
NATURAL RESOURCES LAW TEACHERS NEWSLETTER

Spring 2010

Editor's Note:

In this edition you will find entries from some professors who haven't appeared in past Natural Resources Law Teachers' Newsletters. The new names appear because our call for newsletter entries went to the Rocky Mountain Mineral Law Foundation's list of law teachers—the usual suspects—and also was forwarded to the members of the Natural Resources Section of the Association of American Law Schools. In anticipation of more submissions resulting from this expanded solicitation, we decided to establish a 200-word limit on individual entries. My thanks to all of you who submitted tight, concise entries for this edition of the newsletter.

We hope you enjoy hearing from some new people. If you do, feel free to thank Robin Craig, Eric Dannenmaier, and K.K. DuVivier—all members of the AALS Natural Resources Section executive committee, who proposed the expanded solicitation and worked to make it happen.

Thanks, also, to the Foundation staff and to Theresa Montoya of the UNM law school staff for their assistance in producing the newsletter.

Enjoy the summer.

Reed D. Benson
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***The Natural Resources Law Teachers
Newsletter***

A publication of
The Rocky Mountain Mineral Law Foundation
and
The Energy & Mineral Law Foundation

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A word from Prof. Federico Cheever Natural Resources Law Teachers Committee Chair, Rocky Mountain Mineral Law Foundation:

It was been a year since our wildly successful Natural Resources Law Teachers Institute an Chico Hot Springs outside Yellowstone National Park. It's time to start thinking about our next NRLTI in 2011. By now you should have submitted your excellent ideas for locations for our 2011 conference (the deadline was May 1). If you have missed that deadline, it may not be too late. We will try to make a final decision about topic and location at the Natural Law Teachers' Luncheon at Banff in July.

It's been ten months since Rob Glennon's excellent talk at the Natural Resources Law Teacher's lunch at the 55th Annual RMMLF Institute in San Francisco. We need a lunch speaker for Banff NOW! Please send suggestions to fcheever@law.du.edu as soon as possible.

Owen Anderson (Oklahoma). The RMMLF has just published the third edition of *International Petroleum Transactions* by Ernest Smith, John Dzienkowski, Owen Anderson, John Lowe, Bruce Kramer, and Jacqueline Weaver. The book is suitable for classroom use and as a desk reference book. Owen Anderson and John Lowe are once again co-teaching intensive courses in *International Petroleum Transactions* in LLM programs in Australia and Scotland. Owen Anderson and David Pierce spoke at an energy law conference at the University of North Dakota on April 9, sponsored by the *North Dakota Law Review*. A symposium issue on energy law will be published later this year with financial support from the RMMLF. Owen Anderson was recently elected to membership in the American Law Institute. He is already a Life Member in the National Conference of Commissioners on Uniform State Laws.

Bill Andreen (Alabama) has been teaching in a graduate program designed for Ethiopian law teachers. He taught Comparative Environmental Law in May 2009, Comparative Environmental Impact Assessment Law in December, and Law School Pedagogy and Administration in March. The classes are taught at Addis Ababa University. Bill also lectured on Ethiopian Environmental Law and Policy in May at Haramaya University. He has written a book chapter entitled “Water Law and the Search for Sustainability: A Comparative Analysis” which will be published in *WATER RESOURCES, PLANNING AND MANAGEMENT* (Grafton & Hussey, eds., Cambridge University Press) and a chapter, “Is There a Silver Lining to Midnight Mischief,” which will be published in *TRANSITIONS* (Sarat, ed., Cambridge University Press). In addition, his book chapter, “Delegated Federalism Versus Devolution: Some Insights from the History of Water Pollution Control,” was published in *PREEMPTION CHOICE* (Buzbee, ed., Cambridge University Press, 2009). In July, Bill will be taking another group of Alabama law students to study at the Australian National University. This year is the tenth anniversary of the UA/ANU Summer School Program, which brings ten ANU students and one professor to Alabama every winter and sends ten Alabama students along with Alabama faculty to Canberra each summer.

Mary Jane Angelo (Florida) published “Corn, Carbon and Conservation: Rethinking U.S. Agricultural Policy in a Changing Global Environment” 17 *George Mason Law Review* 593 (2010). She recently published “Valuing Nature: The Challenge of a National Environmental Legacy Act” (with Mark T. Brown), in *BEYOND ENVIRONMENTAL LAW* (Alyson Flournoy and David Driesen, eds., Cambridge Press, forthcoming 2009); “Modernizing Water Law: The Example of Florida,” 61 *FLORIDA LAW REVIEW* 403 (with Christine Klein and Richard Hamann, 2009); and “Stumbling Toward Success: A Story of Legal Adaptation and Ecological Resilience,” 87 *NEBRASKA LAW REVIEW* 950 (2009). In the Fall of 2009 she taught at the University of Warsaw in Warsaw, Poland. She will teach “Agricultural Policy and the Environment” at Vermont Law School (VLS) in Summer, 2010.

Tony Arnold (Louisville) was the Spring 2010 Symposium Visiting Professor at the University of Houston Law Center, where he taught Water Law and a Seminar in Biodiversity and Ecosystem Conservation, as well as organizing the Environmental & Energy Law & Policy Journal’s Symposium on Climate Change, Water, and Adaptive Law. In addition to giving the opening remarks at

this symposium, Arnold gave a presentation on adaptive watershed planning. He also spoke on “Sustainable Webs of Interests: Reconceptualizing Property in an Interconnected Environment” at the Association for Law, Property, and Society conference at Georgetown University Law School, and served on a land use panel at South Texas College of Law. He is in the process of working on the 6th edition of Rabin, Kwall, Kwall, and Arnold, *FUNDAMENTALS OF MODERN PROPERTY LAW*.

Aubrey Baldwin (Lewis & Clark Clinical Professor and Pacific Environmental Advocacy Center Staff Attorney) was a lead organizer with fellow PEAC attorney Allison LaPlante of Lewis & Clark’s national environmental conference, “The Clean Air Act at a Crossroads: Turning 40, Confronting Climate Change,” held in April (downloadable podcasts forthcoming). Baldwin presented a case study of PEAC’s *Sierra Club v. Portland General Electric* case to a national meeting of public interest attorneys working on coal-plant litigation in Austin, Texas. In February, at the University of Oregon’s Public Interest Environmental Law Conference, Baldwin discussed PEAC’s work on behalf of clients in the Northwest to establish a coal-free zone, including her work before the Oregon Public Utility Commission, Federal Clean Air Act Litigation, and advocacy before the state environmental quality regulators. With fellow PEAC Clinical Professor and Staff Attorney Allison LaPlante, Baldwin spoke on the Clean Water Act at a CLE training for public interest attorneys in San Francisco. Baldwin serves on the Oregon Department of Environmental Quality’s Portland Air Toxics Solutions Advisory Council, tasked with devising a multi-jurisdiction plan to ensure reductions in air toxics in the entire Portland Metro region to satisfy public health protection standards.

Reed D. Benson (New Mexico) has a forthcoming article, “A Bright Idea from the Black Canyon: Federal Judicial Review of Reserved Water Right Settlements,” to be published shortly in the *University of Denver Water Law Review*. Another article, “New Adventures of the Old Bureau: Modern-day Reclamation Statutes and Congress’ Unfinished Environmental Business,” will appear (somewhere) later this year. Reed provided introductory remarks at a March 2010 conference on environmental flow issues, sponsored by the Utton Transboundary Resources Center at UNM.

Michael Blumm (Lewis & Clark) authored "The Public Trust Doctrine and Private Property: The Accommodation Principle" (<http://ssrn.com/abstract=1543885>), to be published in volume 27 of the *Pace Environmental Law Review*. The article discusses how, contrary to popular belief, public trust doctrine and private property coexist; while the public trust doctrine is often accused of undermining property rights, in fact the doctrine is actually a venerable property concept that functions to harmonize public and private rights in important natural resources. Blumm co-authored "Background Principles, Takings, and Libertarian Property: A Response to Professor Huffman" with Natural Resources Law Institute's 2009 Distinguished Visitor, J.B. Ruhl, (<http://ssrn.com/abstract=1567664>), to be published in Volume 37 of *UC Berkeley's Ecology Law Quarterly*. The article replies to the allegations of Jim Huffman (Lewis & Clark) that background principles of common and statutory law, which defeat constitutional compensation claims in takings cases, circumvent the rule of law and are inconsistent with the Fifth Amendment. The reply contends that Huffman's criticisms are the product of a rigid libertarian vision of property that is both a historical and unconnected to the challenges of the 21st century, and maintains that background principles are now a permanent aspect of takings cases.

John Bonine (Oregon) published the Teacher's Manual to his book, *HUMAN RIGHTS AND THE ENVIRONMENT: CASES, LAW, AND POLICY* (Carolina Academic Press, 2010); "Private Public Interest Environmental Law: History, Hard Work, and Hope," 26 *Pace Env't'l L. Rev.* 465 (2009) (also published in *Environment, People Law Journal*, [Ukrainian] 2010); "Best Practices—Access to Justice," World Resources Institute (2009). In the past year, he has served as a non-governmental delegate to the UNFCCC Conference of the Parties, Copenhagen, Denmark, December 6-10, 2009; and as a delegate to the meeting of U.N. Economic Commission for Europe, Geneva, Switzerland, July 6-7, 2009. He also spoke at the following events: "Is International Law a Myth?" International Wildlife Law Conference, Stetson Law School, Florida, March 12, 2010; "Climate Change and the Likelihood of Non-Enforcement," Conference on Climate Change and Human Rights, University of Georgia Law School, February 12, 2010; "Environmental Human Rights and Climate Change," Deusto University Law School, Bilbao, Spain, December 11, 2009; "Access to Justice and Citizen Enforcement," Wuhan University School of Law, November 6, 2009; "Human Rights and

Environment," Korea Environmental Law Forum, May 1, 2009. He also judged the final round of the Stetson International Environmental Moot Court Competition in March 2010.

Russ Brown (Alberta) will be giving an invited address to the University of Hong Kong's Faculty of Law on April 14, 2010 on the Commonwealth Jurisprudence of Factual Causation, and on April 30, 2010 at the ABA Section of State and Local Government Law 2010 Spring Meeting in Miami, FL on the Canadian law of regulatory takings. He is also still very happy about the Olympic men's hockey final result, and hereby offers to send American friends and colleagues, upon request, a complimentary container of silver polish.

Tom Buchele (Lewis & Clark Clinical Professor and Pacific Environmental Advocacy Center Managing Attorney) testified in December before the bi-state Columbia River Crossing Project Sponsors Council regarding the impacts of and legal problems regarding recent changes to the "preferred alternative" for replacing the current Interstate 5 bridges over the Columbia River. In February, at the Public Interest Environmental Law Conference at the University of Oregon, Buchele spoke about strategies for dealing with extra-judicial attacks on public interest plaintiffs and their attorneys.

Michael Burger (NYU/Roger Williams) published "Empowering Local Autonomy and Encouraging Experimentation in Climate Change Governance: The Case for a Layered Regime" in 39 *Environmental Law Reporter* 11161 (Dec. 2009). His article, "It's Not Easy Being Green: Local Initiatives, Preemption Problems and the Market Participant Exception" is to be published in 78 *University of Cincinnati Law Review* (May/June 2010). In July, Michael will begin as an Associate Professor at Roger Williams School of Law, where he will be teaching Environmental Law, Ocean & Coastal Law, Law & Literature, and related courses.

Laura H. Burney will be a visiting professor at St. Mary's University School of Law in San Antonio, Texas beginning fall 2010 teaching oil and gas and property law. Before leaving for private practice in 2004, Ms. Burney was the Helen and Albert Herrmann Professor of Natural Resources Law at St. Mary's, where she began teaching in 1985. Ms. Burney served on the Oil, Gas and Energy Resources Law Council of the State Bar of Texas for nine years, completing her tenure as chair in 2005. She joined the faculty of the Rocky Mountain Mineral Law Foundation's Short Course on Oil and Gas Law in

2004 teaching title and conveying issues. Her article, “The Texas Supreme Court and Oil and Gas Jurisprudence: What Hath *Wagner & Brown v. Sheppard* Wrought?” will appear in the June 2010 issue of the University of Texas Journal of Oil, Gas and Energy Law.

Alejandro E. Camacho (UC Irvine/Notre Dame) published the following articles: (1) “Assisted Migration: Redefining Nature and Natural Resource Law under Climate Change,” 27 *Yale J. on Reg.* (2010); (2) “Collaborative Planning and Adaptive Management in Glen Canyon: A Cautionary Tale,” 35 *Colum. J. Env’tl. L.* 1 (with Lawrence Susskind & Todd Schenk) (2010); (3) “Adapting Governance to Climate Change: Managing Uncertainty through a Learning Infrastructure,” 59 *Emory L. J.* 1 (2009); (4) “Multidimensional Evaluation of Managed Relocation” (with David Richardson et al.), 106 *Proc. Natl. Acad. Sci.* 9721 (2009). He also spoke or presented work at the following venues: Conference on Water Conservation: Case Study of Mexico, U.C. Irvine, May 14, 2010; Stanford Law School Environment & Energy Workshop, April 19, 2010; University of Washington Law School Faculty Workshop, April 8, 2010; Keynote, Conference on The Challenges of Adaptive Management, National Sea Grant Law Center, University of Mississippi School of Law, March 30, 2010; Georgetown International Environmental Law Review Symposium, Georgetown Law Center, March 26, 2010; Association for Law, Property, and Society Annual Meeting, Georgetown Law Center, March 6, 2010; AALS Annual Meeting, Natural Resources Section, Jan. 9, 2010; Center for Progressive Reform Semi-Annual Meeting, Jan. 6, 2010.

Federico Cheever (Sturm College of Law, University of Denver) is still Associate Dean for Academic Affairs. Fred presented his draft article “The Phantom Menace and the Real Cause: Lessons from Colorado’s Hayman Fire 2002” at the Pennsylvania State University College of Law Symposium on Wildfire in the Eastern United States. The article will be published in the Pennsylvania State University Environmental Law Journal. Fred is also doing work as part of the Private Conservation Instruments & Policy in a Changing Climate Exploratory Workshop, with Jessica Owley Lippman, Nancy McLaughlin, Adena Rissman, Buzz Thompson and lots of other exciting people.

Teresa Clemmer (Vermont) recently took two student clinicians on a tour of coal plants and coal ash impoundments in western Pennsylvania with an eye toward developing future projects for the

Environmental and Natural Resources Law Clinic. She also arranged for faculty and students to travel to Copenhagen, Denmark to observe and participate in the United Nations Conference on Climate Change.

Dan Cole (Indiana-Indianapolis) is writing *SELLING HOT AIR: EMISSIONS TRADING AND OFFSETS IN CLIMATE POLICY* (forthcoming Cambridge University Press, 2011), and working on new editions of *PRINCIPLES OF LAW AND ECONOMICS* (with Peter Grossman, forthcoming Aspen 2011) and *NATURAL RESOURCES LAW* (with Jan Laitos, Sandi Zellmer, and Mary Wood, forthcoming West 2011). In March, he presented a paper (co-authored with Peter Grossman) called “Institutions Matter! Why the Herder Problem Is Not a Prisoners’ Dilemma” at the 2d annual meeting of the Society for Environmental Law and Economics at Emory Law School. That paper will be published later this year in the game-theory journal *Theory and Decision*. Finally, Professor Cole is co-organizing a conference (with Elinor Ostrom) for the Lincoln Institute of Land Policy on the evolution of property systems in natural resources. Confirmed participants in that conference, which will take place in September, include (among others) Douglass North, Thrainn Eggertsson, Robert Ellickson, William Fischel, Wallace Oates, Shi-Ling Hsu, Anthony Scott, Richard Epstein, Henry Smith, Gary Libecap, and Katrina Wyman. The conference papers will subsequently be published in a book, edited by Cole and Ostrom. Finally, Cole now has his own blog, “Law, Economics & Cycling” at www.cyclingprof.blogspot.com/.

Kim Diana Connolly (State University of New York at Buffalo) will join the faculty at SUNY-Buffalo in the summer of 2010. She published “Navigating Tricky Ethical Shoals in Environmental Law: Parameters of Counseling and Managing Clients” in 10 *Wyoming Law Review* ___ (2010) and a report entitled “The Effects of the SWANCC and Rapanos Supreme Court Rulings on South Carolina Waters,” March 2010 (supported by a grant from the National Wildlife Federation) and gave a number of presentations, including one on media coverage of environmental law and policy at Environmental Law Institute’s First Annual Skills Workshop in Public Interest Environmental Law. Her students put together a website entitled “Haiti: A Pathfinder to Post-Earthquake Responses for Environmental and Natural Resources,” available at <http://law.sc.edu/pathfinder/haiti/>. She also won the 2010 Special Recognition Environmental Stewardship Award from the University of South Carolina School of the Environment.

Barbara Cosens (Univ. Idaho) published articles on “Transboundary River Governance in the Face of Uncertainty: Resilience Theory and the Columbia River Treaty” in the University of Utah Journal of Land Resources, and Environmental Law (pending 2010) and “The Eternal Quest for Water: Historical Overview and Current Examination of Interbasin Transfers of Water” in the Proceedings of the 55th Annual Rocky Mountain Mineral Law Foundation Institute. The book she is co-editing with Judith Royster on THE FUTURE OF RESERVED WATER RIGHTS: THE WINTERS CENTENNIAL: WILL ITS COMMITMENT TO JUSTICE ENDURE? will be published by the University of New Mexico Press. She gave talks on transboundary governance and the Columbia River at the Natural Resources Law Teachers Conference and as the 2009 Stegner Young Scholar at the University of Utah College of Law. In addition to the Stegner Young Scholar, she is the Allan G. Shepard Professor at the University of Idaho College of Law for 2009-2010 and is a recipient of the 2010 University of Idaho Award for Excellence in Interdisciplinary or Collaborative Efforts for her role in developing the University of Idaho Waters of the West interdisciplinary graduate and concurrent JD program. She was promoted to full professor in 2010.

Greg Costello (Oregon), Adjunct Professor and Executive Director of the Western Environmental Law Center (WELC), recently attended the White House conference announcing America’s Great Outdoors program - the Obama Administration’s multi-agency effort to protect America’s landscape and to connect all Americans, particularly its youth, with our natural treasures. Greg also reports that University of Oregon clinic students are focusing on two exciting new clinical opportunities through WELC. The first focuses on land use matters, with clinic students assisting on a number of land use cases of statewide significance, including appeals of LNG (liquefied natural gas) terminal and pipeline proposals that would impact extensive natural habitat and put coastal communities at risk. Law interns are also participating in the University of Oregon multi-disciplinary Sustainable Cities Initiative, helping cities to identify opportunities to make city codes more environmentally friendly. Another new program is WELC’s Clean Energy and Safe Environment (CEASE) project, in which students are assisting WELC attorneys to oppose irresponsible dirty energy development from coal and coal to liquids conversion. The students are helping WELC and its clients, groups like the Sierra Club, combat coal fired power plants, and the toxic coal

combustion wastes from these plants in several western states.

Robin Kundis Craig (Florida State University) has published several articles in the last quarter, including: "Adapting to Climate Change: The Potential Role of State Public Trust Doctrines," 34 Vermont Law Review 781 (2010); "'Stationarity Is Dead' - Long Live Transformation: Five Principles for Climate Change Adaptation Law," 34:1 Harvard Environmental Law Review 9 (2010); "A Comparative Guide to the Western States' Public Trust Doctrines: Public Values, Private Rights, and the Evolution Toward an Ecological Public Trust," 37 Ecology Law Quarterly 53 (2010); "Water Supply, Desalination, Climate Change, and Energy Policy," 22 Pacific McGeorge Global Business & Development Law Journal 225 (2010); "Administrative Law in the Roberts Court: The First Four Years," 62:1 Administrative Law Review 69 (2010); and "A Public Health Approach to Sea-Level Rise: Starting Points for Climate Change Adaptation," 15 Widener Law Review 521 (2010). She has also given several talks, including: "Public Trust and Public Necessity Defenses to Takings on the Gulf Coast." Sea Grant Symposium: Symposium on Sea-Level Rise and Property Rights (Tallahassee, 4/23/10); "The Role of the State Public Trust Doctrines," Fifteenth Annual Tulane Law School Summit on Environmental Law and Policy: Bound by Water (4/10/10); "Water-Borne Dangers and Climate: Emerging Threats to Indiana Health," Third Annual Spring Environmental Symposium: Indiana's Water Future-Crisis or Cooperation? (Indianapolis 4/01/10); "Adapting the Law of Water to Public Necessity," Vermont Journal of Environmental Law Symposium: Climate Change Adaptation and Mitigation (3/26/10); "Avoiding the Jellyfish Sea, or, What Do We Mean by Sustainable Oceans, Anyway?," Fifteenth Annual Wallace Stegner Center Symposium: The Challenge to Sustainability (3/13/10); "'Stationarity Is Dead'-Long Live Transformation: Five Principles for Climate Change Adaptation," 4th Annual CAMNet Rendezvous-Climate Change and Adaptive Management (Tucson 3/9/10); "'Stationarity Is Dead' - Long Live Transformation: Five Principles for Climate Change Adaptation," University of Arizona School of Law (3/8/10); "State Public Trust Doctrines, the Emerging Ecological Public Trust, and the Balance of Public and Private Rights," 2010 Annual Meeting of the Association of Law, Property and Society (Washington, D.C. 3/5/10); "Adapting Cooperative Federalism to Climate Change's Water Impacts: Who Should Get to Do What?," 2010 Environment & Energy Law & Policy Journal Symposium" Climate Change, Water, and Adaptive

Law (Houston 2/26/10); "Protecting Inflows from the Apalachicola River," *Freshwater Inflows to Estuaries: 2010 and Beyond* (Corpus Christi 2/9/10); "Marine Regulatory Jurisdiction and Marine Zoning: An Overview," Florida Symposium on Offshore Energy, Part II: The Inshore Challenges of Offshore Energy Projects (Tallahassee 2/1/10); "Public Health and Climate Change Adaptation," Association of American Law Schools Annual Meeting (1/9/10).

Jason J. Czarnezki (Vermont) is currently a Fulbright Scholar at Sun Yat-sen (Zhongshan) University in Guangzhou, China, where he teaches environmental and natural resources law. While in China, he has lectured at Jinan University, South China University of Technology, and Hong Kong Baptist University. He was recently elected treasurer of the AALS Section on Natural Resources. His book, *EVERYDAY ENVIRONMENTALISM: LAW, NATURE AND HUMAN BEHAVIOR*, will be published later this year by Environmental Law Institute Press. He is currently researching eco-labeling programs for food, and organizing the First Annual Colloquium on Environmental Scholarship at Vermont Law School.

Eric Dannenmaier (IU Law – Indianapolis) published "Lawmaking on the Road to International Summits," 59 *DePaul L. Rev* 1-67 (2009) (available at

<http://ssrn.com/abstract=1585325>) and has completed "Global Governance Beyond State Sovereignty: Public Access to Lawmaking and Administration," for Burns & Heinen, eds., *HANDBOOK ON GLOBAL ENVIRONMENTAL ISSUES* (in press, 2010) (available at

<http://ssrn.com/abstract=1585325>). He is also working on a new piece "Managing Energy Demand through Water Doctrine: Bringing Reasonable Use to the Power Grid," a preliminary draft of which he presented at Tulane Law School's 15th Annual Environmental Law Symposium in March 2010, and a chapter on "The Climate Change Regime," to be published in Handl & Zekoll, eds., *EXTRATERRITORIALITY: TRANSNATIONAL LEGAL AUTHORITY IN AN AGE OF GLOBALIZATION* (forthcoming, 2010).

Dannenmaier has been asked to Chair a new Working Group on Policy, Economics, and Law for the Richard G. Lugar Center for Renewable Energy, and is working with the Group to produce a white paper on Energy Security and its implications for Midwestern and Great Plains states. He will be co-chairing a NATO Advanced Research Workshop for Southern Mediterranean states on "Environmental Security: Workshop on Water Security, Management

and Control," in Marrakech, Morocco, May 31-June 3, 2010.

Joe Dellapenna (Villanova) edited and contributed to *THE EVOLUTION OF WATER LAW AND POLITICS* (2009), and contributed 15 chapters to the 2009 edition of *WATERS AND WATER RIGHTS* (on eastern, quantitative groundwater, international, and Pennsylvania water law). He published articles on the likely impact of climate disruption on water law: 17 *Mich. St. J. Int'l L.* 43 (2008); 81 *Temple L. Rev.* 101 (2009); 15 *Widener L. Rev.* 409 (2010); and on "Peasants, Tanners, and Psychiatrists: Using Films to Teach Comparative Law," 36 *J. Legal Information* 156 (2008). He also contributed a chapter on the human right to water to *RECONCILING HUMAN EXISTENCE WITH ECOLOGICAL INTEGRITY* (2008); and a chapter on international water law to *SUSTAINING LIFE ON EARTH* (2008); and he published the "Complaints Choir" from the 2008 AALS, 20 *Villa. Envtl. L. Rev.* 23 (2009). Joe spoke at numerous conferences, including as keynote speaker at the Red Clay Conference at the University of Georgia (March 2010), at a conference on legal education reform at the University of Foggia (Italy, July 2009), and the "World Tribunal of Water" at EXPO 2008 in Zaragoza, Spain (July 2008). He is the legal member of the team doing a feasibility study of the Red-Dead Canal for the World Bank.

Deb Donahue's (Wyoming) article "Trampling the Public Trust," based on her presentation in Chico in May 2009, will be published this spring in the *Boston College Environmental Affairs Law Review*. In the semester just ended Donahue taught a new course, Applied Environmental Law, to non-law students; in the fall she will teach a new law course, Environmental Policy, which also will be open to non-law students. She is collaborating with a small group of scientists on a project related to climate change and the management of ungulates on public lands.

Tim Duane (Vermont) published "Grizzly Bears, Gray Wolves and Federalism, Oh My! The Role of the Endangered Species Act in De Facto Ecosystem-Based Management in the Greater Glacier Region of Northwest Montana" in the *Journal of Environmental Law and Litigation* 24 (2) Winter 2010 with VLS student Lara D. Guercio, and "Greening the Grid: Implementing Climate Change Policy Through Energy Efficiency, Renewable Portfolio Standards, and Strategic Transmission System Investments" in the *Vermont Law Review* 34 (3) Spring 2010. He organized and moderated a panel

on the topic of “Greening the Grid” at the Public Interest Environmental Law Conference at the University of Oregon.

K.K. DuVivier (Denver) focused on four areas recently: (1) Solar Rights: authoring “*Guest Commentary—Retain Solar Access In Code*”

http://www.denverpost.com/opinion/ci_13653895 , presenting to the Sierra Club and other interest groups, and testifying at several zoning hearings, providing interview in the December 2009 Washington Park Profile, “ ‘Sustainability’ Still Undefined, Elusive in New Zoning Code” by Paul Kashmann

http://washingtonparkprofile.com/index.php?option=com_content&task=view&id=781&Itemid=1;

(2) Wind Power Development: presenting to the Denver Association of Petroleum Landmen’s spring workshop in March; (3) In situ Uranium Mining: testifying before the Colorado Mined Land Reclamation Board, providing interview afterward with Megan Verlee of Colorado Public Radio and for a story in the Coloradoan.com, “Meeting provides both sides of uranium debate” by Bobby Magill (April 16, 2010),

<http://www.coloradoan.com/article/20100416/NEWS01/4160349/-1/NEWSFRONT2>;

and (4) Renewable Energy Resources in general: presenting “International Issues for Sustainable Energy” at the ABA ILA conference in February; presenting “The New Energy Frontier: The University of Denver’s Partnership with the National Renewable Energy Laboratory” (organized and co-presented with Robert J. Noun, Chief Spokesman for NREL) in March, becoming a founding member of Renewable Energy Steering Committee for Interdisciplinary Colloquia Series. Also in January 2010, K.K. became a member of the Executive Committee for the AALS Section on Natural Resources.

Michael Dworkin (Vermont) presented “Security Tensions, Energy Resources, and Demand-Side Management” at a conference sponsored by the MacArthur Foundation at the National University of Singapore in November. During a three-week visit to China last fall, he gave the following presentations: “Power Market Reform, Resource Planning, Smart Grids and Carbon Emission Controls,” at the State Electricity Regulatory Commission of China Senior Managers’ Briefing; “Energy Policy In the Obama Administration: Implications for Carbon Constraint and China,” at the law school of Sun Yat-sen University; and “Copenhagen, Obama’s Energy Goals, and Carbon Options for the U.S. and China,” at the Environmental Law Institute at Zhongnan University of Finance, Politics, and Law in Wuhan.

Stephen Dycus (Vermont) (with William C. Banks at Syracuse and Peter Raven-Hansen at GW) has signed a contract with Aspen Publishers for a fifth edition of NATIONAL SECURITY LAW and a second edition of COUNTERTERRORISM Law, both due out in 2011. He has been appointed to a National Research Council committee entitled Detering Cyberattacks: Informing Strategies and Developing Options for U.S. Policy. On April 16, he made a presentation entitled “Defense Planning for a Warmer Planet” at a Duke Law School conference called “National Security Challenges and the Obama Administration.”

Gabriel Eckstein (Texas Tech University) recently published: “Water Scarcity, Conflict, and Security in a Climate Change World: Challenges and Opportunities for International Law and Policy” in 27 Wisconsin International Law Journal 409 (2010); “Organophosphates, Friend and Foe: The Promise of Medical Monitoring for Farm Workers and Their Families,” in 27 UCLA Journal of Env’tl L. and Pol’y 39 (2009) (with Adriane Busby [formerly with the U.S. Environmental Protection Agency]); and “Scientific, Legal, and Ethical Foundations for Texas Water Law,” in Texas Law of Water Resources 5-35 (M. Sahs, ed. 2009) (with Amy Hardberger of Environmental Defense). He has a forthcoming book in 2010 on THE GREENING OF WATER LAW, to be published by the UN Environmental Programme. Professor Eckstein also was recently appointed as Treasurer of the International Water Resources Association (www.iwrahome.org), an international professional membership association. Professor Gabriel Eckstein will leave Texas Tech University at the end of the 2009/10 school year and join the law faculty of Texas Wesleyan University in Fort Worth, TX, in Fall 2010.

Rob Fischman (Indiana Maurer—Bloomington) has two new articles that will be published within the year: “Beyond Trust Species: The Conservation Potential of the National Wildlife Refuge System in the Wake of Climate Change,” 51 Natural Resources J. (forthcoming 2011) (with Bob Adamcik); and “Adaptive Management in the Courts,” 95 Minn. L. Rev. (forthcoming 2010) (with J.B. Ruhl). His coauthored article, “Climate Change Adaptation for the U.S. National Wildlife Refuge System,” recently appeared in the peer-reviewed, 44 Environmental Management 1043 (2009) (with B. Griffith, et al.). Fischman continues to churn out supplemental materials and updates for the FEDERAL PUBLIC LAND AND RESOURCES LAW casebook web site: <http://www.law.indiana.edu/publicland/>. He is currently co-teaching an interdisciplinary capstone

course with a conservation biologist for masters students at the Indiana Univ. Sch. of Public and Environmental Affairs. Defenders of Wildlife serves as a client and has the students preparing reports on how the national wildlife refuge system ought to adapt various programs to climate change. Fischman is currently putting together an interdisciplinary workshop on animal migration conservation for the fall.

Victor B. Flatt (North Carolina), was the keynote speaker for Vermont Law School's symposium on Surviving and Thriving Climate Change. He spoke at the Fed-Ex Global Center on the Copenhagen climate change meeting, and also made presentations at AALS, Lewis & Clark Law School, Chapman University, and the University of Houston. He published an article detailing statistical analysis of environmental enforcement in 85 *Notre Dame Law Review* 55; an article on pre-emption in environmental law and climate change in 1 *San Diego J. Climate & Energy L.* 63; and an article on adapting energy and environmental policy for climate change in 11 *Vermont Journal of Environmental Law* 1. With Bill Funk and Craig Johnston, he published his third edition of the *LEGAL PROTECTION OF THE ENVIRONMENT*, (Thompson West). As Director of the Center for Law, Environment, Adaptation, and Resources (CLEAR), he co-hosted two workshops, one on the Clean Air Act and Climate Change and one on Using Existing Legal Regimes to address Climate Change Adaptation.

Alyson Flournoy (University of Florida Levin College of Law) published a chapter titled "The Case for the National Environmental Legacy Act" in *BEYOND ENVIRONMENTAL LAW: POLICY PROPOSALS FOR A BETTER ENVIRONMENTAL FUTURE* which she also co-edited with David Driesen (Cambridge Univ. Press 2010). In March, she gave the keynote address at Barry Law School's Symposium "Who's Next (And What Will We Leave Them?): Safeguarding the Earth for Future Generations." She was recently named a UF Research Foundation Professor.

Roger Flynn (Adjunct Professor, Universities of Colorado and Wyoming) taught at the RMMLF Mining Law Short Course held in Boulder, Colorado in May, 2010.

Bill Funk (Lewis & Clark's Judge Robert E. Jones Professor of Law) moderated a panel on "Public Health and the NAAQS" at Lewis & Clark's "Clean Air Act at the Crossroads" conference in April. His fourth edition of *ADMINISTRATIVE PROCEDURE*

AND PRACTICE, co-authored with Sidney Shapiro (Wake Forest) and Russell Weaver (Louisville), was published by West earlier this year. The third edition of *LEGAL PROTECTION OF THE ENVIRONMENT*, with Craig Johnston (Lewis & Clark) and Victor Flatt (North Carolina) was just published by West. Funk's article, "Judicial Deference and Regulatory Preemption by Federal Agencies," 84 *Tulane L.J.* 1233 (2010), was also just published. In March, as part of the American Constitution Society's week-long event at Lewis & Clark, Funk and Judge Susan Graber of the Ninth Circuit debated whether the courthouse doors are closing.

Robert Glicksman (George Washington University) published a new casebook, *ADMINISTRATIVE LAW: AGENCY ACTION IN LEGAL CONTEXT* (Foundation Press); two book chapters, "The Failure of U.S. Climate Change Policy" and "Anatomy of Industry Resistance to Climate Change: A Familiar Litany," in *ECONOMIC THOUGHT AND U.S. CLIMATE CHANGE POLICY* (D. Driesen ed., The MIT Press) (2010); and a white paper, "Failing the Bay: Clean Water Act Enforcement in Maryland Falling Short," Center for Progressive Reform White Paper # 1004 (March 2010) (available at www.progressivereform.org/articles/MDE_Report_1_004FINALApril.pdf). He made the following presentations: (1) "Climate Change Adaptation: A Collective Action Perspective on Federalism Considerations," at "The Clean Air Act at a Crossroads: Turning 40, Confronting Climate Change," Lewis & Clark Law School; (2) "Silo Precedents in Administrative Law," at George Washington University Law School; and (3) "New and Emerging Constitutional Theories and the Future of Environmental Protection," at "Environmental Protection in the Balance: Citizens, Courts, & the Constitution," Georgetown University Law Center. Rob's book, *POLLUTION LIMITS AND POLLUTERS' EFFORTS TO COMPLY: THE ROLE OF GOVERNMENT MONITORING AND ENFORCEMENT* (with Dietrich Earnhart) is forthcoming with Stanford University Press, as is a law review article, "Agency-Specific Precedents" (with Richard Levy), to be published in the *Texas Law Review*.

Noah Hall (Wayne State University) was awarded tenure and promoted to Associate Professor. Recent publications include: "Protecting Freshwater Resources in the Era of Global Water Markets: Lessons Learned from Bottled Water," 13 *U. Denv. Water Law Review* 1 (2009); "Interstate Environmental Impact Assessment," 39

Environmental Law Reporter 10667 (2009); “The North American Great Lakes” in THE EVOLUTION OF THE LAW AND POLITICS OF WATER, Joseph W. Dellapenna & Joyeeta Gupta Eds. (Springer 2009); “Framing Water Policy in a Carbon Affected and Carbon Constrained Environment” (with Robert H. Abrams), 50 Natural Resource Journal -- (forthcoming 2010); and “Interstate Water Compacts and Climate Change Adaptation,” 5 Environmental & Energy Law & Policy Journal -- (forthcoming 2010). In addition, he developed and launched Wayne State’s new Environmental Law Clinic in partnership with the Great Lakes Environmental Law Center.

Jacqueline P. Hand (University of Detroit Mercy) presented on “Collective Sovereignty and Individual Identity: How they are Impacted in the Forms of Property held by Two Michigan Tribes” at the Association for Law, Property and Society Conference at Georgetown Law School.

Richard Hildreth (Oregon) published a new climate change textbook, CLIMATE CHANGE LAW: MITIGATION AND ADAPTATION with David Hodas (Widener), Nicholas Robinson (Pace) and James Gustave Speth (Yale School of Forestry and Environmental Studies) (West, 2009). He presented a paper on “Ocean Renewables: Making Room Offshore” as part of Washington and Lee’s March 19, 2010 conference on Renewables and Geoengineering, and will be presenting on Climate Regime Implications for the Pacific at the PACON conference in early June, 2010 and Ocean Fertilization in late June, 2010 at the annual Environmental Studies Association Conference. As a 2010-11 Morse Resident Scholar, he is organizing a September 10, 2010 conference in Eugene on the Ocean Impacts of Climate Change.

Jim Huffman (Lewis & Clark) announced in March his run for Senate against incumbent Senator Ron Wyden. He is currently considered the frontrunner in Oregon’s Republican primary.

Craig Johnston (Lewis & Clark) coached his team to Lewis & Clark’s third national championship in a row at the 2010 Pace National Environmental Negotiation Competition. Johnston’s teams have won the competition seven times since Lewis & Clark began participating 22 years ago.

Martha Judy (Vermont) presented “Environmental Lawsuits and Corporate and Social Responsibility: The Role of Litigation in Promoting Good Environmental Practice” at a March symposium at

Fordham Law School. She was named to the Program Committee of the AALS Section on Teaching Methods. Her article “Superfund at 30,” co-written with Katherine N. Probst, senior fellow at Resources for the Future, was accepted for publication by the Vermont Journal of Environmental Law. Her article “Coming Full CERCLA: Why *Burlington Northern* is Not the Sword of Damocles for Joint and Several Liability” was accepted for publication by the *New England Law Review*. Her chapter, “Cost Recovery: The Impact of *Aviall* and *Atlantic Research* on Voluntary Cleanups” is scheduled to be published in June by the ABA in the third edition of Todd Davis’ treatise, *Brownfields: A Comprehensive Guide to Redeveloping Contaminated Property*.

Christine A. Klein (Florida) published two articles and a book chapter: “The Environmental Deficit: Applying Lessons from the Economic Recession,” 51 Arizona L. Rev. 651 (2009); “The Dormant Commerce Clause and Water Export: Toward a New Analytical Paradigm,” 35 Harvard Environmental L. Rev. (forthcoming 2011); and “Environmental Patriotism,” in “Beyond Environmental Law: Policy Proposals for a Better Environmental Future” (Alyson C. Flournoy and David M. Driesen, eds., Cambridge University Press 2010). She was named as a committee member of the National Academy of Sciences, National Research Council, “Committee on Sustainable Water and Environmental Management in the California Bay-Delta” (2009-2011). She made presentations at three water law conferences: ABA, 28th Annual Water Law Conference (San Diego, Feb. 2010) (plenary panel); ABA, 2010 Eastern Water Resources Conference (Orlando, May 2010) (plenary panel); and University of Denver Water Law Review, 2010 Symposium (April 2010) (plenary speaker). During the spring 2010 semester, she was a visiting professor at the University of Denver, Sturm College of Law. She is currently working on a book with Sandi Zellmer, MISSISSIPPI RIVER STORIES: A CENTURY OF UNNATURAL DISASTERS.

Svitlana Kravchenko (Oregon) published the Teacher’s Manual to her book, HUMAN RIGHTS AND THE ENVIRONMENT: CASES, LAW, AND POLICY (Carolina Academic Press, 2010); she also published a chapter entitled “Environmental Rights” in OXFORD ENCYCLOPEDIA OF HUMAN RIGHTS (volume 2, 2009) and two articles: “The Myth of Public Participation in the World of Poverty” in 32 Tulane Env’tl L. J. 1 (Winter 2009), and “Is Access to Information a Fundamental Human Right?” in Or. Rev. Int’l L. (Spring 2010). She delivered lectures at the Constitutional Court and National Human Rights Commission of Korea and at seven

universities in Korea and Japan in May 2009. She presented a lecture on "Human Rights Approach to Corporate Accountability" at the 7th Colloquium of the IUCN Academy of Environmental Law in Wuhan, China, in November 2009. Professor Kravchenko was also invited to judge the final round of the Stetson International Environmental Moot Court Competition in March 2010.

Jan Laitos (Denver) presented and published a paper on game theory and natural resources use in 2d Annual Conference of the Society of Environmental Law and Economics (SELE), 12:1 (2010) "Encouraging Cooperative Natural Resource Games." He also had published his annual update to his treatise: *THE LAW OF PROPERTY RIGHTS PROTECTION* (2009, Aspen-Wolters Kluwer). He presented a paper and published an article at the 55th Annual Institute of the Rocky Mountain Mineral Law Foundation, in 55 Rocky Mountain Min. L. Inst. 25-1 (2009): "Limits on Private Property Use Imposed by the Emerging Right of Nonuse."

Allison LaPlante (Lewis & Clark Clinical Professor and PEAC Staff Attorney) spoke at the University of Oregon Public Interest Environmental Law Conference in February about her litigation regarding suction dredge mining in Oregon. In March, LaPlante spoke on ballast water regulation issues at the University of Portland's "Confluence: Water and Justice Conference." Along with fellow PEAC Clinical Professor and Staff Attorney Aubrey Baldwin, LaPlante spoke on the Clean Water Act at a CLE training for public interest attorneys in San Francisco. Also with Baldwin, she served as a lead organizer of Lewis & Clark's national environmental conference, "The Clean Air Act at a Crossroads: Turning 40, Confronting Climate Change," held in April.

Susan Mandiberg (Lewis & Clark) authored "Locating the Environmental Harm in Environmental Crimes," published at 2009 Utah L. Rev. 1177 (2009).

Roberta Mann (Oregon) published "Back to the Future, Recommendations and Predictions for Greener Tax Policy," 88 Or. L. Rev. 355 (2009); "To Tax Carbon or Not to Tax Carbon: Is That the Question?" 24 Nat. Res. & Env. 44 (2009) (reprinted in Richard G. Hildreth et al., *CLIMATE CHANGE LAW: MITIGATION AND ADAPTATION*, 270 (West, 2009)); and "Too Many Carrots and Not Enough Sticks? The Role of the Carbon Tax in Energy Tax Policy," 29 A.B.A. Tax. Sec. News Q. 10 (2009). She presented "Like Water for Energy:

The Water-Energy Nexus through the Lens of Tax Policy" at the Global Conference on Environmental Taxation in Portugal (September 24, 2009) and at the University of Florida Law School's Environmental Speaker Series/Capstone Colloquium (March, 2010). At the University of San Diego's Second Annual Climate and Energy Law Symposium on April 9, 2010, she presented "How to Love the One You're With: Changing Tax Policy to Fit Cap-and-Trade." On October 29, 2009, Professor Mann moderated "Selected Tax Issues Involving Alternative Energy Investments," a panel at the Parker Fielder Oil and Gas Tax Conference at University of Texas Law; she presented the same topic at the ABA Tax Section in May 2009.

David Markell (Florida State University College of Law) recently published "The North American Agreement on Environmental Cooperation (NAAEC)" in the Max-Planck Encyclopaedia of Public International Law (Oxford University Press, 2010). He has two books due out soon: *COMPLIANCE & ENFORCEMENT IN ENVIRONMENTAL LAW: TOWARDS MORE EFFECTIVE IMPLEMENTATION* (Edward Elgar Publishing, forthcoming 2010) (co-editor with Du Qun, Kotze, Markowitz, Paddock & Zaelke), and *ENVIRONMENTAL PROTECTION: LAW AND POLICY* (Aspen 6th ed., forthcoming 2010 with Glicksman, Buzbee, Mandelker, and Bodansky). Professor Markell will soon publish five law review articles: "The Public Regulation of Land Use Decisions: Criteria for Evaluating Alternative Procedures," 7 *Journal of Empirical Legal Studies* __ (forthcoming 2010) (co-authored with Professor Tom Tyler); "The Role of Citizen Spotighting Procedures in Promoting Citizen Participation, Transparency, and Accountability," 43 *Wake Forest L. Rev.* __ (forthcoming 2010); "Greening the Economy Sustainably," 1 *Washington & Lee Journal of Climate, Energy, and the Environment* __ (forthcoming 2010); "Toxics Regulation: A Look at TSCA's Goals and Experience," 28 *Wash. Univ. Journal of Law & Policy* __ (forthcoming 2010); and "An Empirical Survey of Climate Change Litigation in the United States," __ *Environmental Law Reporter* __ (ELI, forthcoming 2010) (co-authored with Professor J.B. Ruhl).

Lesley K. McAllister (San Diego) recently published "Reorienting Regulation: Pollution Enforcement in Industrializing Countries" (with Benjamin van Rooij and Robert A. Kagan) and "Dimensions of Enforcement Style: Factoring in Regulatory Capacity and Autonomy" in *Law & Policy* 32: 1 (2010). Forthcoming works include "Enforcing Cap-and-

Trade: A Tale of Two Programs,” 2 San Diego Journal of Climate and Energy Law, and “The Enforcement Challenge of Cap-and-Trade,” 40 Environmental Law. In Spring 2010, McAllister presented papers at Lewis & Clark Law School’s conference, The Clean Air Act at a Crossroads: Turning 40, Confronting Climate Change, and at University of San Diego (USD) School of Law’s symposium, Next Generation: Instrument Choice in Climate Law. Also this spring, McAllister offered a new interdisciplinary Comparative Environmental Law course that was cross-listed between USD Law and the School of International Relations and Pacific Studies at UC San Diego, where she is an adjunct associate professor. In December 2009, she also taught Comparative Environmental Law as a visiting professor at the Sorbonne in Paris. McAllister currently serves as the ABA Section of State and Local Government Law’s liaison to the ABA Standing Committee on Environmental Law.

Trish McCubbin (SIU) will be promoted, as of July 1, to Professor of Law. This spring, she spoke about greenhouse gas regulation under the Clean Air Act in various forums, including at the Lewis and Clark CAA conference, on an ABA teleconference, and at a roundtable workshop at Duke Law School. In the fall, she will participate in a panel on climate change and public health put together by Robin Craig for the American Society of Law, Medicine and Ethics. Trish was recently named a Fulbright Ambassador, helping to expand outreach for the international scholars exchange program. Finally, she continues her work as co-chair of the Constitutional Law Committee within the ABA’s Section on Environment, Energy and Resources.

David Mears (Vermont) led two workshops relating to environmental law clinics in China in December, one in Beijing and one in Guangzhou, as part of VLS’s U.S.-China Partnership for Environmental Law. The purpose of the workshops was to explore creating new or expanding existing environmental law clinics at Chinese law schools. While in China, he guest-lectured on environmental litigation in two of Jason Czarneski’s classes at Sun Yat-sen University. Mears and Patrick Parenteau are corecipients of the Connecticut River Watershed Council’s 2009 River Advocacy Award for their work on the Entergy Vermont Yankee nuclear plant case. The case, which is being handled by the ENRLC, challenges Entergy’s permit to discharge super-heated water to the Connecticut River with negative impacts on the Atlantic salmon and American shad.

Dan Mensher (Lewis & Clark Clinical Professor and PEAC Staff Attorney) is a member of the Oregon Department of Environmental Quality’s Stormwater Advisory Panel. Mensher presented on “Current Issues in Storm Water Regulation” at a conference in December. In March, Mensher spoke on water quality at the University of Portland’s “Confluence: Water and Justice Conference.”

Robert Miller (Lewis & Clark) was a keynote speaker in San Antonio at the U.S. National Historic Trails conference on Cultural and Heritage Tourism. He delivered a six-hour training on Indian law issues to U.S. Fish & Wildlife personnel in Bozeman, Montana. Miller co-authored, with three Indigenous professors from New Zealand, Australia, and Canada, an Oxford University Press book, DISCOVERING INDIGENOUS LANDS: THE DOCTRINE OF DISCOVERY IN THE ENGLISH COLONIES, which is scheduled for print later this year.

Janet Milne (Vermont) presented a paper on “Environmental Taxation in the United States: Retrospective and Prospective” at a conference in Hong Kong on “Green Taxation in East Asia: Problems and Prospects” in February. The conference, organized by the University of Hong Kong Faculty of Law, was designed to highlight issues that governments in East Asia might consider as they explore the use of market-based instruments. She was invited to present U.S. perspectives. Her article on “Watersheds: Runoff from the Tax Code” will be published in the *Vermont Law Review* this spring. She is helping to coordinate the 11th Global Conference on Environmental Taxation, to be held November 3–5, 2010 in Bangkok. A call for papers may be found at <http://www.acc.msu.ac.th/gcet2010/>.

John Nagle (Notre Dame) published the book LAW’S ENVIRONMENT: HOW THE LAW SHAPES THE PLACES WE LIVE (Yale University Press, 2010), which seeks to encourage a more accurate understanding of the actual role of environmental law by examining the role of environmental law, other laws, and social norms in shaping the environment of five places around the United States; “Climate Exceptionalism,” 40 Environmental Law 53 (2010), analyzing the debate about the treatment of greenhouse gases as pollution and suggests that a broader understanding of “pollution”; “Discounting China’s CDM Dams,” 7 Loyola International Law Review 9 (2009), arguing that the Clean Development Mechanism should be modified to distinguish among developing countries and among the environmental impact of projects; “The Idea of Pollution,” 43 UC Davis Law Review 1

(2009), examining the origin of the word “pollution” and how pollution claims in differing contexts may learn from each other; “The Effectiveness of Biodiversity Law,” 24 *Journal of Land Use and Environmental Law* 203 (2009), comparing the success of the ESA to biodiversity laws in China, Vietnam, Malaysia, and Cambodia; and “Cell Phone Towers as Visual Pollution,” 23 *Notre Dame Journal of Law, Ethics, and Public Policy* 537 (2009), analyzing the aesthetic complaints about cell phone towers.

Janet Neuman (Lewis & Clark) co-authored “Keeping Indian Claims Commission Decisions in Their Place: Assessing the Preclusive Effect of ICC Decisions in Litigation Over Off-Reservation Treaty Fishing Rights” for the *University of Hawaii Law Review*. She authored “Are We There Yet? Weary Travelers on the Long Road to Water Policy Reform” for *New Mexico’s Natural Resource Journal’s* 50th anniversary issue. Neuman gave the keynote address, “A Sabbatical Spent Practicing Water Law,” at the 18th Annual Oregon Water Law Conference. She was appointed to the Policy Advisory Group for the Oregon Integrated Water Resources Strategy, which the Oregon Water Resources Department will formulate over the next two years. Neuman serves on the Board of the Freshwater Trust, created by the recent merger of Oregon Trout and the Oregon Water Trust. This summer, Neuman will travel with Dean Robert Klonoff to India to begin implementing Lewis & Clark’s memoranda of understanding with the National Law School of India University (Bangalore), the NALSAR University of Law (Hyderabad), and The National Law University (Delhi). She will teach a one-week mini-course on water law in Bangalore, lecture and meet students and faculty at the other schools, and meet with alumni and potential student externship supervisors.

The **Pacific Environmental Advocacy Center** (PEAC) (Lewis & Clark) won a significant ruling in *Sierra Club v. Portland General Electric* (PGE), a Clean Air Act enforcement case against a coal-fired power plant emitting 5,000,000 tons of CO₂ annually. PEAC defeated defendant’s motion to dismiss on all grounds including the federal five-year statute of limitations, retroactive application of jurisdictional statutes, and pleading sufficiency under Twombly. The court concluded that violations of the Prevention of Significant Deterioration (PSD) program occur each day a plant is operated without the necessary permit limitations, that EPA’s decision that PSD is not applicable does not bar citizen enforcement, and that Plaintiffs’ notice letter and complaint were legally sufficient to give notice of

their claims. PGE recently announced a plan to transition Boardman off of coal in 2020, but it is conditional on obtaining revisions and exemptions to state and federal air quality laws requiring pollution controls. PEAC continues to work towards a resolution to protect Oregon’s public health and special places as well as help prevent catastrophic climate change, while avoiding an undue burden on electricity customers and providing a fair and reasonable transition for plant workers.

Patrick Parenteau (Vermont) published “Travesty in Alaska” (Couer Alaska Decision) in *National Wetlands Newsletter*, Sept-Oct 2009); “Last One Standing” (Summers decision) in *Trends* (SONREEL Journal) Nov-Dec 2009; “Florida Wetlands Win Stay of Execution,” *National Wetlands Newsletter*, March-April 2010; “Come Hell and High Water: Coping with the Unavoidable Impacts of Climate Disruption” *Vermont Law Review*, (forthcoming) Winter 2010. Other activities: in October, wrote an amicus brief for law professors in *North Carolina v. TVA*, a \$3 billion judgement in public nuisance case on appeal to Fourth Circuit; in December taught a two week course for eighteen senior attorneys with Petrobras, a Brazilian oil company; in February 2010, conducted a webinar for institutional investors (CERES) on the new SEC climate risk disclosure guidelines; in March 2010 conducted a two day CLE seminar for attorneys and judges in Puerto Rico; in March, settled a case with EPA requiring review of NSPS for nitric acid plants, a major source of nitrous oxides, a potent greenhouse gas; working on several climate related cases with the Environmental and Natural Resources Law Clinic including a proposed new coal mine in Montana. Gave a dozen talks on climate change to various audiences.

David Percy (Alberta) co-chaired an Advisory Group on Water Management and Allocation for the Minister of Environment of Alberta. The report of the Advisory Group was made public on late in 2009 and is available at:

<http://environment.gov.ab.ca/info/library/8239.pdf>.

In addition, he took advantage of his liberation from the Dean’s Office to prepare a report for the United Nations Food & Agriculture Organization on the Regulation of Marine Aquaculture. He participated in a FAO Workshop on this subject in Orbetello, Italy in March 2010. In January 2010, he was named the Borden Ladner Gervais Chair of Energy Law and Policy at the University of Alberta.

David E. Pierce (Washburn University) taught at the RMMLF special institute Oil & Gas Agreements:

The Exploration Phase held in Houston, Texas in March, 2010.

Mary M. Poulton (University of Arizona, Tucson) taught at the RMMLF Mining Law Short Course held in Boulder, Colorado in May, 2010.

Melissa Powers (Lewis & Clark) authored “King Corn: Will the Renewable Fuel Standard Eventually End Corn Ethanol’s Reign?,” 11 Vt. J. Env’tl. L. ____ (2010) and presented it at Vermont Law School’s symposium, “Surviving and Thriving: Climate Change Adaptation and Mitigation.” Powers published two short pieces in the IUCN Academy of Law E-Journal: a snapshot of issues explored in the “King Corn” article, and highlights of recent developments in U.S. climate change law. Powers and Chris Wold published several online updates to their textbook, CLIMATE CHANGE AND THE LAW (LexisNexis 2009), co-authored with David Hunter (American). In February, Powers, Wold, and Erica Thorson spoke on international climate change negotiations with observations from their trip to Copenhagen, and Powers participated in two climate change panel discussions at the Public Interest Environmental Law Conference. In March, Powers participated in Duke Law School’s workshop exploring options for regulating greenhouse gases under the Clean Air Act. In April, she debated the Heritage Foundation’s Becky Norton Dunlap at a Federalist Society debate, “U.S. Energy Policy: Transitioning into a Green Future.” She also moderated the “Clean Air Act and Climate Change” panel and provided concluding remarks at the “Clean Air Act at a Crossroads” conference.

George (Rock) Pring (Denver) and ADR-expert wife Kitty’s book, GREENING JUSTICE: CREATING AND IMPROVING ENVIRONMENTAL COURTS AND TRIBUNALS – from their 2½-year worldwide University of Denver ECT Study – had its book launch at the World Resources Institute April 19. (Free copies at www.accessinitiative.org/resource/greening-justice.)

Their book is the result of research, observation, and over 150 interviews with specialized environmental judges, prosecutors, development attorneys, government officials, advocacy groups, and academics at 33 ECTs in 21 countries – resulting in a first-ever global comparative study of the explosion of ECTs (350+ worldwide to date) and step-by-step expert advice for countries establishing or reforming one. Their article on “Specialized Environmental Courts and Tribunals at the Confluence of Human Rights and the Environment” was published in 11 Ore. Rev. of Int’l L. 301 (2010). A forthcoming chapter on “Environmental Courts and Tribunals:

Improved Access for Justice for Those Living in Poverty” will be in the new IUCN Academy of Environmental Law book on POVERTY AND ENVIRONMENT. They have lectured and consulted on ECT development in China, Mexico, Australia, the Philippines, and currently with the Asian Development Bank. See www.law.du.edu/ect-study. In January, Rock taught seminars on U.S. Environmental and Energy Law at the University of Leuven, Belgium.

Nancy B. Rapoport (University of Nevada, Las Vegas) taught at the RMMLF special institute Dealing With Financial Distress in the Oil & Gas Industry held in Houston, Texas in February, 2010.

Arnold Reitze (University of Utah) published “Biofuels—Snake Oil For the Twenty-First Century”, 87 Oregon L. Rev. 1183 (2008); “Federal Control of Carbon Dioxide Emissions: What are the Options?,” 36 Bos. Col. Env’tl Aff. L. Rev. 1 (2009); “Electric Power in a Carbon Constrained World,” William & Mary Env’tl L. Rev. (2010). His book THE LAW OF AIR POLLUTION: COMPLIANCE & ENFORCEMENT, 2d ed. Will be published by the Environmental Law Institute this spring. He spoke in April on “Federal Control of Greenhouse Gas Emissions” at Lewis and Clark’s 40th Anniversary of the Clean Air Act conference.

Dan Rohlf (Lewis & Clark) co-authored an article this spring in the scientific journal Conservation Biology with four ecologists. "Geography and Recovery Under the U.S. Endangered Species Act" discusses both the biological and legal importance of wide distribution as part of species recovery. He also spoke at a variety of meetings and conferences, including as a member of three panels at the University of Oregon Public Interest Environmental Law Conference; a panel on adaptive management at the annual meeting of the Center for Progressive Reform; and a CLE sponsored by the new Sustainable Future section of the Oregon State Bar entitled "How Sustainability is Transforming the Practice of Law." In his work with the Pacific Environmental Advocacy Center, Rohlf also argued twice before the Ninth Circuit Court of Appeals.

Samuel B. Romberger (Colorado School of Mines) taught at the RMMLF Mining Law Short Course held in Boulder Colorado in May, 2010.

J.B. Ruhl (Florida State) is pleased to announce publication this June of the second edition of THE PRACTICE AND POLICY OF ENVIRONMENTAL LAW, a Foundation Press casebook uniquely

focusing on practice contexts. His coauthors on the first edition, John Nagle (Notre Dame) and Jim Salzman (Duke), join him in welcoming Alex Klass (Minnesota) to the author team on the second edition. He also recently has published “Climate Change, Dead Zones, and Massive Problems in the Administrative State: Guidelines for Whittling Away,” 98 CALIFORNIA LAW REVIEW 1 (2010) (with Jim Salzman), “Climate Change Adaptation and the Structural Transformation of Environmental Law,” 40 ENVIRONMENTAL LAW 363 (2010), and “The Future Public Law of Private Ecosystems,” in THE EVOLUTION OF NATURAL RESOURCES LAW (ABA Press 2010). Recent presentations include “Green Infrastructure and Urban Ecosystem Services” at Georgia State’s Symposium: A 2020 View of Urban Infrastructure, “Climate Change Adaptation and Ecosystem Services Law and Policy” for the NAELS conference at Loyola New Orleans, and “The Theory and Practice of Historic Baselines in the Administrative State” at the University of Arizona. The most important news is that he’s sending his oldest child off to college next year!

Erin Ryan (William & Mary) presented “Understanding Climate Federalism” at U.S.F.S. Headquarters in December. She published an article about low-level radioactive waste, “Federalism at the Cathedral: Property Rules, Liability Rules, and Inalienability Rules in Tenth Amendment Infrastructure” (81 COLORADO L. REV. 1 (2009)), using Calabresi & Melamed to critique the inalienability of the Tenth Amendment anti-commandeering rule. Her new article, “Negotiating Federalism” (B.C. L. REV., forthcoming 2010), explores the use of intergovernmental bargaining to navigate federalism quandaries, emphasizing examples from environmental law. She published a book chapter, “How the New Federalism Failed Katrina Victims” in LAW AND RECOVERY FROM DISASTER: HURRICANE KATRINA (Ashgate, 2009), analyzing flawed regulatory decision-making to demonstrate problems for interjurisdictional governance under the Rehnquist Court’s federalism jurisprudence. Her article “Palazollo, The Public Trust, and the Property Owner’s Reasonable Expectations: Takings and the South Carolina Marsh Island Bridge Debate” (15 SE Env’tl. L.J. 121), was republished as a chapter in THE PUBLIC TRUST DOCTRINE: ISSUES AND PERSPECTIVES (Amicus 2010) and PROPERTY RIGHTS: A CONTEMPORARY DEBATE (AMICUS, 2010). Her forthcoming book, FEDERALISM AND THE TUG OF WAR WITHIN (Oxford, 2011), explores environmental federalism theory. She also chaired

the year-long, university-wide W&M “Do One Thing for Sustainability” Initiative.

Don C. Smith (University of Denver Sturm College of Law) published an article entitled “Políticas de energía y cambio climático de los Estados Unidos al inicio de la administración Obama: Legislación, regulación o ambas” (“Energy and Climate Change Policies in the United States at the Beginning of the Obama Administration: Legislation, Regulation, or Both”) in the Argentina-based 19 Revista de Derecho Ambiental 257 (2009). He was also named to the editorial advisory board of the MANUAL OF EUROPEAN ENVIRONMENTAL POLICY, published by the London-based Institute of European Environmental Policy.

Gus Speth (Vermont) delivered “A New American Environmentalism and the New Economy” at the 10th Annual John H. Chafee Memorial Lecture at the National Council for Science and the Environment in Washington, D.C. in January. He is a coauthor of CLIMATE CHANGE LAW: MITIGATION AND ADAPTATION, from West’s American Casebook Series.

Jacqueline L. Weaver (Houston) completed chapters for third editions of two casebooks: INTERNATIONAL PETROLEUM TRANSACTIONS (Rocky Mtn. Min. L. Inst. 2010) (a chapter on “Sustainable Development, Human Rights and the Environment” and ENERGY, ECONOMICS AND THE ENVIRONMENT (Foundation, forthcoming 2010) (3 chapters on U.S. Oil, International Oil, and Natural Gas). She was invited to lecture at Wonkwang University, a sister law school near Seoul, Korea and to speak to members of the Assembly (the Korean Parliament) in March 2010 on the topic of “The Future of the Petroleum Industry under Global Warming.” She gave lectures to a group of Chinese petroleum engineers studying engineering at the University of Houston on issues of energy policy and sustainable development in December.

Chris Wold and Erica Thorson (Lewis & Clark’s International Environmental Law Project Director and Staff Attorney) continue to engage in cutting-edge international environmental law and policy, including attending the December talks in Copenhagen, Denmark with Melissa Powers (Lewis & Clark) and IELP students. There they worked with NGO coalitions to draft language for reducing greenhouse gas emissions from deforestation in developing countries (REDD); consulted with attorneys from developing countries to help them

understand the wide variety of negotiating texts presented at the meeting; and liaised with the government of Tuvalu, a small island country with a high point just four meters above sea level, to help find legal strategies outside of the climate change regime for addressing climate change. In March, IELP went to Doha, Qatar to participate in negotiations on international wildlife trade under the Convention on International Trade in Endangered Species (CITES), assisting NGOs and governments on a number of legal issues central to the debate over the future of CITES, including advising working groups negotiating rules for permitting trade in marine animals taken on the high seas, defining “hunting trophies” as that term is used to identify specimens of certain animals that have a special trade status, and analyzing the controversial proposal to prohibit international trade in Atlantic bluefin tuna. Also at the meeting, IELP distributed to the governments a comprehensive paper outlining a blueprint for ensuring that CITES implementation reflects the core object and purpose of the treaty. The paper was welcomed by many as a useful analysis. IELP is also producing a policymaker’s guide to trade and the environment.

Michael Allan Wolf (University of Florida) has published *LAND USE PLANNING AND THE ENVIRONMENT: A CASEBOOK* (with Charles M. Haar, Environmental Law Institute 2010). An edited version of the first chapter of the casebook appears as “Planning and Law: Shaping the Legal Environment of Land Development and Preservation,” 40 *Env’t Law Rep.* 10419 (April 2010).

Mary Wood (Oregon) is currently working on *NATURE’S TRUST: ENVIRONMENTAL LAW FOR A NEW ECOLOGICAL AGE* (Cambridge University Press, forthcoming Spring 2011). She has published the following articles: “How to Sue for Climate Change: The Public Trust Doctrine” and “Enforcing the Atmospheric Trust Fiduciary Obligation” (co-authored with Susan O’Toole) in *Outlook: Oregon State Bar Environmental and Natural Resources Section Newsletter* Vol. 10 No. 2 (Winter 2009); “Cambio Climatico Y Justicia: Exijamos Su Responsabilidad A Los Gobiernos” 78 *Athanos* 27 (Nov-Dec 2009); and introductory chapter to Cambridge University Press book, forthcoming Spring 2010 “Introduction to Nature’s Trust: A Paradigm for Natural Resource Stewardship” (also published in *Natural Resources Journal*, forthcoming 2010). She also published a white paper (with the University of Oregon’s Sustainable Land Use Project) “Reform of Local Land Use Laws to Allow Microlivestock on Urban

Homesteads.” Professor Wood presented a keynote speech, “People-powered Politics,” at Power Shift Western 2009 Conference, which took place on November 6, 2009.

Sandi Zellmer (Nebraska) recently published “Floods, Famines, or Feasts: Too Much, Too Little, or Just Right,” *Nat. Res. & E.* (2010). She is working on two books: *NATURAL RESOURCES LAW* (with Laitos, Woods, and Cole) (West 2006, 2nd ed. forthcoming 2012) and *MISSISSIPPI RIVER STORIES: LESSONS FROM A CENTURY OF UNNATURAL DISASTERS* (with Klein) (in progress). She also wrote a chapter on the Missouri River Basin, in *WATERS & WATER RIGHTS* (ed. Beck) (Lexis/Nexis 3rd ed. 2010), and is serving on a panel for the National Academy of Sciences National Research Council on Missouri River Recovery: Sediment Management and Associated Issues. The report will be issued later this year. She entered the blogosphere with “Atrazine, Confidential Data, and the Five Stages of Grief,” posted on <http://www.progressivereform.org/> and www.alternet.org, and reprinted in the Pesticide Action Network magazine as “Why is My Family Dying” (Spring 2010). This summer, she will teach a course on wilderness stewardship to federal land managers at the Arthur Carhart Wilderness Training Center in Montana, and help the University build its new Global Water for Food Institute, created with a \$50 million dollar grant from the Robert Daugherty Charitable Foundation.

SABBATICALS and VISITS

Adell Amos (Oregon), assistant professor and director of the Environmental and Natural Resources Law Center was appointed by President Barack Obama's administration to serve as Deputy Solicitor for Land and Water Resources in the Department of the Interior in Washington, D.C. On leave from the University of Oregon, Professor Amos' new position began September 8, 2009.

Joe Dellapenna (Villanova) was (and will be) a visiting lecturer at the University of Macau (December 2009, 2010), and at the European Humanities University, a Belarusian University in exile in Vilnius, Lithuania, in May 2009, 2010). He is available through his regular e-mail account while there.

Joe Feller (Arizona State University) is in Boulder, Colorado, on an extended leave from ASU. For the last two years, he has been serving as a visiting Senior Counsel for the National Wildlife Federation and teaching the Natural Resources Litigation Clinic at the University of Colorado Law School. This semester (Spring 2010) he also taught Land Use Planning. For the coming academic year (2010 – 2011), he will be a Visiting Professor at Colorado, where he will teach Water Law as well as continuing to teach the Natural Resources Litigation Clinic. While in Colorado, he may be reached at 303-492-5897 or joe.feller@colorado.edu.