Presentation Proposal

The History of Corporate Personhood & its Impacts for Environmental Law

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When we speak of personhood in environmental law, we most often refer to recognizing legal personhood for natural entities, such as trees, rivers, or ecosystems. But there is another way that legal personhood is deeply important in environmental law: the legal status of corporations. There is a long history of Supreme Court cases recognizing corporations as legal persons in a variety of contexts, granting (more often) or refusing (less often) to give corporations the same rights as citizens. The court considers a number of factors in these cases, but at a theoretical level, mediates between viewing the corporation as a person (entitled to rights in its own capacities) or as a collection of citizen members (entitled to rights because it is essentially a collective of those members rights). Recent corporate scholarship has flushed out the history of these debates, in particular how these cases have created constitutional rights for corporations.

The purpose of this paper is to engage not the history of corporate personhood/membership generally, but to specifically create a history of how the personhood/membership debate (and the constitutional rights that emerge as a consequence) have significant environmental impacts. This article argues that this line of Supreme Court cases is deeply important because these cases grant to or refuse corporations rights that are immediately impactful in terms of our ability to govern and regulate corporations at federal, state, and local levels.