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California Needs an Environmental Lawyer Like Him

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ARTICLE

CALIFORNIA NEEDS AN ENVIRONMENTAL LAWYER LIKE HIM

DARRYL GRUEN*¹

Darryl Gruen² has dedicated his work in the legal profession to protect Californians by enforcing safety and environmental laws. Darryl works for the California Public Utilities Commission (“CPUC” or “Commission”). The Commission regulates all of the investor owned utilities in California, such as Pacific Gas and Electric (“PG&E”) and other gas and electricity providers, telecommunications companies, and water companies. Darryl has spent his career focusing on environmental and safety regulations, and it is apparent that he enjoys his work and is highly skilled at what he does. It is important that there are lawyers like Darryl who focus on issues related to whether utilities provide safe service to people in our community.

Darryl’s career has traversed many different areas of environmental and safety regulation. He began his career as an Environmental Planner for the Department of Transportation in Northern California. In this role, he learned a great deal about the California Environmental Quality Act (“CEQA”) and the various regulations that the Department of Transportation must follow in order to improve the transportation system while also aiming to avoid, minimize, and mitigate environmental impacts. After many years in this role, he felt that he could do a great deal to help his community by becoming a lawyer. He also discovered that his knowledge of CEQA would be a very marketable skill for his future work.

* J.D., Golden Gate University School of Law, 2008; B.A. Psychology & Interdisciplinary Studies Field, University of California, Berkeley, 1994.

¹ Interview by George Emmons, Executive Articles Editor, *Golden Gate University Law Review*, in San Francisco, Cal. (Jan. 19, 2018).

² This article represents the commentary of Darryl Gruen and does not necessarily represent opinions of the California Public Utilities Commission.

Darryl has always had a desire to pursue environmental law. After choosing to attend Golden Gate University Law School, he became a member of the Environmental Law and Justice Clinic. He reflected upon his experiences working with Professor Helen Kang³ and recounts learning a great deal about practicing the law. He remembers once assisting the Navajo and Hopi tribes before the Commission as a law student. The case involved sulfur emission and the cap and trade system that was used for a certain power plant run by Southern California Edison. The plant closed, and because of this, was garnering credits for not emitting sulfur dioxide. The Navajo Nation and Hopi Tribe argued before the Commission that they should get some of the proceeds from these credits to be spent on projects benefitting their lands. The Commission ordered that some of the proceeds from the sale of these sulfur dioxide emission allowances be used to help develop Renewable Portfolio Standard eligible projects that benefitted the Hopi Tribe and/or the Navajo Nation.⁴

After his first year of law school, Darryl interned every semester and summer during the remainder of law school. In the summer of his second year, he was a legal intern for one of the commissioners at the Commission. In this role, he advised the Commissioner and her advisors on particular decisions and viewed actual proceedings. Darryl went on to intern for the legal division of the CPUC. As an intern for the legal division, Darryl assisted Commission attorneys with researching and drafting legal memos and motions. He also attended hearings before administrative law judges.

After graduation, Darryl reached out to the Commission regarding the potential for work. He accepted an internship opportunity working for one of the assistant general counsels of the legal division while he waited for the California bar results. During this internship, Darryl reviewed and edited an administrative draft environmental document of a proposed Southern California Edison electricity project to ensure it complied with CEQA. While he was waiting for bar results, Darryl remembers doing approximately 50 or 60 informational interviews with practicing attorneys at the Commission and in private practice. Darryl's efforts would prove to be instrumental in helping him secure a legal position.

Darryl applied for an entry level attorney position with the CPUC after he passed the bar. He recalls the process being rigorous and lengthy. If that was not difficult enough, there were over one hundred applicants

³ Helen H. Kang, Director, Environmental Law and Justice Clinic, and Associate Professor, Golden Gate University School of Law; B.A. (1982), Yale University; J.D. (1986), Boalt Hall, University of California at Berkeley.

⁴ This finding comes from the Commission's ("CPUC") decision 13-02-004.

competing for four positions. Darryl found that his experience as a legal intern for the Commissioner's office, as well as for the legal division, helped him demonstrate his fit with CPUC and how he would be a great addition as a new attorney. Additionally, his background in CEQA and the National Environmental Policy Act ("NEPA") was real world knowledge that would be very helpful for the legal division. Darryl has been working with the Commission ever since. Early in his career at the Commission, Darryl advised the Commission on how decision makers could consider certain gas and electric applications before them in a way that followed the environmental review processes required by CEQA. As a staff attorney for CPUC, Darryl wears many hats, including safety enforcement, ratepayer advocacy, and bill analysis.

One of Darryl's largest cases was in his safety enforcement role, where he was part of one of the legal teams that litigated the San Bruno pipeline rupture on PG&E's system. The San Bruno fire was a huge event that rocked the Bay Area. In 2010, a gas pipeline ruptured in San Bruno which caused a massive fire. Eight people died in this disaster, one being an employee of the CPUC. Darryl knew this person, and the tragedy was personal for him and to many members of the CPUC. Darryl would go on to litigate this case for several years. After the rupture occurred on Line 132, PG&E took several hours turning off that part off the line. The National Transportation Safety Board ("NTSB") conducted an investigation, and the CPUC used the recommendations from the NTSB's investigation in order to further investigate PG&E's compliance with federal and state pipeline safety regulations. The legal team Darryl was a part of investigated PG&E's pipeline recordkeeping practices, recommended that the Commission find PG&E violated different safety requirements, and argued for penalties and remedies.

There were three investigations⁵ related to the San Bruno incident, and three separate legal teams within CPUC's Safety and Enforcement Division handled each investigation. One team handled the root cause analysis of the disaster. This team was in charge of finding the laws and regulations that PG&E violated and determining how the disaster occurred. The second team was the record keeping team. This team was tasked with analyzing and reviewing the pipeline records that PG&E kept, and determining whether PG&E was in compliance with federal and California record-keeping requirements. The third team was the class location team. This team examined whether PG&E followed requirements to keep track of the number of structures or people within a speci-

⁵ *Information on Natural Gas Pipeline Safety*, CAL. PUB. UTIL. COMMISSION, <http://www.cpuc.ca.gov/sanbruno/> (directing the public to more information on the three pipeline safety proceedings resulting from the San Bruno Fire).

fied vicinity of each of its pipelines, which is important to help determine if more or less stringent safety requirements apply to a given piece of pipe.

Darryl was on the records team and handled many aspects of the litigation. He conducted field visits where he viewed the sites and interviewed potential witnesses. He conducted cross examinations of PG&E employees and other experts who analyzed PG&E's recordkeeping problems. The San Bruno fire investigations spanned nearly five years. During the hearings, experts and employees of PG&E testified to the San Bruno disaster, PG&E's gas pipeline construction, and PG&E's safety review process.

In his ratepayer advocacy role, Darryl advocates on behalf of residences and small businesses, based upon the mission that individuals should receive the lowest possible rates while also receiving safe and reliable gas and electric service. One project that Darryl is working on now is an application from San Diego Gas & Electric Company, seeking authorization to reduce the pressure on an older pipeline and build a new one. In reviewing this application, Darryl is checking to see if the proposal is in compliance with federal and California requirements.

Typically, before changing an existing natural gas pipeline or constructing a new one, Darryl explained that the regulated natural gas utilities propose pipeline projects through applications to the Commission, which is the basis for the Commission opening a proceeding. Interested entities can join the utility to become parties to such a proceeding. Parties often participate in an extensive litigation process to inform the Commission's decision as to whether the proposed change or construction should be permitted. As part of the proceeding, the Commission will often hold hearings and create a record based upon testimony from these parties. The San Diego Gas & Electric Company's proposal is going through this process now, and Darryl is representing the Office of Ratepayer Advocates in the Commission's proceeding.

Finally, as part of Darryl's work related to safety enforcement and ratepayer advocacy, he appears before many administrative law judges, and writes pleadings and briefs to them where he recommends they adopt a position or decide upon a course of action. One role of an administrative law judge is to preside over a Commission proceeding, rule on procedural issues, develop the record of the proceeding, and write a proposed decision based upon a complete proceeding record. The proposed decision is then considered by and voted on by the five appointed Commissioners.

As another aspect of his job, Darryl analyzes bills proposed by the California legislature and identifies areas where those bills comply with

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applicable regulations that relate to the CPUC. Darryl explained that Senate Bill 1371, which deals with certain regulations regarding California pipeline leaks, focuses on the goal of improving management of greenhouse gas emissions.

Darryl enjoys his time at CPUC. He finds the environment collegial. Darryl has worked with so many great people, and also encountered excellent mentorship at the CPUC, which has been great for his career development. Darryl enjoys helping law students gain relevant experience and helping them find their passion. Darryl encourages interested law students to apply for available internships at the Commission. Darryl believes CPUC is a great place to learn about many different kinds of environmental regulations and hopes to be a resource for law students who are interested in learning more about the Commission.

