

Why I Became A Lawyer: A Seaweed Scientist's Odyssey

By **Andrew Davis** (August 13, 2019, 4:27 PM EDT)

This article is part of a series in which attorneys reflect on the formative life experiences that helped lay the groundwork for their careers in the legal profession. In this installment, Andrew Davis of Shipman & Goodwin LLP looks back at his roots as a marine biologist.

Ever since I was a kid, spending my summers waiting for the next “best” wave to bodysurf and wading in the intertidal tidepools teeming with mysterious marine life in Nantasket Beach, Massachusetts, I have been fascinated with all things science. In fact, the threads of science have been strongly woven through all facets of my educational and legal professional journey as I complete my sixth decade on this blue planet.



Andrew Davis

As a college undergraduate in the late 1970s, I majored in biology, focusing my senior research project on the life history of the lion’s mane jellyfish. At that time, I earned my scuba certification to further my exploration of the marine environment. I haven't stopped — I have made uncountable research dives around the world, and still dive recreationally today with my grown children wherever we travel (I even spent part of my honeymoon feeding black-tipped reef sharks and moray eels in the coral reefs of Tahiti; my wife was pleased that I had my will and life insurance in order ... and that neither was needed!).

In the early 1980s, I was working on my Ph.D. in marine biology and ecology (with a focus in phycology — the study of seaweed). Thanks to my charismatic and pioneering marine biology professor and adviser, Robert T. Wilce, I had the funding and the opportunity to travel to exotic places for research.

I was able to dive among the giant kelp where the warm Indian Ocean waters meet the cold southern Atlantic Ocean waters off of Cape Agulhas, South Africa, and where the crustose coralline algae and narwhals inhabit the frigid Arctic waters off of Greenland. I was even fortunate to experience the fascinating seahorse colonies when night diving off of St. Croix, in the U.S. Virgin Islands. (Not to mention the many weekends spent leading caffeine-laden but eager participants on sunrise “swamp talks” exploring the diverse shoreline habitats of Martha’s Vineyard.)

During this period, I was also part of an international team of diverse scientists funded by “Big Oil” to work in the Arctic off the coast of northern Baffin Island, Canada, studying oil spill impacts on the chemical, biological and physical aspects of polar marine ecosystems. In addition to the fascination

(lunacy?) of scuba diving around icebergs in Arctic waters and monitoring the effects of oil spills, I was surprised to learn that at that time — prior to the Exxon Valdez oil spill in Prince William Sound, Alaska — there was no specific federal U.S. law in place requiring the cleanup of oil spills and restoration of injured wildlife and other natural resources.

I also came to realize that while science for science's sake is commendable (and need not be defended), my professional interest was in the application of science in a business and legal setting. And, while the science field work and opportunities to travel and explore exotic places were exciting, much of the follow-on lab work was, in large part, a solitary effort, and didn't afford opportunity for frequent collaboration.

Further, given the relative infancy of environmental law at that time (the U.S. Environmental Protection Agency didn't even come into existence until 1970, and most major federal environmental laws were passed in the 1970s and 1980s), many environmental lawyers were transplants from other legal practices (e.g., real estate, litigation) who did not necessarily have scientific backgrounds or training.

Thus, I foresaw a niche opportunity to combine science and law, and become an environmental lawyer. So, I finished my doctorate and headed off to law school in Washington, D.C., where I was fortunate to learn from and work with one of the preeminent environmental law professors, Arnold W. Reitze Jr., who reinforced this view and supported my development in law school and beyond.

I received my law degree the year Congress passed the Oil Pollution Act (1990) and I realized there could be an opportunity to be a translator — I could speak the languages of both scientists and lawyers, in the context of responding to and cleaning up oil spills, and determining how to assess natural resource damages and devise plans to restore the species and ecosystems impacted by oil spills.

For example, following a significant oil spill off the coast of Rhode Island in 1996, as part of the required natural resource damage assessment and restoration work, working with a leading maritime lawyer, Austin P. Olney, we assembled a team of carefully selected experts to design a novel plan to capture, mark and protect more than one million female lobsters to allow them sufficient time and opportunity to reproduce and restore the estimated 9 million lobsters killed by the spill.

This was just one of numerous oil spills I have consulted on for maritime and insurance clients around the United States. In other cases, I oversaw the cleanup and natural resource damage assessment and restoration work involving geoducks, marsh grasses and other injured resources on a tribal reservation in Puget Sound, Washington; offshore mud flat biota, shellfish beds and coastal wetlands in the Gulf of Mexico; and endangered bird species in the northern Atlantic Ocean.

Science plays an important role in the environmental, health and safety, or EHS, legal arena — from evaluating business risks from chemicals identified in soil or groundwater from site assessments conducted for real estate transactions; to advising about potential liability for human health risks from exposure to mold, asbestos, PCBs or other hazardous building materials identified in indoor air quality



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assessments at schools; to interpreting costs and liabilities associated with findings from EHS compliance audits at manufacturing facilities; to engaging and deploying experts to manage business and legal risks associated with governmental health hazard evaluations and product liability claims.

In all of these areas, there is risk — and there is risk that matters. The key role of the environmental lawyer is to help the client separate the former from the latter. Science training gives attorneys advantages in doing just that, as well as the tools to identify the “right” experts.

Toxic torts litigation, regulatory permitting and compliance matters, brownfield redevelopment, natural resource damage assessments and restoration, and other legal matters can all turn on biology, chemistry, ecology, environmental economics/statistics, epidemiology and other scientific disciplines. Science training can also help in negotiations with EHS regulatory agencies, and give an attorney credibility with the EHS regulators’ experts.

Since many EHS laws and regulations afford significant discretion to, and create presumptions in favor of, EHS regulatory agencies, deploying and demanding the use of intellectually honest science is critical, and often the only avenue of fair play for clients to strive to balance the playing field (with a nod to pop musician Thomas Dolby — “blind ‘em with science”).

Having fundamental training in science can also help an attorney better understand a client’s issues/business drivers, and facilitate their role as an intermediary between the client and its technical consultants/experts, who may speak a different language. As noted above, when we are talking about science in the law, it’s important to stress it’s science being applied to the business/legal issues, not a Ph.D. science project. It is also critical that environmental lawyers, even those with scientific backgrounds, be cautious about overstepping their role (as they say today, “stay in your lane, bro”).

Although I try to keep up with the literature and scientific developments (which is critical to stay current in my role as adjunct professor of environmental law, policy and science at Connecticut College), I am acutely aware that science advances in leaps and bounds, and much of what I learned years ago may be stale. But what hasn’t changed is the scientific method and the ability to apply scientific principles to environmental challenges — which allows me to identify, deploy and manage a network of top-notch, trusted EHS consultants and experts for our clients’ legal issues, wherever they are needed.

Today, pervasive environmental problems top political, social, business and legal agendas globally. Environmental lawyers are being asked to add value in nontraditional areas, including corporate governance/investor disclosures; climate change initiatives; renewable energy; green building; chemical reform; brownfield redevelopment and opportunity zones; and the hot topic du jour, “emerging contaminants” (chemicals that have been detected in global drinking water supplies at trace levels, and for which the risk to human health is not yet known).

These new areas of practice provide opportunities for the next generation of EHS lawyers, who will require continual learning in law and science. My advice for the “next gen”: Surround yourself with smart people, especially scientific consultants/experts. If you are the smartest person in the room — or think you are — you’re in the wrong room!

I will continue to use my science and legal training to identify and engage the right scientific team and legal colleagues to ensure I am in the “right” room for our clients. And I won’t forget that, as chair of the environmental practice group at Shipman & Goodwin, my work requiring the successful integration of law and science can all be traced back to my graduate school days as a seaweed biologist.

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