

TULANE ENVIRONMENTAL LAW JOURNAL

VOLUME 27

SUMMER 2014

ISSUE 2

Introduction: Tulane Law School Gets into Plastics

Lisa Kaas Boyle*

You probably remember the graduation party scene in *The Graduate* when Dustin Hoffman's character, Ben, is escorted outside by a family friend who has some advice for young Ben.¹ "I just want to say one word to you. Just one word Plastics."² A confused Ben says, "Exactly how do you mean?" and Mr. McGuire says, "There's a great future in plastics—think about it." Mr. McGuire was right. In 2009, the Guinness Book of World Records named the plastic bag the single most ubiquitous consumer item on the planet.³

Plastic is a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various forms.⁴ Plastics are typically made from petroleum or natural gas.

* © 2014 Lisa Kaas Boyle. Lisa Kaas Boyle, Tulane Law School Class of 1990, *cum laude*, is an environmental attorney, Co-Founder of Plastic Pollution Coalition, a Founding Board Member of the 5 Gyres Institute and a consultant on environmental programming and communications. Ms. Boyle began her legal career as deputy district attorney for the County of Los Angeles where she served in the Environmental Crimes Division, Consumer Protection Division, and Central Trials Division. In addition, Ms. Boyle has served as Director of Law and Policy for Santa Monica-based nongovernmental organization Heal the Bay, where she subsequently has served on the Board of Directors and on the Heal the Bay Santa Monica Pier Aquarium Advisory Board. Ms. Boyle writes regularly on environmental and social issues for the *Huffington Post* and other publications. A graduate of Vanderbilt University and Tulane Law School, Ms. Boyle now lives in Los Angeles, California.

1. THE GRADUATE (Embassy Pictures 1967).

2. *Id.*

3. *The True Cost of Single-Use Bags*, BAG MONSTER (Apr. 1, 2010, 1:13 AM), <http://www.bagmonster.com/2010/04/the-true-cost-of-single-use-bags.html>.

4. Chelsea M. Rochman et al., *Classify Plastic Waste as Hazardous*, 494 NATURE 169, 170 (2013).

Here in Louisiana, lots of folks know about plastics. The Louisiana Chemical Association Web site presents a patriotic version of Louisiana's petrochemical history:

Louisiana rests on the graves of dead dinosaurs, a Jurassic Park of oil and natural gas that was compressed into the bowels of the earth eons ago. That deposit of mineral resources first fueled the refineries that were built early in the past century and later provided natural gas, the boiler fuel and feedstock on which the chemical industry was built. Add to this remarkable gift of nature, two magnificent, God-given routes to the sea—the majestic, mighty Mississippi River and the Calcasieu Basin—and the availability of vast tracts of land adjacent to these vital commercial arteries, and you get an unbeatable scenario.

The stories about the Louisiana chemical industry's contribution to victory in World War II are legend. Our industry provided octane boosters that gave the British Spitfires air supremacy over Hitler's Messerschmitts, synthetic rubber that replaced natural rubber supplies because of the war in the Pacific, aluminum ore, and processed military fuels resulting in Allied victory.

After the war, the American population boomed. Years of sacrifice and rationing resulted in the transition of the economy from military manufacturing to the production of consumer goods. The Louisiana chemical industry experienced a boom. Plants began popping up in and around Lake Charles and in the corridor between Baton Rouge and the Gulf of Mexico. An elaborate grid of pipelines began taking shape with plants providing raw materials to each other, creating a strong and symbiotic manufacturing base.

In 1959 several of those plants organized the Louisiana Chemical Association, a group that has grown to 63 companies operating more than 100 sites across Louisiana. The association was well positioned to welcome the growth that followed in the 1960s when Governor John McKeithen led the enactment of a package of bills that dubbed Louisiana "The Right to Profit State." McKeithen then trotted the globe inviting new industry to locate here, and he was wildly successful.⁵

Utilizing its bountiful supply of petroleum and natural gas, Louisiana makes over 600 petroleum products—Louisiana is second in the nation in primary production of petrochemicals.⁶

I learned about the petrochemical industry thanks to Greenpeace, my first client as a student-attorney in the Tulane Environmental Law

5. *Our History*, LA. CHEM. ASS'N, <http://www.lca.org/about/our-history/> (last visited Mar. 27, 2014).

6. *History & Culture*, DIV. OF ADMIN., STATE OF LA., http://doa.louisiana.gov/about_economy.htm (last visited Mar. 27, 2014).

Clinic. Unlike Mr. McGuire, the plastics whisperer in *The Graduate*, Greenpeace did not see such a bright future in plastics. They were one of the first major environmental groups to pay attention to the environmental harms associated with plastics, from the extraction of oil and gas and chemical production through disposal and the buildup of nonbiodegradable waste in our environment.

Greenpeace came to the Tulane Environmental Law Clinic in my final year of law school to protest a long-standing display at the state building in Baton Rouge housing the Department of Natural Resources (DNR). The Louisiana Chemical Association had dominated the lobby of the DNR with a display touting the wonders of plastics. Plastics are wonderful for many uses including computers, helmets, and artificial limbs. Plastics are also harmful. The harmful uses of plastics are evident on the beach and in the ocean: disposable, single-use plastics—thrown away minutes after they are used—like bags, cups, bottles, straws, styrofoam fast-food containers, and plastic utensils. While these plastics are the most profitable for manufacturers, they are the most harmful to the environment. The lobby display at the DNR did not feature plastic pollution or mention the relationship between plastic production and “Cancer Alley,” the stretch of the Mississippi from New Orleans to Baton Rouge where over 20% of the nation’s chemicals are produced. Greenpeace wanted to put up an alternative display with facts about what plastics production and disposal does to health and the environment and were getting nowhere. Greenpeace wanted to tell the story documented by Professor Robert D. Bullard, considered the father of “environmental justice”:

The South is characterized by “look-the-other-way environmental policies and giveaway tax breaks.” It is our nation’s Third World where “political bosses encourage outsiders to buy the region’s human and natural resources at bargain prices.” Lax enforcement of environmental regulations have left the region’s air, water, and land the most industry-befouled in the United States.

Toxic waste discharge and industrial pollution are correlated with poorer economic conditions. Louisiana typifies this pattern. Nearly three-fourths of Louisiana’s population—more than 3 million people—get their drinking water from underground aquifers. Dozens of the aquifers are threatened by contamination from polluting industries. The Lower Mississippi River Industrial Corridor has over 125 companies that manufacture a range of products including fertilizers, gasoline, paints, and plastics. This corridor has been dubbed “Cancer Alley” by environmentalists and local residents. Ascension Parish typifies what many people refer to as a toxic “sacrifice zone.” In two parish towns of Geismar and St.

Gabriel, 18 petrochemical plants are crammed into a nine-and-a-half-square-mile area. Petrochemical plants discharge millions [of] pounds of pollutants annually into the water and air.

Louisiana citizens subsidize this corporate welfare with their health and the environment.⁷

Using the First Amendment principle of equal access to the public forum, Greenpeace and the Tulane Environmental Law Clinic were able to prevail, and Greenpeace was allowed to install a petrochemical pollution display in the DNR lobby.

In the more than twenty years since I graduated from Tulane University Law School, I have spent the majority of my career dealing with environmental consequences of plastics.

I have worked on legislation to control plastic pollution and spoken about the issue around the world, including at the 2012 United Nations Conference on Sustainable Development in Rio (Rio+20). In 2009, I cofounded a nonprofit, the Plastic Pollution Coalition, to bring attention to the problem of “marine debris.” The term marine debris is inadequate because it not only fails to name the source of the problem and fails to call it a problem, but also distracts attention from the land-based origins of the problem. Roughly 60% to 80% of plastic pollution on our beaches and in our oceans comes from land-based sources, not plastics thrown overboard at sea. The naming of a problem is more than semantics. As the saying goes, “A problem well put is half solved.”

Along my journey, I have worked with some incredible warriors in the battle against plastic pollution, and I am honored to have the opportunity to introduce you to some of them in this historic journal, the first law journal to be dedicated entirely to the issue of plastic pollution.

This Issue came about through the efforts of the 5 Gyres Institute and the *Tulane Environmental Law Journal*, who worked together to elicit articles and bring authors to the Tulane Law School Summit on Environmental Law and Policy. The 5 Gyres Institute is a nonprofit organization founded by Dr. Marcus Eriksen and Anna Cummins dedicated to the elimination of plastic waste in the world’s oceans and watersheds through education, scientific research, and action-based solutions. Utilizing research-based scientific findings, the 5 Gyres Institute engages corporate partners, policymakers, and the general public to reduce plastic pollution by improving product design, recovery systems, and by highlighting individual responsibility for plastic waste.

7. Robert D. Bullard, *Environmental Justice in the 21st Century*, ENVTL. JUSTICE RES. CTR., CLARK ATLANTA UNIV., <http://www.ejrc.cau.edu/ejinthe21century.htm> (last visited Mar. 27, 2014) (footnotes omitted).