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Private facilitators of public regulation: A study of the environmental consulting industry

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Abstract

Most accounts of businesses and regulators depict adversarial relationships. In these accounts, businesses typically seek to avoid or limit public regulation or, alternatively, to distort it so it serves private rather than public ends. This article uses a study of the environmental consulting industry to explore a different set of relationships between businesses and public regulation. These consultants generally work for for-profit companies, and they serve as regulatory intermediaries between businesses and government. Those dual roles raise concerns that environmental consultants, like many other businesses, will seek to subvert regulatory schemes or will serve as instruments of regulatory capture. While some evidence supports these concerns, interviews and documentary research also demonstrated widespread perceptions that consultants play two other roles. First, environmental consultants strive to operate as trusted facilitators of constructive relationships between regulators and regulated entities. Second, for combined reasons of profit motive and value-based moral commitments, environmental consultants also strive to act as guardians and proponents of the public values underlying environmental regulation. These roles have implications for descriptive understandings of the functioning of regulatory regimes and for regulatory system design. Most importantly, in contrast to literature emphasizing the need to protect regulatory governance from private, for-profit entities, these findings illustrate how for-profit regulatory intermediaries can work to bolster regulatory governance.

Keywords: environmental consultants, environmental regulation, regulatory intermediaries.

1. Introduction

In academic and popular discourse on business and government regulation, conflict is a persistent theme. Many commentators have described the challenges regulators face in overcoming opposition from business groups or that businesses face in navigating regulatory schemes. Others focus on businesses' efforts to capture regulators, undermining those regulators' commitment to public protection, or to turn regulators into tools for anticompetitive rent seeking (Krueger 1974). Across multiple disciplines, the efforts of business to block, avoid, subvert, or hijack regulation dominate the narratives.

More recently, scholars of business and regulation have broadened their conception of the roles of business in regulation. Some of these scholars have emphasized the complex mix of internal and external drivers that induces businesses to embrace and sometimes go beyond regulatory compliance (Porter 1991; Gunningham *et al.* 2005). Private governance scholars have explored ways in which businesses create nongovernmental regulatory schemes that extend to other firms (Vandenbergh 2013). Similarly, studies of certification organizations and auditing firms have explored ways in which “regulatory intermediaries” shape relationships between regulators and the targets of regulation (Abbott *et al.* 2017). This literature provides more complex portraits of regulatory regimes and of the roles nongovernmental actors play within those regimes. Nevertheless, much of the literature anticipates that the public-spirited motives that animate successful regulatory regimes will come from nonprofit advocacy groups, governmental bodies, or the public itself (Soule 2012). Accounts of businesses' roles in regulatory systems are usually couched in layers of distrust.

This article explores different relationships between businesses and regulation. It does so by focusing on the environmental consulting industry, which helps regulated businesses comply with the mandates of environmental

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laws – and which, with rare exceptions (Sinclair-Desgagne 2008; Schulz 2002), has escaped scholarly attention. More specifically, it discusses two subfields of that industry: hazardous waste site consulting in Massachusetts and environmental impact assessment consulting in California. Based on documentary research; interviews with consultants in each industry; and interviews with the attorneys, regulators, clients, and activists, it explores the roles these consultants play in delivering and shaping environmental regulation.

Two primary findings emerge from that analysis. First, environmental consultants often strive to operate as *trusted facilitators* of relationships between regulated businesses and regulators. Often, they perform this facilitation function by communicating with regulators. Consultants themselves emphasized this role, and regulators and other nonconsultants agreed that consultants, although they clearly serve the clients who hire them, still aspire to act as trusted facilitators and often succeed in doing so. Indeed, in the subfields I studied, this communication was sufficiently extensive and useful that regulators said they would be reluctant to change their programs without first consulting the consultants.

Second, beyond offering neutral communication, environmental consultants often embrace the public-spirited values underlying the regulatory programs they implement and view advancing those values as part of their professional role. This *guardian of public values* role was not purely altruistic, and consultants did not pretend otherwise. While they often explained how a personal commitment to environmental protection informs their work, consultants readily acknowledged that they make money from regulation. Nor were consultants as vocal or persistent in their advocacy as environmental advocates from nonprofit groups. Nor, finally, are these values universal among environmental consultants, even within the two subfields I studied. Nevertheless, in a quiet way, and for reasons that include but go beyond economic self-interest, some consultants work to help regulatory regimes advance public values.

These findings offer two primary contributions to the existing literature on businesses and regulation. First, they extend prior accounts of regulatory intermediaries by showing that, for commingled reasons of culture and economic incentive, for-profit businesses can self-consciously strive to bolster and advance public regulation. That conclusion contrasts with the existing literature on regulatory intermediaries. While some of that literature emphasizes the constructive roles intermediaries can play within regulatory systems, accounts that find symbiosis between intermediaries and regulation tend to focus on nonprofit, avowedly values-driven actors such as sustainability certification organizations (e.g. Auld & Renckens 2017). The second contribution is specific to the literature on businesses and environmental regulation. Although extensive, that literature has hardly ever discussed the roles that environmental consultants play. By explaining those roles, this account helps flesh out understandings of the ways in which environmental regulation actually functions and the extent to which regulatory systems involve important roles other than regulated business, regulator, and activist.

While this article presents a generally positive description of the roles of consultants in environmental regulation, its conclusions do not undercut the many cautionary accounts of the relationships between for-profit businesses and regulation or of the less salutary roles regulatory intermediaries can play. As explained in more detail below, the relationships described in this study were sensitive to context and are unlikely to recur predictably within all subfields of environmental consulting, let alone in other regulatory fields. They also sometimes conflict with consultants' desire to maintain favorable relationships with clients, and consultants readily acknowledged that tension. However, the basic ingredients that encourage a partial symbiosis between the ends of public laws and the incentives of private consultants are likely to recur in some circumstances and are therefore worthy of further exploration in this and other realms.

In addition, this study can provide only partial answers to questions about whether consultants are agents of constructive cooperation or problematic capture, largely because those questions are intertwined with deeper questions about what the public interest actually is. To skeptics of environmentalism, or of regulation more generally, this article's account will seem to be a story of capture for it involves consultants and regulators working together to develop environmental regulation – with consultants financially profiting from the collaboration. Similarly, someone who is skeptical of business development might view the Massachusetts-focused portion of this account as portraying excessively cozy and insufficiently adversarial relationships between businesses and regulators. However, even if labels such as “capture” and “cooperation” may demonstrate as much about the policy preferences of the labeler as they do about the relationships being labeled, the evidence presented here does suggest that something positive is happening. Consultants and nonconsultants alike agreed that consultants are

trying to work with regulators to advance widely shared public goals such as improving environmental protection and lowering compliance costs. The possibility that these dynamics will sometimes recur should have important implications for both students and designers of regulatory systems. Specifically, observers seeking to understand functional regulatory systems should be alert to this sort of private role, and designers of regulatory systems may want to consider how to foster it.

2. Between the regulators and the regulated

For decades, the discourse of regulation has favored a relatively simple conceptual model. In this model, government regulators, typically responding to political pressure (and perhaps to advocacy from nonprofit advocacy groups), seek to impose regulatory constraints on private sector businesses. Those businesses – and their political allies – respond to that regulation with strategic and generally adversarial behavior (Layzer 2012). When it is possible to do so, they categorically resist the imposition of regulatory controls, relocate to jurisdictions where controls are lax, or seek to weaken controls where complete resistance or avoidance is unlikely to succeed (Lazarus 2004; Xiaoyang & Yue 2017). Once regulatory programs are in place, businesses comply but “only when specifically required to do so by law and when they believe that legal non-compliance is likely to be detected and harshly penalized” (Stigler 1970; Gunningham *et al.* 2005, p. 20).

Studies of regulation and business have expanded this basic model in many ways. Nevertheless, and as described in more detail below, most of the twists in this conceptual model remain wedded to (and in some cases validate) the view that relationships between private business and the public-spirited goals of regulatory programs are primarily adversarial.

2.1. Regulatory rent seeking

One prominent twist on this model is to note that private businesses sometimes advocate regulation as a way of advancing their business strategy. This rent seeking occurs in several ways and for several reasons. Sometimes, businesses advocate for regulatory programs that create barriers to competitors’ entry into fields or raise competitors’ operating costs (Ackerman & Hassler 1981; Maloney & McCormick 1982; Revesz 2001; Biber 2013). These efforts are not always nefarious; sometimes, they just seek what arguably is a leveling of the playing field (Outka 2012). However, the literature on regulatory rent seeking routinely treats these efforts as distorting markets without advancing the public-spirited ends that regulatory governance purports to serve (Zywicki 1999). Indeed, some accounts of rent seeking suggest that it is so pervasive and so costly that regulation should hardly occur at all.

2.2. Private regulatory governance

Another important addition to the traditional model comes from the literature on private regulatory governance. Many businesses now operate in compliance with regulatory programs imposed by other businesses (Vandenbergh 2013). Major retail companies, for example, commonly impose environmental and labor protection requirements on their suppliers (Vandenbergh 2007; Toffel *et al.* 2015; Short *et al.* 2016).

At first blush, the emergence of business-created private governance might seem to undermine the premise that private business generally opposes the goals of public regulatory systems, but private governance scholars raise doubts about this somewhat idealistic view. Businesses often adopt private governance systems not out of voluntarism but in direct response to activism and the associated fear that reputational harms will limit the market of their shares or as an attempt to forestall public regulatory interventions (Maxwell *et al.* 2000). In practice, private governance systems can be unevenly implemented, leading to critiques that businesses adopt such schemes only to the extent that market pressures and public regulatory threats create a demand for the appearance, if not the reality, of meaningful environmental or labor protection (Auld *et al.* 2015).

2.3. Regulatory intermediaries

The literature on private regulatory governance overlaps the growing literature on what Abbott, Levi-Faur, and Snidal have labeled “regulatory intermediaries” – that is, entities that occupy spaces between traditional regulators and the traditional targets of regulation (Abbott *et al.* 2017). So far, researchers discussing regulatory

intermediaries have been quite inclusive in their understanding of the phrase. In addition to the kinds of consulting roles that are the focus of this article, they include private certification organizations, auditors, and private standard-setting organizations, all of which may operate on a nonprofit or for-profit basis (Abbott *et al.* 2017).

As multiple studies have explained, intermediaries can play a variety of constructive roles within regulatory systems (Kourula *et al.* 2019). They can be important informational vectors between regulators and the regulated, sometimes providing information that would not otherwise be available or legitimating informative messages that otherwise would come from distrusted sources (Abbott *et al.* 2017). They also can supplement the expertise and extend the resources of public regulators (Auld & Renckens 2017). Relatedly, because regulatory intermediaries may operate at different geographic scales than government regulators, they can provide useful pathways for information to move between different regulatory jurisdictions (Owen 2016).

Nevertheless, the literature on regulatory intermediaries is filled with cautionary accounts, particularly when those intermediaries are profit-seeking companies. Intermediaries can become agents of the entities they are supposed to help regulate, particularly if they are paid by those same entities. This dynamic became particularly notorious because of scandals involving credit rating agencies (Kruck 2017), but researchers have found it recurring in other fields, such as food safety regulation (Lytton & McAllister 2014). In a version of rent seeking, intermediaries can exploit regulatory systems for their own benefit. That may mean actively advocating for the creation of new regulatory programs, perhaps without regard for the actual need for such programs (Van Der Hiejden 2017). It can also mean trying to commodify compliance in forms that are easy to sell, or that serve management interests, rather than in ways that advance the public policy goals of regulatory systems (Edelman *et al.* 1999; Lave 2012).

2.4. Privatization

The broader literature on the privatization of governmental functions raises similar concerns (Freeman & Minow 2009). While some accounts of privatization emphasize its asserted virtues, such as achieving greater competence, innovation, and efficiency (Trebilcock & Iacobucci 2003; Soloway & Chvotkin 2007), many critics are skeptical. They worry that relocating governmental tasks to the private sector, which focuses primarily on profit, will remove public values from the implementation of public law (Minow 2003). They similarly worry that because private sector decisionmaking is often exempt from legal requirements applicable to the public sphere, procedural safeguards traditionally associated with governmental decisionmaking will be lost (Metzger 2003). Some theorists have posited alternative accounts, in which the spread of governmental tasks imbues the private sector with public values that it otherwise would not have (Freeman 2003). However, the general thrust of this literature is that privatization threatens to drain governance of important public values and protections (Verkuil 2007).

3. The environmental consulting industry

To explore different relationships between businesses and regulation, this article focuses on the environmental consulting industry. That industry supplies regulated businesses and public sector entities with compliance services (Lifschutz 2018). So, for example, a wetlands consultant would help a private developer map the wetlands on a development site and would help obtain wetland fill permits. A hazardous waste site cleanup consultant might help a company investigate contamination on its properties and develop a cleanup plan (Del Duca 2011). An environmental assessment consultant might help a public or private entity prepare a report analyzing the potential environmental consequences of a proposed project.

Precursors to this industry have existed for decades, but it grew substantially in the United States during the 1970s and 1980s, when the emergence of statutory environmental law created many new obligations for regulated businesses (The Lawyer's Brief 2007a,b). The industry is now global (Schulz 2002), and while it has been consolidating, it remains primarily composed of small- and medium-sized companies (Lifschutz 2018). Some consulting groups are folded into larger engineering companies that are focused on building infrastructure, but many others remain stand-alone consulting firms (Lifschutz 2018).

Both analysts and industry insiders identify two primary drivers for the industry's work. One is the strength of the overall economy; the industry depends on private entities and governments having projects to build and

money to spend (Lifschutz 2018). The other is the extent of government regulation. If regulated firms are not obliged to comply with environmental regulatory mandates, or if compliance requires little sophistication or effort, environmental consulting firms will not be hired. As one consultant explained in an interview, “regulation—particularly complex regulation—is the lifeblood of the environmental consulting industry.”¹

While participants in the industry refer to themselves as “environmental consultants” and speak of an “environmental consulting industry,” the industry has fuzzier boundaries than an industry such as legal practice, where all participants must have earned a law degree, taken a bar exam, and obtained a license. Instead, consultants come from many backgrounds – engineering, environmental science, and planning are particularly common; engage in diverse practices; and lack a single licensing scheme or industry association. Because of that diversity, this article does not address all varieties of environmental consulting, and my research instead focused on two subareas within the larger field.

One of those areas is hazardous waste site consulting in Massachusetts. In the early 1990s, Massachusetts enacted legislation designed to streamline investigation and cleanup of the state’s many contaminated sites (Seifter 2006). The legislation did so largely by increasing the roles of private consultants. Those consultants had always been involved in investigating sites and planning remediation systems, but the 1993 legislation gave “licensed site professionals” (LSPs) – most of whom were engineers or environmental scientists working for private consulting firms – authority to decide how sites should be investigated and cleaned up and when they were sufficiently clean (Seifter 2006). The one academic study to look closely at the program offered a critical assessment, finding that regulators’ audits of consultants’ work routinely identified deficiencies (Seifter 2006). However, in my interviews, consultants, attorneys, regulators, and environmental activists agreed that the program had been a success. They credited it with accelerating cleanups without recreating the kinds of public health problems that initially led to hazardous waste site cleanup regulation (Collins 2010; LSPA 2013).²

The other area is environmental impact consulting in California. The California Environmental Quality Act (CEQA) requires state agencies to study and disclose the environmental impacts of, and alternatives to, projects they will authorize or carry out. Complying with these requirements often means preparing an environmental impact report (EIR), which is an extensive environmental study. Agencies also must seek and respond to public comments on those EIRs. The governing legal framework is imbued with public-spirited values – the basic goal of CEQA, as California courts and regulators have repeatedly noted, is to ensure deliberative, transparent, and environmentally protective public decisions³ – but in practice, private consultants handle much of the work of CEQA compliance. Consultants generally help public agencies scope out their work and choose which alternatives to evaluate, do all of the research and drafting of the actual documents, facilitate public meetings, respond to public comments, and help public agencies decide whether to approve projects and subject to what conditions. In short, private consultants play central roles in helping put California’s most influential public environmental law into effect.

I chose these two areas of study for several reasons. Most importantly, consultants have key and well-defined roles in both regulatory systems. Both systems also are mature, which meant I could study dynamics that have evolved over several decades and talk to people with many years of experience. The programs also have some useful differences. They provide geographic and subject matter diversity and involve different kinds of regulatory structures: an actively involved agency oversees waste site cleanup in Massachusetts, while in California, CEQA enforcement occurs primarily through judicial review. Finally, my own preacademic professional experience gave me background familiarity with the subject matter and complex regulatory regimes for each field. In the 1990s, I worked as an environmental consultant in Massachusetts. In the 2000s, I practiced law in California, often litigating cases under CEQA (usually representing plaintiffs who challenged agencies’ CEQA compliance).

4. Methodology

This study draws on a combination of methodologies. For both Massachusetts and California, I interviewed consultants (all of whom work for private, for-profit companies), environmental attorneys, regulators, clients, and environmental advocates (see Table 1). The consultant interviews were the core of the project, but I used the interviews with attorneys (who sometimes collaborate with, sometimes compete with, and sometimes litigate

Table 1 Number of interview subjects by category

	Consultant	Private attorney	Government	Client	Environmental advocate
Scoping/background	5	3	0	0	0
Mass. waste site cleanup	10	4	5	2	3
Cal. environmental impact assessment	11	8	3	1	2

against the work of consultants), regulators, clients, and advocates to triangulate toward a more balanced assessment than consultants alone would have provided.

Interviews were semistructured, and I promised anonymity to all interview subjects. I asked questions about the general cultural orientation of consultants; specific policy initiatives in which consultants had been involved; and relationships between consultants and regulators, attorneys, clients, environmental advocates, and members of the general public. For each geographic area, I used my professional connections, online research, and snowball sampling to identify particularly knowledgeable and experienced research subjects. For the Massachusetts consultants, I also conducted interviews with subjects selected by contacting a randomized sample of LSPs. Interviews were typically between a half hour and a full hour in length. With the exception of four in-person interviews, all were conducted by telephone.

I also reviewed written materials prepared by consultants. I focused on, and reviewed all available examples of, documents written by industry associations (the Association of Environmental Professionals in California and the Licensed Site Professionals Association in Massachusetts; both groups' membership consists primarily but not exclusively of consultants) rather than on documents produced under contract with individual clients. Many of these documents were letters to state agencies or legislatures, often submitted as comments on particular rulemaking proposals, draft guidance documents, or other regulatory initiatives. Some were white papers intended for broader audiences or amicus briefs submitted to courts. While industry associations have their own institutional interests (Carter & Mahallati 2017), consultants generally agreed that these associations provided good proxies for their members' views. This documentary evidence helped check whether interviewees' assertions about the consulting industry aligned with consultants' positions and actions in actual policymaking processes.

While this research methodology provides a closer look at the environmental consulting industry than any previous study, it has several key limitations. Most importantly, because of the heterogeneity of both the industry and the regulatory and political environments in which it operates, readers should not infer that my conclusions are representative of the entire industry. Some dynamics will likely recur, but even within Massachusetts or California, other sectors of the consulting industry are likely to operate in different ways, and the differences may be more pronounced in other states. In addition, my decision to seek out experienced interview subjects risks some selection bias: I was unlikely to talk to people who had quickly become jaded and left consulting, law, or government regulation. Finally, I was unable to identify a quantifiable measure of consultants' effects on regulatory systems or an objective measure of successful participation in regulation. Instead, the analysis is grounded in qualitative analysis of the informed perspectives of consultants and other experienced participants in regulatory systems and of the documentary record those participants produce.

5. Trusted facilitators and guardians of public values

The interviews and documentary research generated two primary findings about environmental consultants in Massachusetts and California – beyond the obvious fact that consultants strive to serve their paying clients. First, in both areas, consultants and nonconsultants emphasized the consultants' aspiration to act as *trusted facilitators* of relationships between regulators and regulated entities. Second, in both areas, consultants and nonconsultants sometimes strive to operate as *guardians of public values* within the implementation of regulatory programs. These roles are not entirely separable, and they are better viewed as points along a continuum. Playing the trusted facilitator role, for example, can advance the basic goals of environmental law by reducing conflict between regulators and regulated entities. However, because the roles are also somewhat conceptually distinct – trying to serve

as neutral information brokers differs from trying to advance a substantive policy goal – the discussion below addresses them separately.

5.1. Consultants as trusted facilitators

Regulatory programs depend on information exchanges between regulators and regulated entities, and the conceptual understandings that underpin regulation are often constructed through these exchanges (Coglianese *et al.* 2004; Slayton & Clark-Ginsberg 2018). However, adversarial dynamics and information asymmetries can undermine these processes. Regulated businesses often withhold information that regulators need, or if they do convey information, regulators may wonder, with good reason, whether that information can be trusted (Wagner 2004). More generally, regulated entities can help frame fields of inquiry so that the questions asked and methodologies used skew outcomes toward lighter or less protective regulation (Demortain 2017). While regulators have important information to convey to regulated businesses, mistrust often runs both ways. These dynamics create a need for entities that can facilitate constructive communication between regulators and the regulated.

Interview subjects agreed that environmental consultants helped fulfill these facilitative roles. They identified several ways in which consultants do so, each described in more detail below.

5.1.1. Providing information on regulatory programs

Perhaps most importantly, consultants provide regulators with frequent and useful feedback about specific regulatory programs. In Massachusetts, for example, consultants have recently weighed in on techniques for modeling or measuring the intrusion of toxic vapors into buildings (McKinlay & Rundle 2015), treatment options for contaminants floating on top of groundwater tables (McKinlay & Rundle 2014 (b)), and the use of deed restrictions to limit future exposures at partially remediated sites (McKinlay & Rundle 2014 (a)). California environmental consultants have offered a similar variety of comments. Both regulators and consultants agreed that discussion of new regulatory initiatives is routine. “There’s constant dialogue about pending legislation,” one California consultant remarked.⁴ “We have a really good relationship with [Office of Planning and Research] staff,” another California consultant explained, and “sometimes they’ll have us take a look at a pre-administrative process draft, see what we think.”⁵

Those discussions generally focused on pragmatic improvements to regulatory programs. As one Massachusetts consultant explained, when summarizing input to regulators, “A lot of it has to do with...just boots on the ground, the implementation of things, and saying, ‘hey, we found something that’s a real challenge.’”⁶ Similarly, a California consultant noted that his colleagues’ comments and educational work draw on being “in the trenches every day, every week, on a project-by-project basis, tailoring the principles of CEQA to specific projects.”⁷ Likewise, a California environmentalist summarized a common form of consultant comment as, “hey, we’ve done a million of these things, and these are the more practical, operational kinds of improvements we can see.”⁸ Consultants’ written comments corroborate these descriptions. They tend to be highly technical, oriented toward achieving functional regulatory programs, and devoid of the antiregulatory broadsides often provided by other business advocacy groups such as the Chamber of Commerce or the National Association of Manufacturers.

Regular communications occur between regulators and a wide variety of affected groups, but regulators described consultants’ communications as particularly practical and useful. Every regulator I interviewed echoed these themes, and several quotes capture the prevailing views. One Massachusetts regulator, for example, described consultants’ comments on potential regulatory changes:

*[A]lmost always, they’re helpful. That’s not to say we always agree with them.... But I think for the most part they come across as being sincere comments and you can see that the consultant has an issue in making a positive change in the program.... And they’re very useful in terms of being able to get some background, different aspects of the program. Sometimes they indicate things that are being interpreted in different ways or things that are unclear....*⁹

Another Massachusetts regulator provided a similar assessment: “[T]he consultants tend to have areas of expertise where they’re trained, they’re educated, and we actively want that technical expertise involved....”¹⁰ Likewise, a California government attorney described consultants’ participation in policymaking as “[q]uieter and more technical (than that of other advocacy groups).... [T]hey have always offered themselves as a resource for

me and my colleagues that work on CEQA, which is helpful.... [I]t's more... non-partisan expert advice that I think of with them."¹¹

Consultants agreed that regulators were receptive to their input. As one explained, when he offered to communicate, "they're very cooperative. I never get no for an answer."¹² Attorneys corroborated this view. As one Massachusetts attorney put it, "DEP might not be as responsive as the private sector would like it to be, but it certainly is responsive to input from the LSP community."¹³ Regulators also agreed. One remarked: "I think you really can't do changes to the regulations without getting the consultants' comments, because in our program... they're the decision-makers and they're the ones who are making things happen. So they're a highly valued set of comments that we get from consultants."¹⁴ A Massachusetts attorney, describing interactions between consultants and the Massachusetts DEP, likewise noted,

*[t]here's a great deal of, I would say, respect between the LSP community and Mass DEP, and of recognition that, we're kind of in this together. That doesn't mean the DEP's going to take the LSPA's comments and say, oh, that's what the LSPA wants, we're going to do it. But they will listen.*¹⁵

Those comments demonstrate respect from regulators toward consultants, and that attitude was generally mutual. While consultants sometimes criticized tendencies toward inertia or excessive caution, and some expressed concerns about low-agency staffing levels, consultants generally respected and supported regulators' work. "Massachusetts DEP is a great regulating agency," one consultant stated, adding that the agency's staff is "in it for the same reason I'm in it, to clean up the environment and do it practically and efficiently" (although he also noted that "sometimes financial realities may escape them to a degree").¹⁶ Another, while noting, critically, that regulators "couldn't get the sites closed out," observed that "it was the state employees that developed this wonderful set of tools we use called the MCP regulations."¹⁷ Similarly, a California consultant remarked, "I find myself simultaneously being sympathetic to [clients needing approvals]...but also being really thankful for the San Francisco Planning Department. ...Those people are trying to do good work. I really believe that..."¹⁸ And while some consultants spoke of specific areas of disagreement with regulators, the trope of the overweening, incompetent, or malevolent regulator, although recurrent in popular discourse and in some academic writing, was absent from the comments of the consultants I interviewed.

This level of mutual respect between consultants and regulators has a potential downside: it might suggest that the consultants have captured the regulators. And while that threat is smaller in California, where CEQA's decentralized enforcement structure means there is no single regulator to capture, the Massachusetts waste site cleanup program, which involves repeat contacts between LSPs and one particular division of Massachusetts DEP, might seem particularly prone to capture. Nevertheless, interviewees were skeptical that such capture was occurring. As one public health advocate explained, "I think there are parts of DEP where [capture] has happened. I don't think it has happened in the Bureau of Waste Site Cleanup."¹⁹ An environmental advocate likewise remarked, "[m]y experience just shows me that when it comes to protecting drinking water, DEP does not cave."²⁰

In addition to conveying information from regulated businesses to regulators, consultants also deliver information to regulated entities. Much of this work occurs during the day-to-day routine of delivering consulting services; a core element of that work is explaining regulatory requirements and compliance options. However, in both Massachusetts and California, consultants also embraced a broader public educational role, often offering seminars and reports designed to explain how to comply with regulatory requirements. Some of that work was economically motivated; consulting industry organizations use their courses partly to raise money, and public outreach often doubles as business development,²¹ but much of the work produces no clear financial payoff.²²

5.1.2. Implementation and the neutral broker role

Beyond communication about regulatory initiatives, consultants often asserted that they maintain this neutral broker rule even when directly representing clients. One California consultant, for example, remarked:

*I don't see ourselves as the advocate for the client in the majority of the work that we do.... [T]he strength that I bring, that our firm brings to a CEQA analysis, is the objective scientific analysis.... And when I go in front of the agencies, or any type of reviewer, and I'm seen as the scientific expert and saying, "these are the facts," then that serves the client a lot more than a person that's advocating for the client.*²³

Another, again reflecting a common sentiment, stated:

*I think that most people that are actively engaged in our profession... would pretty consistently say that our job as environmental professionals is to be a neutral third party. We don't advocate for projects and we don't advocate against projects. Our job is to compile meaningful repositories of data to help decision-makers make good decisions.*²⁴

Those quotes may sound self-serving as many people overestimate their own objectivity. Many consultants frankly acknowledged tensions between their desire to deliver accurate information to regulators and the preferences of their clients. Several contextual factors help explain why, even if claims to complete objectivity are dubious, consultants might embrace that ideal more than their counterparts in other businesses or in legal practice. Studies of regulated businesses often discuss “license to operate,” by which they mean the combination of regulators’ and social acceptance (as well as support from investors) that allows a business to function (Gunningham *et al.* 2005). Consultants need that type of license as well, and many explained that they perceive their role as neutral brokers as crucial to preserving it. As one consultant explained, “this may sound like a soundbite, but at the end of the day, all I’ve got is my reputation. And so if I’m just a hired gun, that kind of thing gets around.”²⁵ Another explained the concrete benefits such a reputation provides:

*[M]y company will play up... the fact that we seldom get into the role of... advocacy and we really do stick more to the science. And that has allowed us... to actually problem-solve more with the regulatory agencies because they see us as a trusted partner and not that we're trying to pull something over on them.*²⁶

In addition, some consultants need licenses in a more literal sense. In Massachusetts, consultants’ past work can be audited at any time, and consultants can lose their licenses; multiple consultants told me that fear of an audit is a powerful motivation to do careful work.²⁷ As one explained, “I’ve seen lawyers, who I certainly respect, toe the line where I think, wow, I couldn’t do that. Like I feel like I’d be putting my license at risk if I was doing that.”²⁸

Although they were more skeptical of these claims than the consultants, many attorneys and regulators also acknowledged consultants’ efforts to serve as neutral brokers, even on specific projects. On the skeptical side, one Massachusetts attorney dismissed the idea that consultants do not advocate for specific projects as “complete bullshit.”²⁹ A California environmentalist likewise cautioned that, in the public forums in which she interacts with consultants, “the consultant... is standing in for the client, and is therefore speaking as (and) representing the client.”³⁰ However, other attorneys saw differences of degree even if not complete objectivity. As one attorney put it, “I feel like the consultants are seen less as advocates for developers or private interests... I feel that they do have a higher level of credibility.”³¹ Others remarked that “[t]hey do want to be objective and they do want to be credible and they know that they need to maintain their credibility”³² and that “they don’t ever want to get caught looking like a developer’s EIR preparer.”³³ A client representative echoed reasons why these perceptions matter:

*I'd characterize them as your A-team of consultants... they've built up that credibility with regulators... and there are some that are just focused on getting the project through... it sounds very harsh, but I'd put them on a lower tier, just in terms of quality or value that they're bringing to our organization.*³⁴

5.2. Consultants as guardians of public values

In a classic study of business and regulation, Gunningham, Kagan, and Thornton introduce the idea of the corporate “true believer” – that is, the company whose management embraces environmental protection as a core value (Gunningham *et al.* 2005). In the world of directly regulated companies, true believers seem rare; indeed, Gunningham and his coauthors note that, among regulated entities, genuine true believer status “may not be achievable in the real world.” (Gunningham *et al.* 2005, p. 116), but among the environmental consultants I interviewed, true belief was a recurring theme. Consultants, government officials, and lawyers, and the written record documents, all described consultants self-consciously advocating an agenda – albeit gently and with modest impact – of strengthening environmental regulation. In other words, consultants saw themselves not just as

neutral facilitators seeking to serve their clients through neutral brokering with regulators but also as trying to produce better environmental protection.

The evidence of consultants' gentle activism begins with their own descriptions of their roles. Particularly in California, there was a normative element in the ways consultants explained their work. For example, the website of the California Association of Environmental Professionals describes the organization as "a non-profit association of public and private-sector professionals with a common interest in serving the principles underlying the California Environmental Quality Act." Its president, in his January, 2017 message to membership, began by noting that "[o]ur federal environmental policies and institutions are already under siege and I know that many AEP members are deeply troubled by this" (Muto 2017). Similarly, individual consultants referred to themselves as "environmentalists"³⁵ or talked about "working with clients to plan and develop projects in a sustainable and environmentally sound manner."³⁶

These idealistic views extended to participatory processes, as well as environmentally beneficial outcomes. As one consultant asserted, after explaining some of his firm's pioneering efforts to provide translators at public meetings:

*[P]ublic participation and... public disclosure... [i]t's a basic, foundational aspect of CEQA.... Not hiding, doing things in a vacuum, but letting people who are going to be affected by things know what's going on and giving them the opportunity to participate.... There's the science part of it, but then the public access and public disclosure are very key elements of both of those laws, in my view.*³⁷

Or, as another experienced consultant explained, "I think the most fundamental thing CEQA did when it was passed is it opened up the door, right? It turned on the lights and blew the smoke out of the smoke-filled rooms.... It allows the public... to speak truth to power, to hold the decision-makers accountable...."³⁸

Many consultants thought such views were typical in the field. One California consultant observed that "the vast majority of [California Association of Environmental Professionals'] members got into this profession because they have a strong belief in the goals of the environmental laws that they work every day to comply with."³⁹ Another California consultant echoed these themes: "none of us are motivated solely by money... [E]ven the smartest people in our profession, if they were in some other profession, they could make a lot more money."⁴⁰ Attorneys agreed. As one put it, "you probably would find empirical support for the assumption that the kind of person that becomes an environmental consultant is more likely to have very high commitment to environmental protection."⁴¹

Participants in the Massachusetts waste site cleanup program expressed similar views, although less forcefully. As one consultant explained, "I would definitely say we're client advocates. You have to be, because your client is who's paying the bills for you. But... I think LSPs in general are people who are interested in preserving the environment and protecting it."⁴² An attorney, while discussing consultants' rulemaking comments, put it similarly:

*I think that my clients are more focused on, can I get from where I am to closure. And LSPs, when they're thinking about commenting on rules, I think they're concerned about that issue, yes, but also... are you protecting the environment? I do think LSPs vocalize a concern about protecting the environment more than lawyers or clients. I mean, I think they view their profession as a net benefit to the earth of doing good.*⁴³

Another attorney (the same one who described the neutral broker role as "complete bullshit") echoed that view:

*Once you get away from individual cases and you get to the program, that's where I'm more inclined to acknowledge a broader sense of purpose for the LSPs.... [I]t's not just having the program work better for clients, it's having a better program, period. They really... do care about this stuff, they like this stuff, it's interesting, and they want the program to work for everybody.*⁴⁴

More generally, consultants in both Massachusetts and California conveyed a positive view of environmental regulation, not just the specific programs in which they work. As one California consultant explained,

I think there is an ambassador quality that comes with any profession... The big myth I'm working on dispelling, at the national level, we hear, with the current administration, day in and day out, talk about how the

*environment is holding the economy back. There's not a grain of truth in that.... So I do feel that as environmental professionals, we have a responsibility to kind of dispel those kinds of myths and misstatements.*⁴⁵

As that last quote demonstrates, the consultants' environmentalism is business-friendly. It rejects the assumption that environmental protection and business are necessarily in conflict. And it is far from purely altruistic; instead, it aligns, as consultants acknowledged, with the industry's own business interests. As one bluntly put it, "businesses like ours prosper in part because of CEQA requirements."⁴⁶ In addition, no one suggested that consultants' environmental commitments were universally shared, that they often trumped consultants' desire to serve clients, or that they displaced the need for regulatory oversight or traditional environmental activism. As one Massachusetts public health advocate explained, when talking about participation in Massachusetts DEP's policymaking processes, "I feel very strongly that I can't just let this be the LSPs."⁴⁷ But even if an individual and cultural commitment to environmental protection is uneven and sometimes conflicted, the existence of that commitment was a recurring theme.

5.3. Examples

Describing an aspiration toward neutral information-brokering and a commitment to environmental protection is fairly easy in the abstract, but interview subjects also described, and the written record documents, specific episodes in which consultants tried to play both of these roles. The discussion below describes two such episodes. One involves the creation of the Massachusetts LSP program. The other addresses the integration of climate change analysis into CEQA compliance. In neither circumstance were consultants at the leading edge of activism; particularly in the story of climate change and CEQA, they emphasized facilitation and let others push the policy envelope. However, in both circumstances, consultants, generally operating in fairly low-profile ways, helped advance the development of environmental regulatory regimes.

5.3.1. Creating the Massachusetts LSP program

Consultants were deeply involved in the creation of the Massachusetts LSP program. While the basic idea of partially privatizing the program did not come from consultants – participants attribute the idea, instead, to an environmental activist⁴⁸ – consultants helped flesh out the basic concept, design detailed implementing regulations, and establish its governing institutions.

These efforts began in the early 1990s, when the state of Massachusetts commissioned a study group to review the state's existing hazardous waste site cleanup program and to recommend improvements. The group included representatives from government, businesses, environmental groups, academia, and consultants, and fellow participants described the group's consultants as key participants. "We were lucky," one regulator explained, "because the consultants we had were top-notch. They really knew their stuff.... [T]hey had a huge positive influence."⁴⁹ The regulator added,

*I also have to say that these consultants were pretty environmentally oriented. ...[T]hey believed the site should be cleaned up. They believed people should be protected. They understood there was a real public health hazard for most of them. Now sometimes they felt we went overboard in terms of our protectiveness and we had reasonable discussions about what level of cleanup at a particular site or... what the standard should be.... But conceptually, they were very supportive.*⁵⁰

Once the working group issued its recommendations and the legislature enacted them into law, consultants continued helping to build the regulatory system. Massachusetts DEP needed to create the regulatory architecture for the LSP program, which meant, among other things, drafting an enormous regulatory handbook for site cleanups (Massachusetts Department of Environmental Protection 1995, 1997, 2006, 2007, 2014) Consultants remained heavily involved in that effort. As one explained,

*[T]he regulations were written by folks at the DEP, but we would sit in a room with them while they were writing certain sections and make suggestions... We were always thinking about, well, is this really a practical way to do it, or is there a better way? But the regulators were definitely on board with the fact that we kind of all worked together to make this happen. And it wasn't biased, in any way, other than, you know, everyone's goal was to protect public health and the environment.*⁵¹

Regulators agreed with this general characterization of the drafting process: “We had very high-caliber, very qualified consultants, and they provided their expertise. [W]e got a lot of credibility out of it by having good-quality, vociferous input from the consultants. So they felt heard and we often agreed with them.”⁵²

Similarly, consultants helped set up and give life to the governance structures of the new system. They serve on the LSP licensing board, which created and administered the LSP licensing exam, reviewed applications to become LSPs, and handled disciplinary proceedings against LSPs. In those roles, nonconsultants told me, the consultants were “pretty hard on their peers,” as one regulator put it; they were determined to establish the credibility of their new profession and had little patience with what they saw as shoddy work.⁵³ In part because of these efforts, almost all consultants, lawyers, regulators, and environmentalists agreed that the quality of present-day work is high (the interview subject who questioned this assessment attributed her concerns to recent and severe reductions of Massachusetts DEP’s enforcement resources⁵⁴). “[I]n any system,” one consultant explained, “there are people who will abuse it. Most of those, at this point... have been weeded out.”⁵⁵ An environmentalist who was centrally involved in the program’s creation echoed that assessment. The program succeeded, she asserted, because “we knew we had some really highly qualified, really dedicated people.... For the most part... from my perspective, there was a lot of trust in what the LSPs were going to be doing.”⁵⁶

In summary, consultants played, and continue to play, integral parts in designing, building, and maintaining a regulatory program that has moved hundreds of contaminated sites through investigation and cleanup (Collins 2010). They did so in full awareness that the program would bring them business, but no one explained their work purely with reference to profit motives. Instead, interview subjects emphasized how consultants helped build the program both by serving as informed and reliable intermediaries between regulators and the business sector and by bringing their own environmental values into the regulatory system.

5.3.2. *Climate change and CEQA*

The second example comes from California, where consultants have helped integrate climate change assessment into CEQA compliance. In these efforts, as in the formation of the Massachusetts LSP program, consultants were not crusaders at the environmental frontier. Their policy positions generally focused on clarifying lead agencies’ responsibilities and protecting their discretion rather than demanding aggressive responses to climate change. This example therefore illustrates consultants’ facilitator role to a greater extent than their role as advocates for public law values. Nevertheless, the process “was heavily consultant-driven in a lot of ways,” as one environmental advocate explained.⁵⁷ Consultants’ efforts helped legitimate the basic idea that greenhouse gas emissions analysis is an element of CEQA compliance and, perhaps more importantly, provided detailed guidance on ways to meet those obligations.

The intersection of CEQA and climate change emerged as an important legal issue in the mid-2000s, when climate activists realized that the George W. Bush Administration would not respond to the problem (Owen 2008). Attention then turned to potential remedies under existing laws. In California, that meant a turn to CEQA. Environmental groups, led by the Center for Biological Diversity, began demanding that local governments address the climate impacts of their proposed development plans (California Environmental Insider 2007). Those groups soon gained a powerful ally as the California Attorney General’s office began its own litigation campaign (Gerrard 2007).

In 2007, the California Association of Environmental Professionals waded into the controversy by publishing a white paper on CEQA and climate change (Hendrix et al. 2007). The document took few strong overt positions other than asserting that government agencies should have some discretion to choose the appropriate mode of analysis and that climate change adaptation should be a part of the CEQA inquiry. Its primary focus instead was on identifying multiple ways in which a climate change analysis could be performed. However, the document took as a given the then-controversial proposition that some analysis of climate impacts should occur. It thus validated, and slightly helped, the shift from treating greenhouse gas analyses as an environmental litigants’ aspiration to an accepted part of CEQA processes.

Over the next decade, the intersection of greenhouse gas regulation and CEQA analysis generated multiple legislative enactments, court cases, and regulatory changes (Association of Environmental Professionals Walter et al. 2016). Environmental consultants, working (largely on a voluntary basis) through a climate change committee at the California Association of Environmental Professionals, continued to churn out white papers and comment letters, as well as meeting more informally with regulatory staff.⁵⁸ The themes of that work remained consistent with the initial white paper and with a role of relatively neutral facilitation. The consultants left to

environmental groups, the Attorney General's office, and elected politicians the task of pushing the legal envelope and instead focused on obtaining manageable standards, preserving some agency discretion, and clarifying the interactions among different provisions of governing law. They coupled those efforts with the publication of a series of papers designed to guide local governments through the complex processes of calculating current emissions and projecting future outputs.

Similar to the emergence of the LSP program in Massachusetts, the story of CEQA and climate change illustrates how for-profit consultants can help build a regulatory system that seeks to advance environmental protection. They were not the most prominent or aggressive advocates involved in the regulatory process, and their core goals were obtaining clarity and flexibility from regulators and providing regulated entities with techniques they needed to meet the emerging standards – and, not coincidentally, with techniques those regulated entities would hire consultants to implement, but in that sense, they served, somewhat quietly, as facilitators trying to turn controversial legal requirements into a workable part of an accepted regulatory regime.

6. Conclusion

This article's primary findings are that environmental consultants in two regulatory programs emphasize roles – working as trusted facilitators of interactions between regulators and the regulated and as guardians of public values – that have received little attention from the pre-existing literature on businesses and the environment. These findings raise a series of additional questions. First, how generalizable might these conclusions be? Are these findings unique to two regulatory systems, or might they be true of environmental consultants – or other for-profit regulatory intermediaries – more generally? Second, if these dynamics might recur elsewhere, what are the implications for both descriptive understandings of the functioning of regulatory regimes and for the design of regulatory systems? The discussion below addresses each of these questions.

The simplest answer to the generalizability question is that we cannot know without studying many other parts of the consulting industry, as well as many other industries. That is primarily because the activities of particular industries usually depend on an array of contextual factors. Some factors are obvious, such as the relatively liberal and proenvironmental politics of California and Massachusetts. Some are more subtle. For waste site cleanup in Massachusetts, for example, consultants were encouraged toward a neutral broker role not just by a professional culture or by the need to establish good relationships with regulators but also by banks that wanted LSP opinions to “have weight and value in commerce” as one LSP put it.⁵⁹ Similarly, consultants also have an incentive to report findings that clients find inconvenient because those inconvenient findings can lead to proposals for follow-up work. In other sectors of the industry, or a different form of regulatory intermediary work, third-party involvement and business development incentives might function quite differently, and other seemingly subtle factors might create very different relationships between consultants and regulators. Nevertheless, although the importance of context limits generalizations, there are several reasons to hypothesize that the dynamics described by participants in this study will recur in other realms. Most importantly, the root causes that interview subjects identified are not unique to two subfields of environmental consulting.

One of those root causes is a business model tied to the existence of robust government regulation. That model exists for almost all forms of environmental consulting and probably for many other businesses. A second root cause is a need to maintain constructive relationships with regulators. Again, that need will recur in many fields; repeated contacts between regulators and regulated entities are a common feature of modern governance. A third root cause is a cultural commitment to the same values expressed by the laws creating a regulatory regime. That cultural commitment is likely to exist in other parts of the environmental consulting field; many people choose to study environmental science, engineering, or planning because of an interest in environmental protection. As one consultant explained, “a lot of the people we hire young, I think their dream job would have been to go work for The Nature Conservancy.”⁶⁰ While some regulatory intermediary businesses will be staffed by people motivated primarily by economic gain, or even by a culture of antiregulatory animus, there probably are other fields where most people believe in the regulations they make a profit through implementing.

If these dynamics are indeed likely to recur, that has implications both for efforts to understand how regulatory systems function and for policymakers trying to develop or reform regulatory programs. For scholars trying to understand regulatory regimes, the general lesson is to be attentive to the ways in which private intermediary

actors will shape the regime to reflect their own values and ends. At that general level, the lesson is not new; most studies of regulatory intermediaries and many studies of regulated entities have emphasized ways in which they coproduce regulation (Black 2003; Slayton & Clark-Ginsberg 2018). However, the existing literature generally treats this private influence as a headwind blowing against the success of the regulatory regime (however that success may be defined); the tailwinds are generally assumed to come, if they blow at all, from activist non-governmental organizations (for an exception, see Meckling et al. 2015). In many circumstances, that assumption will be accurate. But this study shows the importance of being alert to an alternative dynamic, in which private, for-profit actors are trying to steer a regulatory regime toward more effective functioning and toward accomplishing public-spirited goals.

Similar lessons are important for policymakers designing regulatory programs. Initially, a key lesson is that a regulatory program is likely to spur the creation of businesses whose profit models are intertwined with regulation, who will work to shape that program to reflect their interests and values, and who may become influential advocates for that regulatory system. Often, these entities will emerge organically, and sometimes, as in the Massachusetts LSP program, the emergence of these businesses will be a planned element of the system design. In either event, policymakers will need to anticipate those businesses' efforts to shape and develop the program. That may mean trying to protect the regulatory program from business interests as much of the traditional literature suggests. Indeed, if one assumes that private businesses seek only their own economic gain, protection from influence would usually be the exclusive goal. Alternatively, or in addition, policymakers may design regulatory systems that use the incentives and the culture of private businesses to advance environmental protection, public health, administrative efficiency, or other public values.

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Endnotes

- 1 Interview with Environmental Consultant (April 27, 2017).
- 2 When I asked regulators and consultants about Seifter's results, they attributed the frequency of violation findings to Massachusetts DEP's demanding standards rather than to serious problems among consultants.
- 3 14 Cal. Code Regs. § 150003.
- 4 Interview with California Consultant (October 9, 2017).
- 5 Interview with California Consultant, (October 17, 2017).
- 6 Interview with Massachusetts LSP (December 5, 2017).
- 7 Interview with California Consultant (October 17, 2017).
- 8 Interview with California Environmentalist (June 4, 2019).
- 9 Interview with Massachusetts Regulator (December 7, 2017).
- 10 Interview with Massachusetts Regulator (December 21, 2017).
- 11 Interview with California Attorney (November 7, 2017).
- 12 Interview with Massachusetts LSP (December 5, 2017).
- 13 Interview with Massachusetts Attorney (April 19, 2018).
- 14 Interview with Massachusetts Regulator (December 7, 2017).
- 15 Interview with Massachusetts Attorney (December 11, 2017).
- 16 Interview with Massachusetts LSP no. 3 (February 1, 2018).
- 17 Interview with Massachusetts LSP (February 28, 2018).
- 18 Interview with California Consultant (November 30, 2017).

- 19 Interview with Massachusetts Public Health Advocate (May 15, 2019).
- 20 Interview with Massachusetts Environmental Activist (May 16, 2019).
- 21 Interview with California Consultant (October 17, 2017).
- 22 Email from California Consultant to Author (May 30, 2018).
- 23 Interview with California Consultant (October 6, 2017).
- 24 Interview with California Consultant (October 9, 2017).
- 25 Interview with California Consultant (October 24, 2017).
- 26 Interview with California Consultant (November 16, 2017).
- 27 Interview with Massachusetts LSP 4 (February 1, 2018).
- 28 Interview with Massachusetts LSP (December 5, 2017).
- 29 Interview with Massachusetts Attorney (April 19, 2018).
- 30 Interview with California Environmentalist, June 4, 2019.
- 31 Interview with California Attorney (October 10, 2017).
- 32 Interview with California Attorney 2 (November 8, 2017).
- 33 Interview with California Attorney (October 30, 2017).
- 34 Interview with California Planner (June 12, 2019).
- 35 Interview with California Consultant (November 30, 2011).
- 36 Interview with California Consultant (Oct. 6, 2017).
- 37 Interview with California Consultant (October 10, 2017).
- 38 Interview with California Consultant (November 8, 2017).
- 39 Interview with California Consultant (November 16, 2017).
- 40 Interview with California Consultant (October 10, 2017).
- 41 Interview with California Attorney (November 9, 2017).
- 42 Interview with Massachusetts LSP 2 (February 1, 2018).
- 43 Interview with Massachusetts Attorney (December 11, 2017).
- 44 Interview with Massachusetts Attorney (April 19, 2018).
- 45 Interview with California Consultant (October 9, 2018).
- 46 Interview with California Consultant (November 17, 2018).
- 47 Interview with Massachusetts Public Health Expert (May 15, 2019).
- 48 Interview with Massachusetts LSP (November 30, 2017).
- 49 Interview with Massachusetts Regulator (December 14, 2017).
- 50 Interview with Massachusetts Regulator (December 14, 2017).
- 51 Interview with Massachusetts LSP (January 31, 2018).
- 52 Interview with Massachusetts Regulator (December 14, 2017).
- 53 Interview with Massachusetts Regulator (December 14, 2017).
- 54 Interview with Massachusetts public health advocate, May 16, 2019.
- 55 Interview with Massachusetts LSP (November 30, 2017).
- 56 Interview with Massachusetts Environmental Activist (January 23, 2018).
- 57 Interview with California Attorney, June 17, 2019.
- 58 The papers are available at <https://www.califaep.org/climate-change>.
- 59 Interview with Massachusetts LSP (January 31, 2017).
- 60 Interview with California Consultant (November 6, 2017).

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