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Science Policy

Science Training Gives Attorneys Advantages In Working With Clients, Experts, Regulators

Attorneys with training and degrees in the sciences have advantages in the practice of environmental law, something many U.S. law firms recognize and cultivate.

Regulatory permitting and compliance, natural resource damage assessments, litigation and other legal complications can hinge at times on the details of biology, chemistry, air pollution modeling, epidemiology or other elements of science. It helps to have training in those areas, attorneys told Bloomberg BNA.

“Absolutely. That’s one of the things that we look for when we are recruiting,” said Parker Moore, a principal in Beveridge & Diamond PC, which specializes in environmental law. Moore earned a bachelor of science degree in natural resources before taking an interest in the practice of law.

A bedrock knowledge of science pays dividends in helping an attorney understand a client’s issues and mediate between a client and science consultants, who may think and talk very differently. The client may not know the science, while the science consultant, especially if from academia, may not know the legal principles.

An attorney’s science knowledge “allows you to bridge the gap between the two,” Moore said.

The result is far more efficient work with far fewer misunderstandings, he said.

Dealing With the Experts. Andrew Davis, a partner at the Shipman & Goodwin LLP law firm, similarly said clients are looking for someone who can “bridge the gap” between the client and technical experts. Davis earned advanced degrees in marine science before he went into law practice.

Shipman & Goodwin seeks more and more to have people who can speak the language of chemistry and bi-

ology and other scientific disciplines, Davis said. Many law firms are looking for that kind of knowledge, he said.

A basic advantage for the specialized attorney is in figuring out which experts to hire for a client, Davis said. He took the lead in identifying the experts needed for dealing with the 1996 North Cape oil spill off the coast of Rhode Island. Regulators estimated the spill of home heating oil killed 9 million lobsters and many birds.

“We designed a very unusual and novel lobster restoration plan,” Davis said.

The specialist also will have a better sense of when to question a regulator’s estimate of damages. The total numbers estimated for lobsters or birds or any other wildlife will be based on a number of assumptions plugged into models, and an attorney needs to understand the subject well enough to know when to challenge the models, Davis said.

When it comes to natural resource damage assessments, it is all driven by science, Davis said.

Meeting Client Expectations. Attorneys trained in science can not only help clients and technical experts understand each other but can better communicate between those parties and the regulatory agencies, said Edward McTiernan, a partner in the law firm Arnold & Porter LLP. He has degrees in biology and environmental science.

“I think I benefited greatly from playing that role in my time,” McTiernan said of the mediator role.

Arnold & Porter, with nearly 800 lawyers working in the United States and Europe, apparently places an exceptional value on science training, especially in terms of meeting client expectations. The law firm’s website includes various ways to filter a search through the firm’s attorneys, and one of those filters is by science and engineering degrees—a filter that turns up the names of more than 70 attorneys.

McTiernan, like Moore and Davis, took an interest in science first and only later, after earning his science degrees, decided to get a law degree.

McTiernan practices environmental law, but he noted that science expertise can be especially helpful for clients in several other areas as well, such as pharmaceutical regulations and toxic torts.

“It’s an increasingly specialized world,” he said.

Dealing With NEPA Details. Attorneys can find themselves working with regulators in various ways, including providing feedback on drafts of National Environmental Policy Act documents for projects.

Science training gives an attorney more credibility with the regulators’ technical experts, McTiernan said.

An attorney trained in the relevant sciences can identify gaps that need to be filled in something such as an environmental impact statement, Moore said. It may be a matter of considering all possible objections, or it may be a matter of identifying mitigation strategies to counterbalance impacts.

The most obvious goal is an impact analysis that can withstand legal challenge from project opponents. Regulators and clients alike can be frustrated by lawsuits under the National Environmental Policy Act. At the same time, the working out of those details in the impact analysis will better achieve the goals of the environmental laws, Moore said.

McTiernan offered a cautionary note about science training. Science knowledge can easily get out of date, and the attorney can put himself in the position of speaking as if he knows more than he actually does, McTiernan said.

“You have to serve as the client’s legal advocate,” McTiernan said. “You’re not their technical expert.”

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