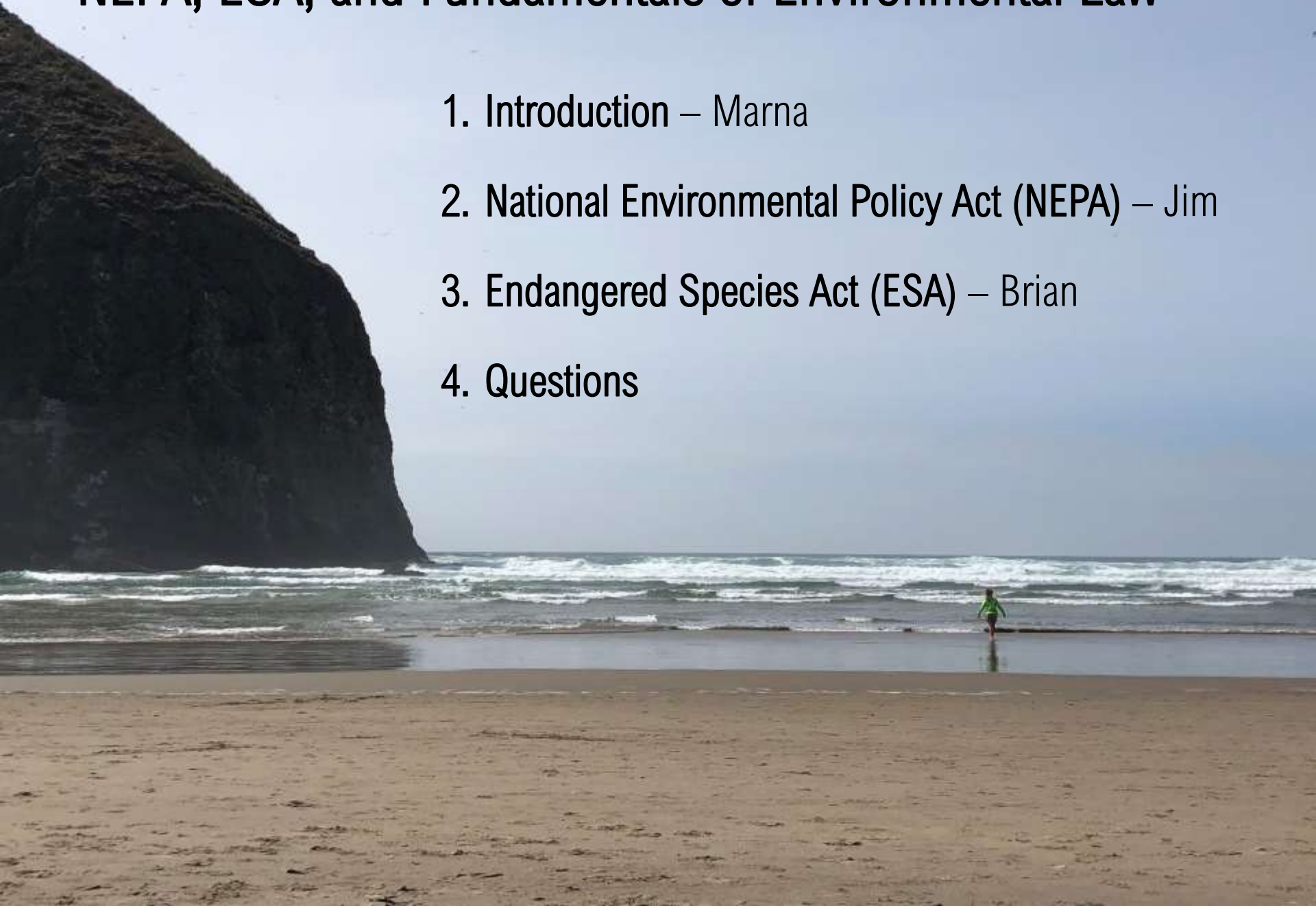


NEPA, ESA, and Fundamentals of Environmental Law

1. Introduction – Marna
2. National Environmental Policy Act (NEPA) – Jim
3. Endangered Species Act (ESA) – Brian
4. Questions



Environmental Law Overview

1970 National Environmental Policy Act (NEPA)

1970 Council on Environmental Quality established

1970 Reorganization Plan No. 3 created Environmental Protection Agency

1970 Clean Air Act

1972 Federal Water Pollution Control Amendments (FWPCA)

1972 Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

1972 Marine Protection, Research, and Sanctuaries Act

1973 Endangered Species Act

1974 Safe Drinking Water Act

1976 Resource Conservation and Recovery Act (RCRA)

1976 Federal Land Policy and Management Act

1976 Toxic Substances Control Act (TSCA)

1977 Clean Water Act. Amended FWPCA.

1977 Surface Mining Control and Reclamation Act

1980 Comprehensive Environmental Response, Compensation, and Liability Act

1986 Safe Drinking Water Act Amendments of 1986

1986 Emergency Planning and Community Right-to-Know Act

1986 Superfund Amendments and Reauthorization Act (SARA)

1987 Water Quality Act.

1990 Clean Air Act Amendments

1990 Oil Pollution Act

1992 Residential Lead-Based Paint Hazard Reduction Act

1994 Executive Order 12898 on Environmental Justice

1996 Food Quality Protection Act (amended FIFRA)

2000

2002 Small Business Liability Relief and Brownfields Revitalization Act

2005 Energy Policy Act of 2005

2007 Energy Independence and Security Act (EISA)

2010

2016 Lautenberg Chemical Safety for the 21st Century Act

2020

1849 Department of Interior established

1872 General Mining Law

1900 Lacey Act

1906 Antiquities Act

1918 Migratory Bird Treaty Act

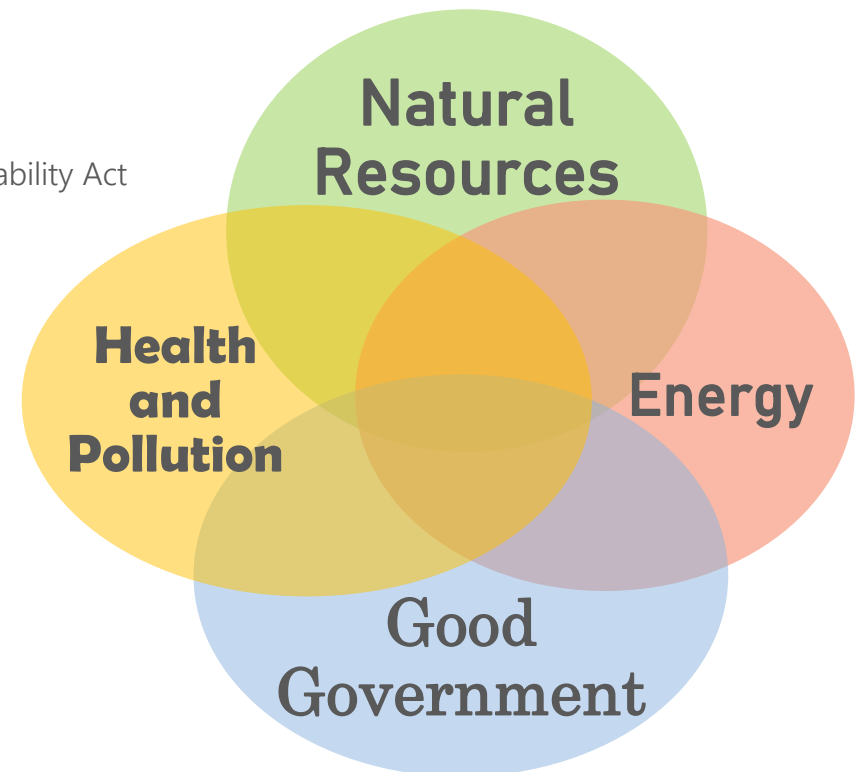
1940 Fish and Wildlife Service formed

1946 Administrative Procedure Act

1964 Wilderness Act

1965 Land and Water Conservation Fund

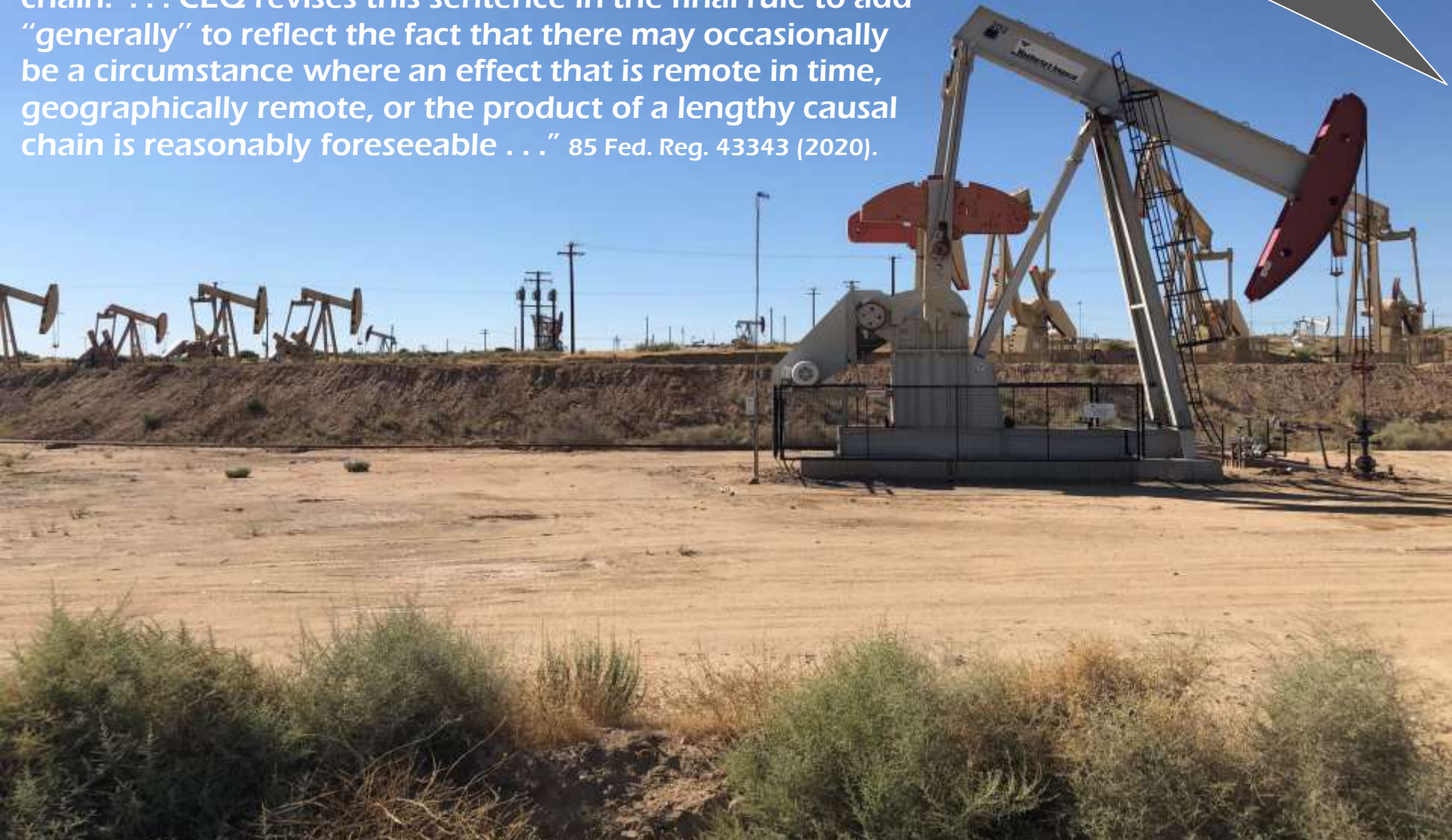
1968 Wild and Scenic Rivers Act



National Environmental Policy Act

“CEQ . . . proposed to clarify that agencies should not consider effects significant if they are remote in time, geographically remote, or the result of a lengthy causal chain. . . . CEQ revises this sentence in the final rule to add “generally” to reflect the fact that there may occasionally be a circumstance where an effect that is remote in time, geographically remote, or the product of a lengthy causal chain is reasonably foreseeable . . .” 85 Fed. Reg. 43343 (2020).

“[T]he 1970's absolutely must be the years when America pays its debt to the past by reclaiming the purity of its air, its waters, and our living environment. It is literally now or never.” Pres. Nixon, Statement about NEPA (Jan. 1, 1970).



Endangered Species Act

“Nothing is more priceless and more worthy of preservation than the rich array of animal life with which our country has been blessed.”

Pres. Nixon, Statement on Signing [ESA] into Law (Dec. 28, 1973).



“The forever war over the Endangered Species Act opened new fronts today, as the Fish and Wildlife Service and NOAA Fisheries announced plans to unwind some key—but controversial—Trump administration ESA regulations.”

E&E (June 4, 2021).

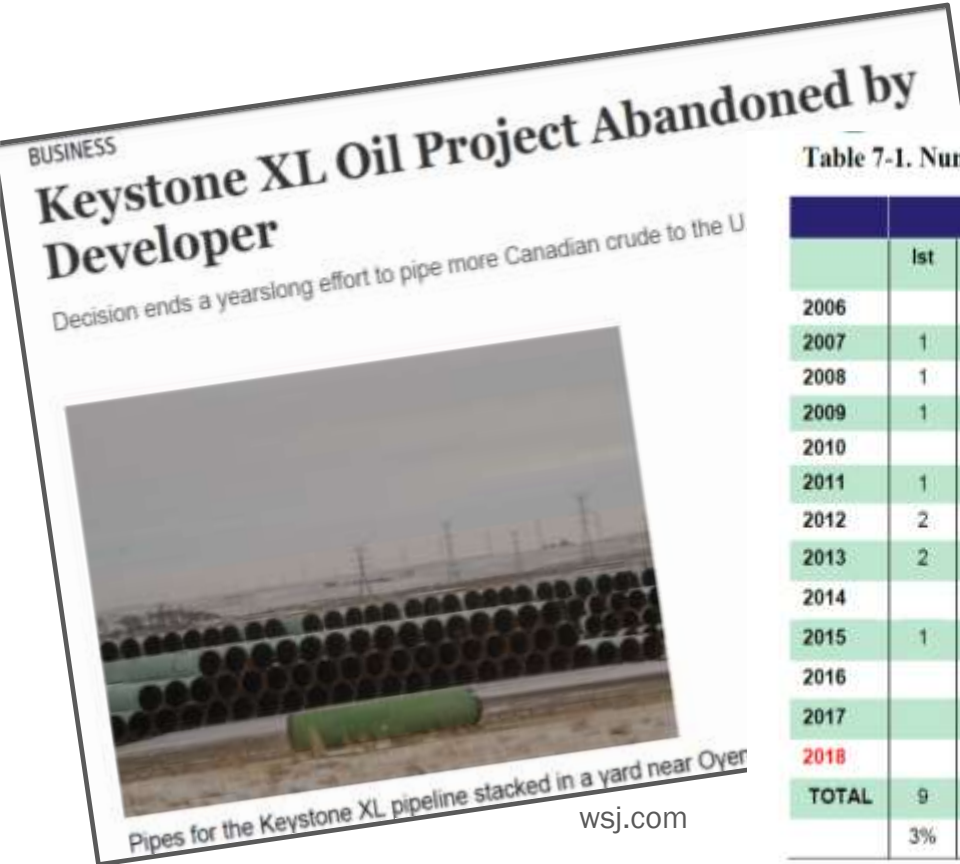


Table 7-1. Number of U.S. Courts of Appeal NEPA Cases, by year and by circuit

	U.S. Courts of Appeal Circuits												TOTAL
	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	D.C.	
2006					3		1	1	11	6		1	23
2007	1				1				8	2		3	15
2008	1	1	1					2	13	3	1	2	24
2009	1	3	1	2	1	1		1	13	2		2	27
2010		1				2	1	1	12	4	1	1	23
2011	1		1						12				14
2012	2	1	2	3	1		1		12	3	2	1	28
2013	2			2		1	1		9	2	1	3	21
2014				2		5			10	2		3	22
2015	1					1			6	2		4	14
2016				2		1	1		14	1	1	7	27
2017		1	1		1				13	1		8	25
2018			1	3	2	1			16		3	9	35
TOTAL	9	7	7	14	9	12	5	5	149	28	9	44	298
	3%	2%	2%	5%	3%	4%	2%	2%	50%	9%	3%	15%	

The complaint asserts that these agencies' reviews under the **National Environmental Policy Act** and **Endangered Species Act** are riddled with the same errors and omissions as earlier versions deemed insufficient by a federal court in 2018. [Press Release](#), Center for Biological Diversity (July 2020).

"There exists 'resounding evidence' from experts and from the Corps that the discharges authorized by NWP 12 may affect listed species and critical habitat."

N. Plains Res. Council v. Army Corps of Eng'rs, 454 F. Supp. 3d 985, 992 (D. Mont. 2020).