

Research for Practice

Environmental Law Clinic

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Purpose and Agenda

- Research process
- Secondary Sources
- Caselaw – Federal and State
- Administrative materials – US Code; CFR; Federal Register; EPA
- Practice materials

Pre-Research

Research is a process. Sometimes it is linear. More often it involves going backward, forward, left, right and around in circles. You have to be flexible!



“The Great Lakes fishery is critically important to the millions of anglers that use the lakes on an annual basis,” said [George] Meyer. “the unregulated ballast water discharge has had a devastating impact on the Great Lakes and has caused major financial losses to lake shore owners, and Wisconsin municipalities and industries.”

Nov. 21, 2008 Press Release National Wildlife Federation



Before you begin....

ask yourself:

Do I know enough about this area of law to:

- Determine which facts are relevant?
- Identify the legal issues?
- Figure out the controlling jurisdiction?
- Identify terms of art?

➤ If you answered “No” then....

- ❑ Use secondary sources to educate yourself
- ❑ Identify the relevant facts in your case.
- ❑ Spot the legal and factual issues.
- ❑ Determine the jurisdiction

- Then.....

Figure out keywords to use in your research

- TAPP: things, actions, people, places
 - ✓ vessels; discharge of ballast; anglers; Wisconsin
- TARP: things, actions, relief sought, persons/parties
 - ✓ Invasive species; pollutants; hearing; National Wildlife Federation/Wisconsin Wildlife Federation
- ✓ Keep a research log. There is nothing worse than realizing that you found THE quote 5 hours ago. But you can't remember where.

Am I done yet?

- As you research you may need to refine your search terms and parameters. BE FLEXIBLE!
- Update your research. Keycite or Shepard's.
 - The relevant jurisdiction may have issued a new decision this morning. YIKES!
- Double check your results – don't just run one search in Westlaw. Do a similar search in Lexis – or in PRINT!

Now that you have a research strategy....

....How do you find information?



Ask yourself...

Has someone already done this?

- Look for a research guide on environmental law (which will help you identify sources)
- Find a treatise on your subject
- Find articles on your subject

Secondary Sources

- Law Library Catalog
 - Keyword searching
 - Subject searching
 - E-Resources
- Book Lists
- Find An Article
- Journal Indexes
- Wisconsin State Law Library (for links to WI state materials)

Secondary Sources

➤ Other Library Catalogs

- University of Michigan (for non-law material)
- University of Wisconsin Law School (or a catalog in the jurisdiction relevant to your case)

Primary Law Materials

- Case Law
 - Print (use a digest)
 - Westlaw (use key numbers)
 - Lexis (use head notes)
- Identify your jurisdiction to find the relevant reporter. You need to find controlling cases – so jurisdiction matters.

Administrative Materials


- Go back to our research process. If you do not fully understand how administrative law impacts your issue, use a secondary source to familiarize yourself. It is a complicated area of practice.

Administrative Materials

- United States Code
- Code of Federal Regulations
- Federal Register (daily publication)
- Agency websites (www.epa.gov)
 - Other agencies involved with your issue?
- Looseleaf Services
- Congressional Record

Regulatory History

You may need to understand how a law or regulation developed. Track a regulation by finding citations to the State or Federal Register. You will find different iterations of the rule/regulation; summary of public comments; and, policy and guideline statements in the State/Federal Register.



Regulatory History cont'd

You may need to contact the Agency directly to obtain access to the full record – not all public comments are made available in the Register or on agency websites.

To check on federal regulations visit www.regulations.gov – a one stop shop for information on current regulations and rulemaking. May include the docket for the proposed rule.

Practice Materials

- Brief Banks – does your firm/non-profit have old briefs? Great resource – maybe the groundwork was already done.
- Practice and Procedure books
 - Written by practitioners – show you how the law works in your jurisdiction
- Form books – State and Federal
 - Useful in figuring how to craft your pleadings for a particular jurisdiction

Westlaw

1-800-850-WEST (9378)

➤ Directory Location:

- [All Databases](#) > [Topical Materials by Area of Practice](#) > Environmental Law

➤ Some highlights:

- [Drafting Tools: WI Environmental Forms & Checklists](#) (WI-ENVFORM)
- [Dockets - Environmental Law](#) (DOCK-ENV) (federal court dockets – environmental cases)
- [Wisconsin](#) (WIENV-CS) (Wisconsin Environmental cases – includes administrative cases)
- [Wisconsin Environmental, Health and Safety Regulations](#) (ENFLEX-WI) State Regulations

➤ FORMS

- Directory Location: [All Databases](#) > [U.S. State Materials](#) > [Other U.S. States](#) > [Wisconsin](#) > **Forms, Treatises, CLEs and Other Practice Material**

Lexis

1-800-45-LEXIS (3947)

- [All Topics](#) > [Environmental Law](#) > [Water Quality](#) > [Clean Water Act](#)
- [Transactional Advisor](#) > Environmental Law
- [Legal](#) > [Area of Law - By Topic](#) > **Environment**
- [State Administrative Materials](#)
- Find a Source
- Live Support

Recap

- Develop a research strategy – think through the issues before diving in.
- Start with secondary materials – especially if you are unfamiliar with the area of law
- Use Looseleaf services if available.
- Identify the relevant jurisdiction and focus on controlling case law.
- Identify all of the statutes/regulations and the agencies involved in your issue
- UPDATE, UPDATE, UPDATE your research

Ask a Librarian

- The reference desk is open 7 days a week from 9-midnight.
- Professional librarians are available Monday – Friday from 10-5.
- Email askalawlibrarian@umich.edu
- Schedule a research consultation with a librarian.

Questions?

