

# Tap into the law review literature – or better yet, submit an article!



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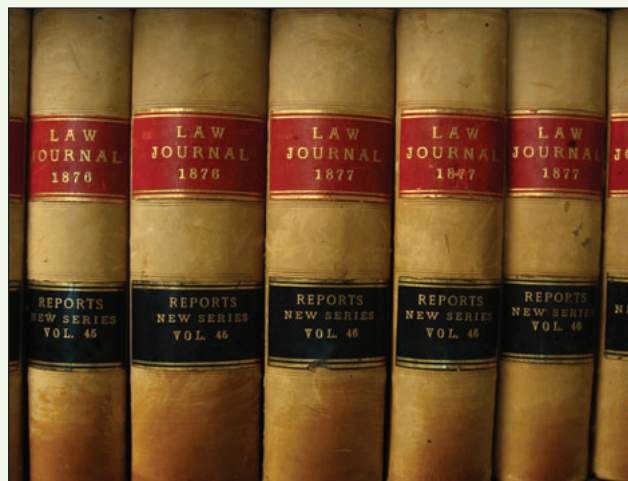
I study ecology because I am fascinated by the natural world, I am deeply concerned about its health, and I believe that by studying it, I can do more to protect it. I was therefore unnerved when Houck (2003) explained how the reluctance of scientists to engage in science–policy dialogue often means that their work is discounted when environmental policy decisions are made. As a graduate student, I am keenly aware of the need to establish an objective reputation, but I also fear that peer-reviewed research is too often inaccessible to non-scientific audiences. To bridge this gap, I recently tried an unconventional and largely unexplored channel of communication: I published in a law review journal (McGarvey and Marshall 2005). The law review literature is a preeminent source of policy information, and I have learned a great deal simply by reading it. However, publication has resulted in further benefits.

Publishing in the law review literature has allowed me to speak directly to policy makers, thereby minimizing third-party misinterpretation. This is important, because “scientific studies often command great respect in [policy] deliberations, especially if the source appears neutral and...accurate” (Wagner 1999). It has also increased the visibility of my work, which has been cited in subsequent law articles, and has led to invitations to speak at several policy forums. Obviously, the decision to publish in law journals depends on your career goals, and I would caution that some scientists may criticize your efforts. In particular, you must guard your objectivity and explain the consequences of various policies, without advocating specific ones. You must also adhere to self-imposed time limits, or your primary research will suffer. That said, if you are interested in environmental policy, you should know that familiarity with the law review literature is a “must-have” skill that can distinguish you from your peers. To get you started, I’ve summarized some key points below.

First, identify the most relevant sources. Some of the best environmental work is published in *Environs*, *Environmental Law*, *Ecology Law Quarterly*, *Tulane Environmental Law Journal*, *Harvard Environmental Law Review*, *Pace Environmental Law Review*, and *Stanford Environmental Law Journal*. This list is not exhaustive,

nor do all environmental articles appear in journals with an explicitly environmental emphasis; most of the non-specialized reviews (eg *University of Pennsylvania Law Review*) also publish cutting-edge environmental work. It is therefore a good idea to consult a legal database before sitting down to read. For example, the “Legal Research” portal of LexisNexis (which is widely available through university and public libraries) will allow you to navigate the literature via keyword searches, and will provide the complete text of most articles. Or, if your university has a law school (check on borrowing privileges at the library – you probably have some), you can reference the *Environmental Law Reporter–Index Volume*, which catalogues all law review articles by year, subject, and author.

Next, become familiar with the format of law reviews. Law journals are more literary than their scientific counterparts. They are a forum for expert opinions and rebuttals, which are often 50–100 pages in length. They also use footnotes extensively, to reference supporting documents (such as in-text citations) and sequester technical or lengthy material that might otherwise derail the reader’s train of thought. Getting used to footnotes takes effort, but two inexpensive references will facilitate the process. Most importantly, you will need a copy of *The bluebook: a uniform system of citation* (Cambridge, MA: Harvard Law Review Association). The “Introduction” and “General rules of citation and style” chapters outline the essentials of legal citation; more specialized material can be located through the index. You will also want copies of any relevant statutes, which are debated at length in law reviews. For instance, if you are researching water-quality policy, you will need copies of the *Clean Water Act* and



*National Environmental Policy Act*. These and most other major US environmental statutes are in *Selected environmental law statutes – educational edition* (St Paul, MN: West Group). Both texts are available at [www.lawbooks.com](http://www.lawbooks.com).

Okay. You're reading law reviews and thinking of publishing an article. Here is some indispensable advice for the writing phase of the process:

- (1) Remove all non-essential jargon and technical material. When it is essential, you must explain it with exquisite clarity. For example, to reference a linear regression analysis, you must explain what least-squares lines, correlation coefficients, and *P*-values are, in a way that can be understood by audiences with no statistical training.
- (2) Do not shoehorn your article into a science journal format. This is an opportunity to sharpen your general writing skills, so be conversational. Articulate and justify your opinion, without distilling it to a *P*-value. Thoroughly discuss the problem at hand, then show how you would solve it.
- (3) Learn to use footnotes.
- (4) Have a “non-scientist” critique your manuscript; if they're overly confused, it's too technical. Then have a legal professional or law student check the formatting.
- (5) Submit your article to several journals simultaneously. This is standard practice in legal publishing and greatly expedites the review process. (Be sure to notify other journals when you accept a publication offer.)

If necessary, you can find additional instruction in Fajans and Falk (2005) and Volokh (2005). However, literature examples and *The bluebook* will provide most of what you need to know to write an effective law review article. Good luck!

## Faculty response



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McGarvey is exactly right; scientists *should* publish in the law review literature if they believe that their work could inform policy, and publishing in the legal literature is a relatively easy process. In this short comment, I want to underscore and elaborate on three points McGarvey makes.

First, by publishing in the environmental law literature, scientists can make a substantial contribution to law and policy. What scientists have to contribute, however, is not so much an analysis of competing policy proposals, as

McGarvey suggests, but instead a detailed elucidation of science-related problems created by clumsy or poorly informed legal rules. In particular, scientists are uniquely positioned to identify legal programs that (1) use science incorrectly, (2) ignore or even censor science without justification, or (3) rely on science that has not been adequately vetted to ensure its reliability. Scientists should therefore focus their law review articles on identifying legal approaches that do not make wise use of science. (In fact, McGarvey's own law review article accomplishes this goal beautifully.) For example, a scientist-authored article discussing how scientific research reveals that the Army Corps of Engineers is sometimes mistaken in treating artificial wetlands as identical to natural wetlands is more useful than an article arguing in the abstract that the US is not protecting enough natural wetlands. The latter argument depends on a number of non-scientific considerations (ie trade-offs with other social needs and economic considerations) that fall well outside the scientist's expert domain. The former argument, by contrast, would presumably be supported largely by field studies.

Second, scientists who are interested in writing articles for law reviews should consider seeking out a legal mentor or even a legal co-author. As McGarvey notes, the citation conventions, literary character of articles, and packaging of an argument for a legal audience require some familiarity with the law journal milieu. While a scientist certainly can fly solo, the task will be far easier and the article more legally complete if a lawyer serves as co-author.

Finally, publishing in the law review literature may be even easier than McGarvey suggests. There is an online submission system – ExpressO – that allows an author to submit his/her article to literally hundreds of journals at once (see <http://law.bepress.com/expresso>). Law review articles are not peer reviewed, so making multiple submissions is standard practice. There is a \$2 fee for each submission, but otherwise the ExpressO system renders the process painless. Early March and late August are the best times to submit articles. Since the journals are student-run, their article selection processes tend to be tightly compressed.

So go forth and publish!

### References

- Fajans E and Falk MR. 2005. Scholarly writing for law students: seminar papers, law review notes and law review competition papers. St Paul, MN: West Group.
- Houck O. 2003. Tales from a troubled marriage: science and law in environmental policy. *Science* **302**: 1926–29.
- McGarvey DJ and Marshall B. 2005. Making sense of scientists and “sound science”: truth and consequences for endangered species in the Klamath Basin and beyond. *Ecol Law Quart* **32**: 73–111.
- Volokh E. 2005. Academic legal writing: law review articles, student notes, seminar papers, and getting on law review. New York, NY: Foundation Press.
- Wagner WE. 1999. Congress, science, and environmental policy. *U Illinois Law Rev* **1999**: 181–286.