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Denise Dragoo's time at the Department of Natural Resources drew her to coal, water and environmental law

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MAGAZINE

The Environmental Division

Denise Dragoo has been in the environmental practice since the regulation boom in the '70s

INTERVIEW CONDUCTED AND EDITED BY NYSSA GESCH
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Denise Dragoo, partner at Snell & Wilmer, began working in environmental law when the Clean Water and Clean Air acts were enacted. She talked with us in February about starting out in government agencies, practicing before the state Supreme Court, and dealing with polarization in her field.

Q: What drew you to the law?

A: I was interested in environmental matters, and environmental law looked like an exciting and challenging field. That was in the 1970s and all the new laws were just coming down the pike—the new [Clean] Water Act and Clean Air Act and all of those things. I had a chance to work in the fairly new Environmental Protection Agency the first summer after my first year in law school and I enjoyed that. I got to work in Washington, D.C., and that sort of influenced my plans to be an environmental lawyer.

Q: Are you originally from Utah?

A: No, I'm from Colorado.

Q: Anything about growing up in Colorado that got you interested in environmental matters?

A: My parents had a home up on what was called Gold Camp Road and we used to spend a lot of time up in the Cripple Creek and in the old gold camps, so that was sort of fun. It's hard to grow up in Colorado and not be influenced by the mining industry. ... And the Colorado Rockies are so pretty; it's easy to have an interest in environmental law and in the mining industry.

Q: I read that your father originally told you to go to college so that you could meet an attorney to marry.

A: [Laughs] That's true.

Q: Did that end up happening?

A: As it turned out, yes, I did.

Q: Is he still practicing?

A: Yes. He's in the district attorney's office and he does environmental law in the civil division.

Q: Do you talk shop at home?

A: Yeah. [Laughs] Luckily, most of my clients are not in this particular county. So we don't have conflicts, but we do have a lot in common, so that's helpful.

Q: Before going into private practice, you spent time in the Department of Natural Resources as a special assistant attorney general. Can you tell me a little about that experience?

A: It actually helped shape my practice area. I had the chance to work with the Utah Legislature and with the coal industry on Utah's Coal Mining and Reclamation Act, and that gave Utah privacy under the federal Surface Mining Control and Reclamation Act. So, I got a chance to help draft the legislation and then, once the legislation was enacted, to put the program together for the state of Utah. That was a fun experience. When I left public practice and went into private practice, all of those folks that I'd worked with in the industry came knocking on my door



DENISE DRAGOO

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2007–2012; *TOP 40 WOMEN:*
2007–2011; *TOP 50 WOMEN:* 2012

because—I didn't even realize it at the time, but—I was one of the few people that had an expertise in that area. It was a new bill and a new area.

I've worked with the coal industry now for the last 30 years of my practice, so that's been a fun experience. That was a good way to get kind of a little practice area niche that I didn't even realize I had. The other things that I got to do with the Natural Resources Department was work with water resources and water rights, [which] also turned out to be a very valuable practice area.

Q: What is your current caseload like?

A: I do a lot of administrative law, so a lot of my work is actually before either the Utah Board of Oil, Gas and Mining, or the Utah Division of Oil, Gas and Mining, or Utah Division of Water Rights. Also, there's a lot of public land law involving public lands because we have so much of that in the state of Utah. So I work a lot with the Department of the Interior on, once again, administrative issues, federal leases, permits, rights of way, that type of thing.

Q: Are there any particular types of cases that come up more often than others in your practice?

A: I represent lots of folks in the coal mining industry, let me put it that way. Generally, they're seeking a permit to commence operations. I do some work with the oil shell industry in Utah as well, so it's generally mining issues or permitting, and water rights associated with the mining industry.

Q: Do you handle much litigation?

A: What happens is, you're practicing before administrative agencies, but then, generally, the decisions of those agencies are then appealed, so I've had a lot of cases before that are appealed directly to the Utah Supreme Court. In fact, I get to argue a case on March 5 involving a permit that's been appealed to the Utah Supreme Court. That's kind of the way that the appeal system is setup in our state. If it's appealed, ultimately it goes to the Utah Supreme Court and so I've had an opportunity to argue there probably a half-dozen times. That doesn't happen all the time—thank heavens!—but one difference maybe in administrative law is a lot of it is record-based, so you've got the administrative record that's generally appealed. Rather than doing a lot of evidentiary work, you a lot of the times rely on the administrative record.

Q: It must be pretty exciting to go before the Utah Supreme Court.

A: It really is. Right now, the presiding justice, chief justice, is Christine Durham. It's fun to appear in front of a woman. ... She's the first [female] Utah Supreme Court chief justice.

Q: Do you have a most memorable case?

A: I did work with one coal operator and it took us about nine years to obtain the coal mine permit, due to the numerous environmental appeals and all. That was one of the more challenging experiences. Just finally getting the permit issued and seeing the coal mine open, that was very gratifying.

Q: Is there a typical response for why permits aren't given?

A: I think it's just the procedure that takes so long. You know, just the procedural processes. For instance, a coal mine permit is several volumes—it'll be seven or eight volumes—and it focuses on the impacts of the mining, like hydrologic impacts, that type of thing. There's a lot of detail that goes into the permitting application. Then the process for review is open to the public, and so, sometimes it takes awhile to address the concerns that are raised by public comments and get the permit right.

Q: Did anything about practicing law surprise you or differ from what you expected?

A: I really enjoy the practice of law, and I enjoy working with companies that are developing mines or products or doing a pipeline or a mine or something like that. It's fun to work with people and see the project come to completion. I guess that was a bit of a surprise; it's a lot more working with people. I enjoy that aspect of it and seeing projects come to fruition.

Q: Last year you were elected president of the Rocky Mountain Coal Mining Institute. Can you tell us a bit more about your involvement with that organization?

A: I've been on the board for about eight years. [The Rocky Mountain Coal Mining Institute] provides a lot of education for the mining industry and also the public regarding coal and the use of coal in the West. They promote coal through education and provide scholarships and then educate people regarding the coal industry in general. I started out as kind of regional director of the regional program, helped put together some programs in the Price area, and then

worked my way onto the board and up the board of directors to president. This year is their 100th [anniversary conference]. It'll be held in Vail, Colorado, June 30 through July 3. Our theme is "Back to the Future." We're trying to not only celebrate the past 100 years, but also take a look at the future and try to encourage new mining engineers and lawyers to join the industry.

Q: So you'll be able to go back to Colorado.

A: Yeah! That will be fun.

Q: What is the most challenging part of your job?

A: Just how polarized the environmental practice has become, with groups opposing development rights and that kind of thing. It's good that they have a voice, but it's concerning that things have gotten so polarized. I hate to see that because I think that reasonable minds can come together on some of these things.


Q: Any thoughts after working in this field for so long of how to mitigate that?

A: I think it's always good to try to settle things ahead of time, to the extent that you can, and work with people. In Utah, we have a very collegial bar, so you get to know people through bar activities and the environmental committees of the bar, that kind of thing. For instance, we put together an environmental permitting manual. It helps to improve relations.

Q: What's the most rewarding part about being a lawyer?

A: Working with people and helping to bring projects to fruition—a development or a mine, a pipeline or something. That's very satisfying.

Q: Do you have any advice for younger lawyers who are looking to get into environmental law?

A: What I would suggest is getting involved in government agencies, either an attorney general's office or solicitor's office in the Department of Interior, or working with the governor's office or even the Environmental Protection Agency. You get a lot of experience quickly. 



DENISE DRAGOO ON THE MOST REWARDING PART ABOUT BEING A LAWYER
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