E-Mail to Rebecca

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E-MAIL TO REBECCA

DALE D. GOBLE*

INTRODUCTION

Near the end of the last century, we hired an associate professor to teach environmental law. She left after a couple of years to return to New York and shortly thereafter e-mailed me for a recommendation on a casebook for a natural resources law course that she was preparing to teach. At the time there were three alternatives. Barlowe Burke had just published a short casebook that examined minerals, water, and timber on private lands.¹ The book did not, however, discuss either wildlife or the Endangered Species Act ("ESA")—both topics that Rebecca wished to include. Eric Pearson had also recently published a casebook that included the ESA,² but the book was at least half environmental law, and Rebecca was already teaching a full-semester introduction course to environmental law. The third alternative was the book that I have always used, George Coggins, Charles Wilkinson, and John Leshy’s Federal Public Land and Resources Law.³ Although Rebecca understood that public lands were too important to be left to Westerners, she thought that many of her students saw the United States as little changed from the famous Saul Steinberg New Yorker cover which could envision little of the country between the Hudson River and the Pacific Ocean—an exclusive focus on public lands was going to be a hard sell in The City. So I sent her some materials I had put together on wildlife and the ESA, and she cobbled together a class with her usual aplomb.

* Margaret Wilson Schimke Distinguished Professor of Law, University of Idaho. Thanks to Mike Blumm for setting up the panel, to him, Rob Fischman, Susan Kilgore, and Maureen Laflin for helpful comments on earlier versions, to Chris Taylor for helping me count, and to Reb for the loan of her name.

Rebecca—Things have changed substantially since we last discussed natural resource casebooks. There are three new casebooks on natural resources:

1. Christine A. Klein, Federico Cheever, and Bret C. Birdsong, *Natural Resources Law: A Place-Based Book of Problems and Cases*;

All three books have sidestepped the Steinberg problem since their coverage is not restricted exclusively to the public lands and federal law. Nonetheless, the books all fall within “The Tradition.”

I. THE TRADITION

In 1951, West published a new casebook by an associate professor at the University of Colorado: *Cases and Materials on the Law of Natural Resources* by Clyde Martz. The book reflected its time and the author’s residence since it focused on the creation of private rights in resources and on Western pub-

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4. There is an additional casebook in the pipeline. Eric T. Freyfogle is working on *NATURAL RESOURCES LAW: PRIVATE RIGHTS AND COLLECTIVE GOVERNANCE* (forthcoming 2007).
9. The book brought together materials on the acquisition of water rights (41% of total pages), acquisition of mineral rights through location and lease (39%), acquisition of public lands (4%), the rights and liabilities associated with resource development (4%), and conservation (10%)—understood as restrictions on “wasteful exploitation of... natural resources.” *Id.* at 994. It includes only thirteen pages (1%) on pollution and non-development uses: two pages on the National Parks, four pages on pollution of water courses as a private wrong, and seven pages on water pollution as a regulatory concern. *See id.*

Martz remained true to his position, calling the flurry of federal statutes that recreated natural resources law in the 1960s and 1970s the period of “environmental overreach.” Clyde O. Martz, *Natural Resources Law: An Historical Perspective, in NATURAL RESOURCES POLICY AND LAW: TRENDS AND DIRECTIONS 21, 24-25, 35-40* (Lawrence J. MacDonnell & Sarah F. Bates eds., 1993)—a perspective that reflects my experience of him when he was Solicitor at the Department
lic lands and their resources. You might pick up a copy sometime if you are interested in history since Martz's simple assumptions about the objectives of natural resource law and the need to rapidly develop resources so perfectly capture the Cold War mentality. Was it Amory Lovins who characterized the emphasis on rapid development of exhaustible resources such as oil as "strength through exhaustion"?

Martz's successors—the authors of what Mike Blumm calls the "subsequent generations of natural resource casebooks"—have generally built upon his structure while questioning his assumption of the law's objectives and expanding the list of resources covered. The authors of the dominant book of the next generation of casebooks—George Cameron Coggins, Charles F. Wilkinson, and (beginning with the third edition) John D. Leshy ("CWL")—also focus on Western public lands and re-
sources. But, as Coggins and Wilkinson noted in the preface to the first edition of their casebook, their perspective reflected the legal universe of 1981. While the Martz casebook was "largely devoted to . . . issues relating to whether a private entity could use or acquire ownership of federal lands or resources,"14 Coggins and Wilkinson emphasized the public nature of the resources, turning Martz's assumption into the primary inquiry, "Where lies the public interest?"15 In addition to rejecting the assumption that the law was concerned only with private development, CWL also expanded the subjects covered. They began with a history of public land law followed by two chapters on (federal) constitutional issues before concluding with seven chapters on individual resources: water, minerals, timber, range, wildlife, recreation, and preservation.16 The current, fifth edition follows the same structure with the addition of a chapter titled "Overarching Legal Doctrines"17—the public trust, National Environmental Policy Act ("NEPA"), planning statutes, and the ESA—before the chapters on individual resources.

The current crop of casebooks respond to this tradition—a new generation, reflecting the conflicted legacy of the federal legislation of the 1960s and 1970s. On the one hand, federal law (such as the ESA) has become increasingly important even where there are few federal lands. On the other hand, the broad political trend of the past two decades has been a shift in political responsibility from the federal to state governments—with a concomitant increase in the importance of state law. So, it is again a time of ferment and the result is a reexamination of the content of natural resources law and the line between it and environmental law.18

14. COGGINS & WILKINSON, supra note 13, at xxix.
15. Id. at xxii.
18. See generally Robert L. Fischman, What is Natural Resources Law?, 78 U. COLO. L. REV. 717 (2007) (examining where and how scholars draw the boundaries between natural resources law and other fields, especially environmental law).
II. REVISING THE TRADITION

The three new books—Natural Resources Law: A Place-Based Book of Problems and Cases by Christine A. Klein, Federico Cheever, and Bret C. Birdsong ("KCB"); Natural Resources Law by Jan G. Laitos, Sandra B. Zellmer, Mary C. Wood, and Daniel H. Cole ("LZWC"); and Natural Resources Law and Policy by James Rasband, James Salzman, and Mark Squillace ("RSS")—are lineal descendants of this tradition. Although they are not limited to federal lands and have increased their coverage of state law, the authors continue to emphasize federal law and to focus on discrete resources such as timber, forage, or minerals. I am going to focus on the differences between the books, rather than on their similarities, since it is the differences that are relevant in choosing among them. The differences between the books can be seen in the mix of resources covered, the perspectives that the authors have chosen to emphasize, and the "densities" of the books.

A. Different Resources

Although the casebooks cover many of the same resources, each offers a somewhat different mix:

19. KLEIN ET AL., supra note 5.
20. LAITOS ET AL., supra note 6.
22. KCB includes 20 state cases out of 129 main cases (16%); LZWC uses 23 state cases out of 80 cases (29%); RSS has 10 state cases and 73 main cases (14%). For comparison, CWL contains a single state decision among its 105 main cases (less than 1%).
23. One of the forthcoming books, FREYFOGLE, supra note 4, rejects both the dominance of federal law (and the concomitant need for federal constitutional and administrative law) and the resource-by-resource pedagogical structure. Freyfogle argues that natural resources law has six fundamental tasks: (1) dividing nature into pieces (i.e., use rights); (2) defining the elements of these rights; (3) allocating the rights; (4) resolving conflicts among users; (5) integrating the rights into landscapes; and (6) providing mechanisms to adjust and reallocate rights over time. See id. The casebook is organized by these tasks.
Table 1: Resources Covered by the Casebooks

<table>
<thead>
<tr>
<th>Resource</th>
<th>KCB</th>
<th>LZWC</th>
<th>RSS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forage</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Land</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Living Marine</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Minerals</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Multiple-Use Lands</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Parks/Monuments</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Timber</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Water</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Wetlands</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Wilderness</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Wildlife</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Wildlife Refuges</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

More importantly, the authors embed their coverage of resources within significantly different structural approaches. For example, KCB begin with a short introduction (3% of the total pages) to four recurring themes: the definition of natural resources, the definition of conservation, the differing concepts of trusts, and the importance of place. Structurally, KCB group their discussion of specific resources under three categories of land ownership: federal lands, non-federal lands, and transboundary resources. In addition to the analytical tools needed to discuss federal lands (the history of the public lands, constitutional law, and administrative law), the federal land section has three chapters on commodity resources (timber, forage, and minerals) and one chapter on land protection systems (the National Park System and the Wilderness Preservation System). The federal land section comprises 50% of the book, divided nearly evenly between the supporting materials and the resource chapters. The section on non-federal lands (13% of the book) is divided into three chapters: tribal lands, state lands, and private lands. The first two chapters examine different conceptions of trust relationships; the final chapter focuses on conservation easements and other private conservation mechanisms. The final section (33% of the book) concerns transboundary resources and is divided into four chapters: wildlife (including the ESA), water, wetlands, and wildfire. There is an intuitive feel to the tripartite division and KCB explore its implications. The final section, for example, addresses
whether transboundary resources such as water and wildlife share physical commonalities that might suggest useful legal analogies.

Like KCB, RSS follow the basic structural pattern pioneered by CWL: introduction, principles, and resources. They begin with an introductory chapter (6% of the book) entitled "Thinking About Natural Resources" that examines three broad questions: what are natural resources, why they are difficult to manage, and what tools are available to do so (including both market and non-market approaches)? They follow with three chapters that examine the history of (1) the acquisition and allocation of federal lands, (2) the federal constitutional role in resource management, and (3) administrative law. These three chapters occupy nearly 25% of the book (compared with 44% in CWL) and are designed to provide the tools for the remainder of the book. The authors then examine seven resources: wildlife and biodiversity, living marine resources, protected lands, water, forage, minerals, and timber. The seven resource chapters are 76% of the book, with individual chapters ranging from 8% (forage) to 14% (water).

LZWC offer perhaps the most significant organizational departure from The Tradition. They begin with an introduction of four chapters (23%) relatively evenly divided among market economics, biodiversity, federal constitutional and administrative law, and environmental decisionmaking (e.g., NEPA). This is followed by an extended discussion (31%) of ownership of natural resources that—after an historical introduction—is divided into chapters on federal (45%), tribal (21%), state (15%), and private (20%) ownership of land. The authors then examine commodity resources including not only timber, minerals, and water, but also land (33%). These two sections ground the study of natural resources law in property law—a perspective that is echoed and questioned in the final section on conservation, preservation, and recreation (13%). This part covers wildlife (63%), recreation (15%), wild and scenic rivers (2%), and wilderness (4%).

The books thus offer slightly different mixes in resources—though I am not sure that I would select any of the books based on the mix alone since it is possible to tailor a casebook to your

24. RASBAND ET AL., supra note 7.
needs with supplemental material. The more significant difference is the perspectives that the author's provide.

B. Different Perspectives

KCB define their casebook as "place-based"; RSS is a "law and policy" book; while LZWC fall back on the tried and true "cases and materials," though a more accurate subtitle might have been "patterns in resource ownership and regulation." As "place" implies, KCB focus on the specific. Both LZWC and RSS argue for more general patterns, but their focus differs: LZWC examine the property law origins of natural resource law by emphasizing different ownership patterns; RSS, on the other hand, are more concerned with the policy issues that help to define the field. These different foci lead to different materials: KCB's focus on place encourages a reliance on the factuality of cases; LZWC's patterns require a breadth of coverage that encourages heavily edited cases, brief excerpts, and expository writing; RSS's emphasis on policy leads to the use of fewer but longer cases and more excerpts.

KCB's goal, they write, is "to communicate... the passion and excitement of place-based learning." To that end, they include photographs and short introductory essays on the place where the main cases began. The notes following the cases also often draw attention to the relevance of place to an understanding of the cases. The apparent question is this: does place illuminate natural resource law? I think that the answer is, at least in some places, clearly yes. The law applicable to water rights in river basins such as the Colorado, the Columbia, and the Tennessee are unique—and these often transcend water to play at least some role in shaping other regional law. Similarly, resource use in the Pacific Northwest has different boundaries because of the battles that pit spotted owls against cheap timber. But, as timber production and its attendant environmental impacts move overseas, the timber industry has moved to the Southeast where it is now transforming itself into land-liquidating companies. In a globalizing economy, is acknowledging place only a romantic nod to the past, or is place

25. And, as will become apparent, the differences in topical coverage are often slight.
26. LZWC reduce many of their main cases to a page or less in the text.
27. KLEIN ET AL., supra note, at xxiii.
even more crucial? What ought to be our response to homogenization?

LZWC's focus on land and ownership as the basis of natural resources law is emphasized in a chapter that covers private ownership of land and another (in the section on commodity resources) that addresses the land resource. As the authors note, "Every chapter in this book concerns the land resource in some way." This focus leads to recurrent discussion of markets and ecosystems, and of regulation and the concomitant constitutional limits. The focus on ownership also results in a greater coverage of private resource law. For example, in addition to federal timber law, there are sections on private forestry law (and state and federal regulation of private forest lands) and state forest lands. This allows the authors to compare and contrast the different management schemes that result. The material on private forest lands, for example, has a case study of the Headwaters Forest in northern California that includes a discussion of the California Forest Practices Act—and a comparison (that refers back to the earlier materials on federal land ownership) with the National Forest Management Act and the Federal Land Management and Policy Act.

Is the crucial pattern the type of ownership, or the resource itself? That is, do differing categories of ownership—private, tribal, state, and federal—themselves create or enhance commonalities that can be useful in understanding resource management?

RSS's focus on policy leads to a book that is full of excerpts highlighting the complexity of managing natural resources in the face of pervasive uncertainties and exploring a variety of perspectives on the resulting issues. By emphasizing policy, they "seek to drive home the point that problems affecting management of a particular resource share... theoretical and practical origins" with other resources. Rather than embed the cases in a place, RSS thus push the students to see the universal—or, at least, the recurrent. Unlike LZWC, however, they focus on patterns arising from the characteristics of the resources rather than the types of ownership. Do resource management problems share commonalities that can be usefully generalized and applied? Again, I think the answer is yes.

28. Laitos et al., supra note 6, at 725.
29. Id. at 883–902.
30. Raskband et al., supra note 7, at vii.
and no. Many resources have elements of commons—water and wildlife, for example, share common property, public ownership, and capture characteristics. Does the legal experience with the differing state water law regimes suggest options for wildlife and biodiversity?

All of the books, of course, offer some of these (and other) perspectives—it is the emphases that differ.

C. Different Densities

"Density" is as close as I have managed to come to a word that explains this aspect of the books. Some books are dense with material, others are less so. Perhaps I should have called it the “treatise factor”—i.e., the extent to which some casebooks aspire to provide a comprehensive discussion of the law. But this is also a less than perfect term.

Some numbers will help to explain what I mean—since you have some familiarity with CWL, I have included the numbers from their casebook for comparison:

<table>
<thead>
<tr>
<th>Types of Material</th>
<th>CWL</th>
<th>KCB</th>
<th>LZWC</th>
<th>RSS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Cases</td>
<td>105</td>
<td>129</td>
<td>80</td>
<td>73</td>
</tr>
<tr>
<td>Note Cases</td>
<td>823</td>
<td>209</td>
<td>1364</td>
<td>528</td>
</tr>
<tr>
<td>Excerpts</td>
<td>102</td>
<td>106</td>
<td>237</td>
<td>306</td>
</tr>
<tr>
<td>Statutes[32]</td>
<td>59[33]</td>
<td>130</td>
<td>47</td>
<td>100</td>
</tr>
<tr>
<td>Pages[34]</td>
<td>1162</td>
<td>1086</td>
<td>1336</td>
<td>1258</td>
</tr>
</tbody>
</table>

These stabs at empirical research (“counting,” to be less grandiloquent) are less than perfect, of course. Note cases that are simply part of a string citation convey relatively little information; lengthy excerpts from articles, books, and other sources reveal the author's perspective better than lifting a

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31. See Appendices 1 and 2, infra.
32. This includes all legal instruments, e.g., statutes, regulations, and treaties.
33. CWL, of course, also have a statutory supplement. GEORGE CAMERON COGGIN, CHARLES F. WILKINSON & JOHN D. LESHY, FEDERAL PUBLIC LAND AND RESOURCES LAW (Supp. 2003).
34. I have included only textual pages—excluding both introductory and concluding materials such as prefaces, table of cases, and indices.
sentence or two. Nonetheless, the numbers do, I think, have some value.

KCB relies to a greater extent on main cases and statutes, while RSS relies more on excerpts from books, law reviews, other journals, and websites as well as text; LZWC falls somewhere between the other two in terms of the number of main cases and excerpts—but the authors emphasis is on breadth of coverage, at some cost in depth. The different content choices made by the authors raise several questions: is it necessary to show or can it just be said; can it just be said, or is there something else that is conveyed by cases; and is there any need for casebooks?

To make the point a bit more concretely, I will compare the books' different approaches to wildlife and the ESA. KCB's chapter on wildlife and the ESA includes twelve main cases, seventeen note cases, five excerpts, and eleven statutes in ninety-eight pages; in 106 pages, LZWC has eight main cases, 150 note cases, and nine excerpts from articles; RSS has five main cases, forty-four note cases, and thirty excerpts in 115 pages. Each of the books also covers different topics:

Table 3: Percentage of Coverage of Wildlife Topics

<table>
<thead>
<tr>
<th>Wildlife Topics</th>
<th>KCB</th>
<th>LZWC</th>
<th>RSS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Power</td>
<td>27% (26/96)</td>
<td>23% (24/106)</td>
<td>X³⁵</td>
</tr>
<tr>
<td>ESA</td>
<td>68% (65/96)</td>
<td>41% (43/106)</td>
<td>75% (87/116)</td>
</tr>
<tr>
<td>Conservation Biology</td>
<td>7% (7/96)</td>
<td>16% (19/116)</td>
<td></td>
</tr>
<tr>
<td>Private Law</td>
<td></td>
<td>11% (12/106)</td>
<td></td>
</tr>
<tr>
<td>State Law</td>
<td></td>
<td>14% (15/106)</td>
<td></td>
</tr>
<tr>
<td>Federal Statutes</td>
<td></td>
<td>15% (16/106)</td>
<td></td>
</tr>
<tr>
<td>Wildlife Commons</td>
<td></td>
<td></td>
<td>10% (12/116)</td>
</tr>
</tbody>
</table>

Each casebook also makes different uses of its sources. KCB begins the chapter with a lengthy excerpt on conservation biology, and spreads the cases through the sections on federal constitutional law (four cases) and the ESA (eight cases). In LZWC, the chapter—primarily expository text—is divided into

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five sections: private wildlife law focusing on the rule of capture and liability for wild animals (two cases), state wildlife law (one case), federal constitutional authority over wildlife (two cases), federal statutory protection for species (one case), and the ESA (two cases). In RSS, the introductory section on biodiversity relies primarily on excerpts; the second section on the history of wildlife law is a textual discussion of the relevant case law; it is not until the final section on the ESA that a student encounters a case. In addition, the case selection of main cases differs from book to book. KCB uses more "classic" and more Supreme Court cases, including Geer v. Connecticut,\textsuperscript{36} Missouri v. Holland,\textsuperscript{37} Tennessee Valley Authority v. Hill,\textsuperscript{38} and Sweet Home Chapter of Communities for a Greater Oregon v. Babbitt.\textsuperscript{39} LZWC's coverage of a broader array of topics is reflected in the cases, which include Pierson v. Post,\textsuperscript{40} a case on liability for injuries caused by wild animals kept in captivity; a case on cruelty to animals, Kleppe v. New Mexico;\textsuperscript{41} and Sweet Home. RSS includes only the Sweet Home decision in their chapter on wildlife—although they include Geer and Holland earlier in their book—preferring to present lower court decisions that raise more current issues.\textsuperscript{42} Finally, the simple number of statutes is somewhat misleading: KCB includes major portions of the ESA, sections 2–4, 7, and 9–11,\textsuperscript{43} totaling more than nineteen pages (19% of the total chapter); in comparison, RSS includes only brief excerpts of statutory language, and LZWC describes rather than quotes the statutes.

I think the choices between saying and showing, on the one hand, and breadth versus depth, on the other, are the fundamental decisions that you have to make in choosing a casebook. What do you want to emphasize? What do you want to expose your student to—statutes, cases, or excerpts from a variety of perspectives? Similarly, do you want your students to see a wider range of resources that are necessarily treated in less depth, or fewer resources that an examined in more detail? Again—like the contrast between the specifics of place and the

\textsuperscript{36} 161 U.S. 519.
\textsuperscript{37} 252 U.S. 529.
\textsuperscript{38} 437 U.S. 153 (1978).
\textsuperscript{39} 515 U.S. 687 (1995).
\textsuperscript{40} 3 Cai. R. 175 (1805).
\textsuperscript{41} 426 U.S. 529.
\textsuperscript{42} See Appendix 2, infra.
\textsuperscript{43} See KLEIN ET AL., supra note 5, at 759–823.
overarching similarities among resources at some level of abstraction—each of the casebooks offers distinctly different balances.

CONCLUSIONS

So, you are probably asking yourself at this point, what are my conclusions?

I think that your choice depends upon your teaching style and the students in your classes. When I was preparing to write my casebook, I phoned Charles Wilkinson to ask for advice. "Use cases," he said, "because they tell stories and stories engage students." KCB's emphasis on place should accentuate the story-line of the case law. But stories do not engage all students equally; for many, the policy issues are the pull of the law. For those students, RSS provides a bounty of perspectives. And LZWC is perhaps the most protean offering; they provide a smorgasbord that will allow you to construct a variety of courses that compare and contrast a number of resources.

Let me know what you decide—and how it works out.
# Appendix 1: Alphabetical List of Main Cases

<table>
<thead>
<tr>
<th>Cases</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>1000 Friends v. Land Conservation &amp; Development Comm’n (OR)</td>
<td>LZWC</td>
</tr>
<tr>
<td>ABKA Limited Partnership v. WA DNR (WA)</td>
<td>LZWC</td>
</tr>
<tr>
<td>Alaska Wildlife Alliance v. Jensen</td>
<td>LZWC</td>
</tr>
<tr>
<td>Algonquin Coal v. Northern Coal &amp; Iron (PA)</td>
<td>RSS</td>
</tr>
<tr>
<td>Alsea Valley Alliance v. Evans</td>
<td>RSS</td>
</tr>
<tr>
<td>American Colloid v. Babbitt</td>
<td>LZWC</td>
</tr>
<tr>
<td>American Horse Protection Ass’n v. Watt</td>
<td>CWL</td>
</tr>
<tr>
<td>American Rivers v. Federal Energy Regulatory Comm’n</td>
<td>CWL</td>
</tr>
<tr>
<td>Amoco Production v. Southern Ute Indian Tribe</td>
<td>RSS</td>
</tr>
<tr>
<td>Andrus v. Charlestone Stone Products</td>
<td>CWL, RSS</td>
</tr>
<tr>
<td>Andrus v. Utah</td>
<td>CWL</td>
</tr>
<tr>
<td>Arbogast v. Pilot Rock Lumber Co. (OR)</td>
<td>RSS</td>
</tr>
<tr>
<td>Arizona v. California</td>
<td>CWL</td>
</tr>
<tr>
<td>Arizona Cattle Growers v. Fish &amp; Wildlife Service</td>
<td>CWL, KCB</td>
</tr>
<tr>
<td>Avoyelles Sportsman League v. Marsh</td>
<td>KCB</td>
</tr>
<tr>
<td>Babbitt v. Sweet Home Chapter</td>
<td>CWL, KCB, LZWC, RSS</td>
</tr>
<tr>
<td>Bear Lodge Multiple Use Ass’n v. Babbitt</td>
<td>KCB, LZWC, RSS</td>
</tr>
<tr>
<td>Bicycle Trails Council v. Babbitt</td>
<td>KCB</td>
</tr>
<tr>
<td>Biodiversity Associates v. Cables</td>
<td>KCB</td>
</tr>
<tr>
<td>Bonds v. Carter (AR)</td>
<td>LZWC</td>
</tr>
<tr>
<td>Bormann v. Board of Supervisors (IA)</td>
<td>LZWC</td>
</tr>
<tr>
<td>Branson School District v. Romer</td>
<td>KCB</td>
</tr>
<tr>
<td>California v. Norton</td>
<td>KCB</td>
</tr>
<tr>
<td>California v. United States</td>
<td>CWL</td>
</tr>
<tr>
<td>California Coastal Comm’n v. Granite Rock Co.</td>
<td>CWL, KCB, RSS</td>
</tr>
<tr>
<td>Camfield v. United States</td>
<td>CWL, KCB</td>
</tr>
<tr>
<td>Cappaert v. United States</td>
<td>CWL, RSS</td>
</tr>
<tr>
<td>Castle v. Womble</td>
<td>CWL, RSS</td>
</tr>
<tr>
<td>Center for Biological Diversity v. Norton</td>
<td>LZWC</td>
</tr>
<tr>
<td>Central South Dakota Co-op Grazing Dist. v. Secretary</td>
<td>CWL, KCB</td>
</tr>
<tr>
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**Appendix 2: Table of Percentages of Shared and Unique Main Cases**

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<th>KCB (80 cases)</th>
<th>LZWC (132 cases)</th>
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<tbody>
<tr>
<td>CWL</td>
<td>[43%(45/105)]*</td>
<td>16% (13/80)</td>
<td>27% (36/132)</td>
<td>35% (25/72)</td>
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<tr>
<td>KCB</td>
<td>12% (13/105)</td>
<td>[66%(53/80)]*</td>
<td>16% (22/132)</td>
<td>13% (9/72)</td>
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<tr>
<td>LZWC</td>
<td>34% (36/105)</td>
<td>28% (22/80)</td>
<td>[56%(74/132)]*</td>
<td>33% (23/72)</td>
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<tr>
<td>RSS</td>
<td>24% (25/105)</td>
<td>11% (9/80)</td>
<td>17% (23/132)</td>
<td>[35%(25/72)]*</td>
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</tbody>
</table>

* Unique cases; all four casebooks share only three main cases.