewer for Social Science and Humanities Research Council, Canada.

Supervising Attorney and Faculty Advisor, Environmental Conservation Outreach Student-Initiated Legal Services Project (2013-present) (supervised law students providing legal assistance to environmental organizations).

Co-author, amicus brief on behalf of environmental and administrative law professors in *Summers v. Earth Island Institute*, 555 U.S. 488 (2009).





## **ACADEMIC AND PROFESSIONAL SERVICE (cont.)**

Legal Advisor, Royal Government of Bhutan (2007-08) (assisted with drafting of waste management law).

## **BAR MEMBERSHIPS**

California Bar.

Colorado Bar.

Bar of the United States Court of Appeals for the Ninth Circuit.

Bar of the United States Court of Appeals for the Tenth Circuit.

Bar of the United States Court of Appeals for the D.C. Circuit.

Bar of the United States District Court for the District of Colorado.