

NATURAL RESOURCES LAW TEACHERS NEWSLETTER

WINTER 2006

Rocky Mountain Mineral Law Foundation
Energy & Mineral Law Foundation

ARTICLES, BOOKS, AND REPORTS

Owen L. Anderson (Oklahoma): “Federalism: Onshore and Offshore Public Lands in the United States,” (comparative study for Oil, Gas and Energy Law Intelligence (OGEL), e-publication pending); “State Conservation Regulation—Single Well Spacing and Pooling—Vis-À-Vis Federal and Indian Lands,” Special Institute on Federal Onshore Oil and Gas Pooling and Unitization (Rocky Mt. Min. L. Fdn. 2006); “Self or Affiliate Gas Processing: Howell v. Texaco, Inc.,” 42 *Rocky Mt. Min. L. Fnd. J.* 331 (2006).

Bill Andreen (Alabama) will be publishing “Motivating Enforcement: Institutional Culture and the Clean Water Act” in 24 *Pace Env'tl. L. Rev.* (Winter 2006).

Mary Jane Angelo's (Florida) article, “Regulating Evolution for Sale: An Evolutionary Biology Model for Regulating the Risks Posed by Genetically Modified Organisms,” will appear in the March 2007 issue of the *Wake Forest Law Review*.

Reed D. Benson (Wyoming) has three articles due out shortly. “Deflating the Deference Myth: National interests vs. state authority under federal laws affecting water use,” will appear in *Utah Law Review*. “‘Adequate Progress,’ or Rivers Left Behind? Developments in Colorado and Wyoming instream flow laws since 2000,” will appear in *Environmental Law*. And “Rivers to Live By: Can Western Water Law Help Communities Embrace Their Streams?” will appear in the *Journal of Land, Resources & Environmental Law*. He briefly muses on “A Few Ironies of Western Water Law” at 6 *Wyo. L. Rev.* 331 (2006).

Michael Blumm (Lewis & Clark) co-authored “Practiced at the Art of Deception: The Failure of Columbia Basin Salmon Restoration under the Endangered Species Act,” 36 *Env'tl. L.* 709 (2006) with students **Erica Thorson** '05 and **Josh Smith** '06. He also co-authored “The Mirage of Indian Reserved Water Rights and Western Streamflow Protection in the McCarran Amendment Era: A Promise Unfulfilled,” 36 *Env'tl. L.* 1157 (2006) with students **David Becker** '06 and **Josh Smith** '06. Lexis-Nexis published a revised version of his chapter on the Columbia River Basin in volume 6 of the *Waters and Water Rights* treatise, a portion of which was revised and published as “Protecting the Columbia River Gorge: A Twenty-Year Experiment in Land-Use Federalism,” 21 *J. Land Use & Env'tl. L.* 201 (2006), also co-authored with **Josh Smith** '06. He and **Judy Royster** (Tulsa) are at work revising their casebook, *Native American Natural Resources Law* (Carolina Academic Press).

John Bonine (Oregon) published “Barreras Economicas en el Acceso Ciudadano a la Justicia Ambienta [Economic Barriers in Citizens' Access to Environmental Justice],” as a chapter in the book, *Terceras Jornadas de Derecho Ambiental: Institucionalidad e Instrumentos de Gestion Ambiental para el Chile del Bicentenario* (Lexis-Nexis, Santiago, Chile, 2006) (in Spanish). He published a similar English version, “Removing Barriers and Providing Incentives for Citizen

Enforcement of Environmental Laws,” in *Revista de Direitos Difusos [Diffuse Rights Review]*, vol. 38 (Sao Paulo, Brazil, 2006) (in English). He also published “Earth Day Martyr and Price on Environmental Lawyer’s Head,” in the *Environmental News Service* (Apr. 2006).

Richard Brooks (Vermont), along with Ross Virginia of Dartmouth College, has completed a paper on “The Migration of Ecological Concepts into the Law” and given the paper at the Society of Human Ecology annual meeting in Maine. The paper follows out ideas they propose in the history of relations of ecology and law in the book, *Ecology and the Law*.

Russ Brown (Alberta) has two works relating to takings law in Canada forthcoming: “The Constructive Taking at the Supreme Court of Canada: Once More, Without Feeling” in the *U.B.C. Law Review*, and “Takings” in *Governmental Liability in Canada* (Canada Law Book, Brown, Horsman, eds.).

Susan Jane M. Brown (Lewis & Clark) authored “The Oregon and California Lands Act: Revisiting the Concept of ‘Dominant Use,’ “ to be published in Spring 2007 in the *Journal of Environmental Law and Litigation*.

Federico Cheever (Denver): Updates for Klein, Cheever and Birdsong, *Natural Resources: A Place-Based Book of Problems and Cases* (2005) are now available on our textbook support website naturalresources.law.ufl.edu/. Feel free to contact us for username and password. fcheever@law.du.edu; New article: “British National Parks for North Americans: What We Can Learn From a More Crowded Nation Proud of Its Countryside” will be published in the spring 2007 issue of the *Stanford Environmental Law Journal*; Recent essay “Confronting Our Shared Legacy of Incongruous Land Ownership: Notes for a Research Agenda,” published at 83 *D. U. L. Rev.* 1039 (2006) as part of our symposium: “Borrowing the Land: Cultures of Ownership in the Western Landscape.”

Barbara Cosens (Idaho): The *Idaho Law Review* recently published seven articles on the Nez Perce water rights settlement reflecting the viewpoint of tribal, state, federal and neutral participants. The articles can be found in Volume 42, No. 3, 2006 edition.

Rob Fischman (Indiana—Bloomington) has three articles forthcoming: “Habitat Federalism,” 38 *Urban Law* (forthcoming 2006); “From Words to Action: The Impact and Legal Status of the 2006 National Wildlife Refuge System Management Policies,” 26 *Stanford Env'tl. L. J.* (forthcoming 2007); and *What is Natural Resources Law?*, 78 *U. Colo. L. Rev.* (forthcoming 2007). Manuscripts of the latter two are available on his SSRN page.

Eric Freyfogle (Illinois) has recently completed work on a law casebook, *Natural Resources Law: Private Rights and Collective Governance*, which will appear in the spring of 2007 in the West Casebook Series. In February 2007, the University Press of Kentucky will publish his book, *Agrarianism and the Good Society: Land, Culture, Conflict, and Hope*. His ongoing projects include a book tentatively entitled *The Three Threats to Private Property*, under contract with Beacon Press.

William Funk (Lewis & Clark) presented a paper by invitation in May at the Administrative Law Forum at the University of Louisville Law School. The paper will be published in the *Administrative Law Review* in January.

Robert Glennon (Arizona) recently published: “Groundwater and Surface Water Issues in Arizona” in *Arizona Water Policy: Management Innovations in an Urbanizing, Arid Region*, edited by Bonnie Colby and Kathy Jacobs (Resources for the Future Press, 2006); “The Quest for More Water: Why Markets Are Inevitable,” *PERC Reports* 7 (Sep. 2006); “General Stream Adjudications and the Environment,” *J. Contemp. Water Research & Education*, Issue 133, page 11 (2006).

Rob Glicksman (Kansas) published two articles, “From Cooperative to Inoperative Federalism: The Perverse Mutation of Environmental Law and Policy,” 41 *Wake Forest L. Rev.* 719 (2006), and, with **Jim May**, “Justice Rehnquist and the Dismantling of Environmental Law,” 36 *Envtl. L. Rep.* 10585 (2006). Another article, co-authored with **Dietrich Earnhart** of the KU economics faculty, “The Comparative Effectiveness of Government Interventions on Environmental Performance in the Chemical Industry,” has been accepted for publication by the *Stanford Environmental Law Journal*. Rob also submitted the manuscript (which he prepared with **Dave Markell, Bill Buzbee, Dan Mandelker, and Dan Tarlock**) of the 5th edition of the environmental law casebook, *Environmental Protection: Law and Policy*. The book is scheduled for publication in March 2007. Finally, Thomson/West published Release #17 to Rob’s treatise, co-authored with **George Coggins**, *Public Natural Resources Law*.

Jamie Grodsky’s (George Washington) article on genomics and environmental regulation, “Genetics and Environmental Law: Redefining Public Health,” 93 *Cal. L. Rev.* 171 (2005), was selected for reprinting in the 2006 edition of the *Land Use & Environment Law Review*, an annual compilation of leading articles in the field. Grodsky recently completed co-editing of the book, *Genomics and Environmental Policy*, to be published by the Johns Hopkins University Press. The book integrates findings of geneticists, toxicologists, epidemiologists, bioethicists and legal scholars in an effort to elucidate the promises and perils of genomic research for environmental law and regulation. The project is the culmination of a two-year, NIH grant for which Grodsky was a co-investigator.

Jan G. Laitos (Denver) co-authored with **Sandi Zellmer** of Nebraska, **Mary Wood** of Oregon, and **Dan Cole** of Indiana, a casebook on *Natural Resources Law* (West 2006). He also co-authored with **John Applegate** of Indiana a textbook on *RCRA and CERCLA and the Management of Hazardous Waste* (Foundation Press 2006). He also wrote his 6th annual update-supplement to his 1999 treatise on *Law of Property Rights Protection: Limitations on Government Powers* (Aspen 2006).

John Leshy (UC Hastings), with co-authors **Joe Sax, Buzz Thompson, and Bo Abrams**, were glad to see *Legal Control of Water Resources*, 5th ed. (West) hit the street in the summer.

Al Lucas (Calgary), with **Katie J. Winterbourne**, published “Private Rights and Public Administration in Canadian Water Law” in 4 *Revista Mexicana de Legislacion Ambiental* 6, and with **Williams Daudu** (Calgary), “Disputes and Dispute Resolution in the Offsets System,” *BIOCAP Canada* (2006, www.biocap.ca).

David L. Markell (Florida) has published “Understanding Citizen Perspectives on Government Decision-Making Processes as a Way to Improve the Administrative State,” 36 *Envtl. L.* 651 (2006), and “ ‘Slack’ in the Administrative State and Its Implications for Governance: the Issue of Accountability,” 84 *Or. L. Rev.* 1 (2005). Scheduled for publication in 2007 are: *Environmental Protection: Land and Policy* (Aspen Law & Business, 5th ed.) (**Glicksman, Markell, Buzbee, Mandelker, and Tarlock**); “Compliance & Enforcement: Toward More Effective Implementation of Environmental Law,” Proceedings of the 4th IUCN Academy of Environmental Law Colloquium

(Cambridge Univ. Press) (co-editor with Professors **Ramesh Mysore** (India), **Louis Kotze** (South Africa), and **LeRoy Paddock** (Pace Law School)); and “Is There a Possible Role for Regulatory Enforcement in the Effort to Value, Protect, and Restore Ecosystem Services?,” 21 *J. Land Use & Envtl. L.* ___.

Nancy A. McLaughlin (Utah) recently published “Could Coalbed Methane Be the Death of Conservation Easements?,” 29 *Wyoming Lawyer* 18 (2006), which discusses a case of first impression pending before the Wyoming Supreme Court involving a county’s attempted termination of a perpetual conservation easement, and “Amending Perpetual Conservation Easements: A Case Study of the Myrtle Grove Controversy,” 40 *U. Rich. L. Rev.* 1031 (2006), which discusses a case, settled in 1998, involving the attempted “amendment” of a perpetual conservation easement encumbering a 160-acre historic tobacco plantation on the Maryland Eastern Shore to allow a seven-lot, upscale subdivision on the property.

Janet Neuman (Lewis & Clark) presented a paper by invitation at the Ecosystem Services Symposium at Florida State University College of Law in April 2006. Her paper, “Thinking Inside the Box: Looking Inside a Watershed for Ecosystem Services,” will be published by the *Fla. St. U. L. Rev.* She also co-authored “Sometimes a Great Notion: Oregon’s Instream Flow Experiments” with **Anne Squier** and **Gail Achterman**, which will be published this winter in the *Environmental Law* symposium edition commemorating Lewis & Clark’s “Western Instream Flows” conference in April. She also co-authored “Remembering Rain” (about rainwater harvesting) with current Lewis & Clark student Troy Payne, also to be published this winter in *Environmental Law*.

James Otto (Denver): *Global Mining Taxation Comparative Study* (2d edition, in Chinese), *Beijing: Geological Publishing House of the Ministry of Land and Resources*, 2006 (with **M. Beraun** and **J. Cordes**); *Mining Royalties: A Global Study of Their Impact on Investors, Government and Civil Society*, Washington DC: World Bank, 2006 (with **J. Tilton**, **F. Cawood**, **J. Stermole**, **F. Stermole**, **M. Doggett**, **P. Guj**); Refereed journal article “The Competitive Position of Countries Seeking Exploration and Development Investment,” *J. Soc’y Econ. Geologists*, Special Publication 12, 1-17, 2006.

Patrick Parenteau (Vermont) reports he is putting the finishing touches on a chapter for a forthcoming book on *Ecosystem Based Management in the Marine Environment* to be published by the ABA in 2007.

Judith Royster’s (Tulsa) article, “Montana at the Crossroads,” was published at 38 *Conn. L. Rev.* 631 (2006). Her article, “Indian Water and the Federal Trust: Some Proposals for Federal Action,” is forthcoming in the *Natural Resources Journal*. She also published a short piece entitled “Indian Natural Resources Development: Tribal Energy Resource Agreements under the Energy Policy Act of 2005,” 37 *Trends* (ABA SEER) 8 (May/June 2006).

J.B. Ruhl (Florida) co-authored two recent publications with **Jim Salzman** (Duke): “In Defense of Regulatory Peer Review,” 84 *Wash. U. L. Rev.* 1 (2006) and “The Effects of Wetlands Mitigation Banking on People,” *National Wetlands Newsletter*, Mar.-Apr. 2006, at 1, 9-14 (2006). J.B. and **John Nagle** (Notre Dame) also came out with the second edition of *The Law of Biodiversity and Ecosystem Management* (Foundation Press University Casebook Series, 2006). J.B. has also finished work on *The Law and Policy of Ecosystem Services* (Island Press) (with **Steve Kraft** and **Chris Lant**), which is due out in May 2007.

Karin Sheldon's (Vermont) essay "Eight Lessons in Search of the Future: Observations on the Occasion of the 25th Anniversary of the Virginia Environmental Law Journal" will be published this fall in the *Virginia Environmental Law Journal*. Her Garrison Lecture will be published in the *Pace Environmental Law Review* as an article called "Upstream of Peril: The Role of Federal Lands in Addressing the Extinction Crisis."

Svitlana Kravchenko (Oregon) published "Public Interest Environmental Litigation and the Judiciary: Eastern Europe" in *Judges and the Rule of Law*. "Creating Links: Environment, Human Rights and Poverty," *IUCN Environmental Policy and Law*, Paper No. 60 (2006). Kravchenko's article "The Aarhus Convention and Innovations in Compliance with Multilateral Environmental Agreements" has been accepted for publication in the peer-reviewed *Yearbook of European Environmental Law* (Oxford University Press) and the *Colorado Journal of International Environmental Law and Policy*, Spring 2007.

Hari Osofsky (Oregon) published "The Geography of Climate Change Litigation: Implications for Transnational Regulatory Governance," 83 *Wash. U. L.Q.* 1789 (2005) and "Transporting Climate Change: The Local Dimensions of a Global Environmental Problem," *The Next American City* (2006). Osofsky's book, *Adjudicating Climate Change: Sub-national, National, and Supra-National Approaches* (with co-editor **William C.G. Burns**), was accepted at Cambridge University Press.

Erica Thorson (Lewis & Clark) co-authored "Practiced at the Art of Deception: The Failure of Columbia Basin Salmon Recovery under the Endangered Species Act" with Professor **Mike Blumm** and Josh Smith. She also authored a chapter entitled "The World Heritage Convention and Climate Change: The Case for Protection and Preservation of Natural Areas of 'Outstanding Universal Value'" in *Adjudicating Climate Control: Sub-National, National, and Supra-National Approaches* (Cambridge University Press 2007).

Jacqueline Lang Weaver (Houston) completed revised chapters titled "Natural Gas," "Domestic Oil," and "International Oil," with accompanying Teacher's Manual chapters and PowerPoint slides for the 2d edition of Bosselman, Eisen, Spence, Rossi & Weaver, *Energy, Economics and the Environment* (2005). She also revised a research paper, written under a grant from the Association of International Petroleum Negotiators, for publication as "Unitizing Oil and Gas Fields Around the World: A Comparative Analysis of National Laws and Private Contracts," now published in 28 *Hous. J. Int'l L.* 3-199 (with **David Asmus**, partner and Global Head of Oil and Gas, **Baker Botts**, Houston, Texas). The article compares the unitization laws of 12 different countries and analyzes a number of actual unitization agreements used in fields around the world. The article includes an Appendix of relevant laws and model contract provisions for the selected countries. The second article entitled "Peak Oil, Big Oil, Chinese Oil, Flags and Open Doors, surveys the future of our traditional petroleum-based economy, predicting a continuing "eventful" future by focusing on six fundamental background features of the global landscape. It will be published in the forthcoming issue of the *Cumberland Law Review*. Completed chapters on the International Joint Operating Agreement, Farmouts, Property Concepts, and Socio-economic and Environmental Issues (including corruption) for the second edition of the one-volume treatise on *International Petroleum Exploration & Exploitation Agreements* (Gordon Barrows).

Mary Wood (Oregon) has written "Nature's Trust: Reclaiming an Environmental Discourse," 25 *Va. Envtl. L.J.* ___ (January 2007) and "EPA's Protection of Tribal Harvests: Braiding the Agency's Mission," 34 *Ecology L.Q.* (March 2007). Laitos, Zellmer, Wood and Cole's *Teacher's Manual* accompanying *Natural Resources Law* (West) will be published in December 2006.

Kinvin Wroth's (Vermont) "Vermont by Design: Next Steps," his report of the Land Use Institute's February conference, with an implementation plan for the conference recommendations, was published and distributed in August 2006.

Lewis & Clark's Environmental Law Review will publish this winter a symposium edition of papers from Lewis & Clark's April conference, "Western Instream Flows: 50 Years of Progress and Setbacks." Included in the symposium edition will be articles by keynote speaker **Charles Wilkinson** (Colorado), **Adell Amos** (Oregon), **Reed Benson** (Wyoming), **Michael Blumm** (Lewis & Clark), and **Janet Neuman** (Lewis & Clark).

CLINICAL PROGRAMS

Greg Costello (Oregon), Adjunct Professor and Executive Director of the Western Environmental Law Center (WELC), reports that WELC is actively involved in efforts to develop coordinated strategies for grass roots organizations challenging Dairy Concentrated Animal Feeding Operations (CAFO), across the West including administrative challenge to the Washington State NPDES and State Waste General Operating Permit for CAFOs.

Clinical Professor **Stephanie Parent** (Lewis & Clark) and her students at PEAC (Pacific Environmental Advocacy Center) had a busy fall in the Ninth Circuit. The Court ruled in favor of the Oregon Natural Desert Association on the jurisdictional issue of whether Annual Operating Instructions (AOIs) for grazing on public lands are final agency actions subject to judicial review under the Administrative Procedure Act. In September, Parent argued to a panel concerning a precedential issue under the Northwest Power Act. In October, Parent argued to a panel in Seattle concerning protections for red tree voles and other "survey and manage" species under the Northwest Forest Plan, and received word on November 6 that PEAC won this case. The Ninth Circuit ruled that federal agencies violated the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA). The court set aside the unlawful agency decisions, reinstated the protections for red tree voles and enjoined the two specific timber sales at issue. On November 15, Parent argued to a panel in Portland concerning the Distinct Population Segment policy pursuant to the Endangered Species Act. PEAC students participated in moot courts to prepare argument.

PEAC has continued its winning streak in other courts as well:

PEAC Director **Dan Rohlf** (Lewis & Clark), along with Earthjustice attorney **Neil Levine**, won a significant ruling from a federal court in San Diego in a long-running case. The court held that the U.S. Fish and Wildlife Service violated the Endangered Species Act in approving a habitat conservation plan that allows the City of San Diego and area developers to kill and injure species dependent on vernal pools. The court's ruling, one of the few to invalidate an Incidental Take Permit issued by FWS, will likely have significant influence in similar cases.

PEAC Clinical Professor **Melissa Powers** (Lewis & Clark) and her students also won significant rulings. In August, in a case challenging the Forest Service's approval of 49 mining operations in the North Fork Burnt River watershed in eastern Oregon, the court found violations of the Clean Water Act (Sections 401 & 313), the Organic Act, and the National Forest Management Act when the Forest Service allowed for increased mining in an area that is already environmentally damaged as a result of past and ongoing mining, logging, and other activities. In September, a federal district court judge for the Northern District of California granted PEAC's motion for relief in the long-term battle

to get the EPA to regulate ballast water under the Clean Water Act. The court held that EPA's regulation exempting ballast water discharges from the Clean Water Act is "plainly contrary to the congressional intent," and ordered EPA to take specific action by September 30, 2008, to ensure that shipping companies comply with the Clean Water Act and restrict the discharge of invasive species in ballast water. Specifically, EPA must draft and implement new regulations that will regulate ballast water discharges consistent with the Clean Water Act. PEAC staff and students co-counseled with the Stanford Environmental Legal Clinic on the ballast water case.

PEAC Clinical Professor **Susan Jane Brown** (Lewis & Clark) and students won the majority of their NEPA claims against the Forest Service regarding the Meteor timber sale in the Salmon River Watershed on the Klamath National Forest in northern California. At issue is whether the Forest Service adequately disclosed and discussed the environmental impacts in the Salmon River Watershed, an area of profound diversity. The court held that "the Forest Service offers no substantive rationale" for its position, and failed to disclose five key pieces of information to the public. As a result, the Meteor project is on hold until the Forest Service corrects its analysis. PAC is currently exploring settlement options with the agency, which would allow some benign aspects of the project to go forward, but would also protect the sensitive areas of the Salmon River Watershed.

Patrick Parenteau (Vermont) reports that the Environmental and Natural Resources Law Clinic filed an amicus curiae brief on behalf of ocean and coastal conservation interests in *Massachusetts v. EPA* (No. 05-1120), the climate change case heard by the Supreme Court on Nov 29. The Clinic also won an order from the Vermont Environmental Court staying the effect of a thermal discharge variance granted to Entergy Inc. that would have allowed Vermont Yankee Nuclear Powerplant to discharge super-heated water to the Connecticut River with impacts on the Atlantic salmon and American shad.

LEGISLATION AND REGULATIONS

Patrick Parenteau (Vermont) testified before a legislative study committee on a law that was enacted by the Vermont Legislature in 2006 to strengthen groundwater protection. The committee was tasked to report back to the legislature on several issues including whether groundwater should be declared to be a public trust resource and whether a new permit system was needed to regulate withdrawals and generate revenue to complete a mapping and classification system. The legislation is opposed by the International Bottled water. Parenteau's testimony rebutted arguments by the bottlers that regulation threatened their property rights and unfairly singled them out for regulation.

SPEECHES AND CONFERENCES

Adell Amos (Oregon) delivered a presentation entitled "The Energy Bill of 2005, Federal Power Act Amendments and the Impact on Tribes" at University of Washington's Annual Indian Law Symposium, held on September 13-15, 2006. On October 11, 2006, Amos delivered the Keynote Speech for the National Assembly of Fish and Wildlife Service Hydrologists in Las Vegas, Nevada entitled "The Role of Agency Scientists in Securing Water Rights for the Federal Lands."

Owen L. Anderson (Oklahoma) lectured on "The Oil & Gas Lease: Defining the Royalty Obligation" and on "Drilling Contracts" in both split sections at the Foundation's five-day Short Course on Oil & Gas Law in Houston in October.

Bill Andreen (Alabama) presented a paper entitled “Federalism and the Clean Water Act of 1972: Was Federal Action Necessary or Were the States Actually Meeting the Challenge?” at a Conference on Federalism in the Overlapping Territory at Duke Law School on November 10, 2006. Bill also presented “Motivating Enforcement: Institutional Culture and the Clean Water Act” at the IUCN Academy of Environmental Law, 2006 Colloquium, at Pace Law School on October 16, 2006, and to the Environmental and Land Use Law Workshop at Georgetown Law School on November 6, 2006.

Reed D. Benson (Wyoming) visited the University of Utah’s S.J. Quinney College of Law in April, hosted by the Wallace Stegner Center, as its first Young Scholar. He delivered a lecture titled “Rivers to Live By: Can Western Water Law Help Communities Embrace Their Streams?” He also spoke at Lewis & Clark’s Western Instream Flows Conference in Portland, Oregon, on recent developments in Colorado and Wyoming law relating to instream flow protection. At the 24th annual American Bar Association Water Law Conference in San Diego, he moderated a panel titled “TMDLs: Implications for Water Supply and Development.”

John Bonine (Oregon) delivered a lecture, “Economic Barriers – State of the Art,” at the IUCN Academy of Environmental Law Colloquium, New York State Judicial Academy, October 17, 2006; a presentation, “Economic Barriers – Latin America and Europe,” at the Annual Meeting of the Environmental Law Alliance Worldwide (E-LAW), in Valparaiso, Chile, October 24, 2006; and a keynote lecture, “Barreras Economicas a la Justicia Ambiental,” at the 3d Conference on Environmental Law, Universidad de Chile, Santiago, Chile, October 25, 2006. In September 2006, he also gave a presentation on “Access to Justice” as part of Oregon’s Fireside Conversations series.

Susan Jane M. Brown (Lewis & Clark) spoke at the “Conserving and Restoring Frequent Fire Landscapes of the West” conference in Phoenix in October. Her talk explored the intersection between community collaboration and litigation of post-fire management projects in the West.

University of Colorado, Natural Resources Law Center – Mark Squillace, Director, reports that this year’s Annual Conference on June 6-8, 2007, in Boulder, Colorado, will focus on “The Future of Natural Resources Law and Policy.” Because of this, the Foundation has some hesitancy about sponsoring its biannual **Institute for Natural Resources Law Teachers** which historically has been in late May or early June. Consideration is being given to a joint program this year.

John S. Dzienkowski (Texas) made a presentation (no paper) on “Practicing Across State Lines: Multi-Jurisdictional Practice of Law and Other Ethical Issues” at the Foundation’s 52nd Annual Rocky Mountain Mineral Law Institute in Santa Fe, New Mexico, in July, 2006. He also lectured on “Ethical Issues for Lawyers and Landmen” at the Foundation’s three-day Short Course on Federal Offshore Oil & Gas Leasing and Development in Houston in October. He also lectured on “Ethics for Oil and Gas Lawyers and Landmen” as well as on “Principles of Natural Resources Taxation” at the Foundation’s Short Course on Oil & Gas Law in Houston in October.

Alyson Flournoy (Florida) spoke in November at Georgia State University’s Center for the Comparative Study of Metropolitan Growth on “Wetlands Conservation and Metropolitan Growth: A Look at the Landscape and Some Predictions after *Rapanos v. United States*.” She is also organizing a multidisciplinary roundtable on the Next Generation of Environmental Laws. The meeting will take place at UF in Gainesville on March 1, 2007.

Susan S. Fortney (Texas Tech) co-authored a paper with Bruce Kramer on “Ethical Considerations When Negotiating Purchase and Sales Agreements” at the Foundation’s Institute on Oil and Gas Agreements: Sales and Financings in Santa Fe, New Mexico, in May 2006.

Eric Freyfogle (Illinois) gave an address on private property at the annual conference of the American Planning Association in San Antonio. He also gave keynote addresses in the fall to the Oregon Planning Institute and to the Nevada Planning Association, along with a fireside chat at the University of Oregon. Under the auspices of 1000 Friends of Oregon he delivered a public lecture in Portland entitled “Private Land, Public Wildlife.” At Illinois, he gave two addresses entitled “The American Legal Scholar” and “Ecology and Salvation” at various campus-wide programs.

William Funk (Lewis & Clark) participated on a panel at the Southeastern Association of Law Schools Annual Meeting in July, speaking on pedagogy in the classroom. He spoke at the Fall Administrative Law Conference of the American Bar Association’s Administrative Law and Regulatory Practice Section in Washington, DC in October. His topic was “Agency Preemption of State Tort Law,” a subject related to a project he is involved in with the Center for Progressive Reform, of which he is a Member Scholar. In November, Professor Funk traveled to Duke University Law School to deliver a paper on the same subject for a conference on “Federalism in the Overlapping Territory.”

Robert Glennon (Arizona) was the keynote speaker at the following : Hudson River Watershed Alliance, New Paltz, New York, November 2006; Clark Fork River Basin Ground Water Policy Water Conference, University of Montana, Missoula, Montana, November 2006; Managing Storm Water and Harvesting Rainwater for Conservation Conference, Tucson, Arizona, October 2006; Annual Minnesota Water Conference, Minneapolis, Minnesota October 2006; Colorado Watershed Assembly, Breckenridge, Colorado October 2006; Rotary Club Annual District Conference, Laughlin, Nevada, May 2006; River Network’s Annual River Rally, Bretton Woods, New Hampshire, May 2006; Gatekeeper Regulatory Roundup, Scottsdale, Arizona, February 2006; Munk Centre for International Studies, University of Toronto, Toronto, Canada, January 2006. Other recent speeches and presentations include: Predictions in Ungauged Basins Workshop, Oregon State University, Corvallis, Oregon October 2006; University of Arizona Rogers College of Law, Water Law Conference, Tucson, Arizona, October 2006; University of Michigan Law School, Great Lakes Conference, Ann Arbor, Michigan September 2006; Integrating Science and Ethics to Promote Sustainable Water Policy, University of Michigan, Ann Arbor, Michigan September 2006; Lewis & Clark Law School, Nineteenth Annual Natural Resources Distinguished Visitor, Portland, Oregon September 2006; Rain Bird’s Summit, Intelligent Use of Water, moderator and panelist, Tucson, Arizona August 2006; U.S. Environmental Protection Agency, Region 6 Science Council, Dallas, Texas, May 2006; Save Our Groundwater, Lee, New Hampshire, May 2006; Texas Tech University, Holden Lecture, Lubbock, Texas, April 2006; University of California at Santa Barbara, Manley Lecture, Santa Barbara, California, April 2006; Audubon Society, Sierra Vista, Arizona, April 2006; Chandler-Gilbert Community College, Chandler, Arizona, March 2006; Barry M. Goldwater Lecture Series, Arizona Historical Foundation, Scottsdale, Arizona, February 2006.

Rob Glicksman (Kansas) made presentations on the relationship between global climate change and the risks of increased hurricane intensity and coastal flooding at the Loyola University New Orleans College of Law in August and at Emory University School of Law in September. Rob’s related article, “Global Climate Change and the Risks to Coastal Areas from Hurricanes and Rising Sea Levels: The Costs of Doing Nothing,” will be published in the *Loyola Law Review*. Rob also made a presentation, “Coercive v. Cooperative Environmental Enforcement under the Clean Water Act: A

Study of the Chemical Industry,” at the 4th IUCN Academy of Environmental Law Colloquium: Toward More Effective Implementation of Environmental Law, Enforcement and Compliance, held at Pace University School of Law on October 16, 2006.

Kevin Gover (Arizona State) addressed “The Balance of Power in Indian Country – The Court, the States, the Tribes: How Will Jurisdiction be Defined?” at the Foundation’s Institute on Natural Resources Development in Indian Country in Albuquerque in November 2005. He also delivered a paper on “Tribal Water Quality Programs: Impacts On and Off the Reservation and Interaction With Federal and State Programs” at the Foundation’s 52nd Annual Institute in Santa Fe, New Mexico, in July 2006.

In May, **Jamie Grodsky** (George Washington) spoke on new genetic technologies and environmental regulation to the University of Washington’s School of Law, School of Public Health, and Department of Environmental Health. Upon the invitation of the Environmental Law Institute and the Woodrow Wilson International Center for Scholars, she recently participated in a national dialogue on future regulatory and nonregulatory mechanisms for addressing potential environmental risks of nanotechnologies. In February, she will present works-in-progress to the faculties of the Vanderbilt Law School and the Lewis and Clark Law School.

Richard Hildreth (Oregon) gave a talk entitled “The Ocean & Coastal Law Center and Ocean Environmental Sustainability” on November 9, 2006, as part of the University of Oregon School of Law’s Fireside Conversation Series.

James Huffman (Lewis & Clark) stepped down from his many years of deanship in order to take time for a year-long sabbatical and eventual return to the classroom. In an interview for NPR’s series “Living on Earth” aired during the week of October 20, 2006, he spoke about the ballot initiatives relating to eminent domain to be decided in four western states in November and what they might mean for environmental protection and the ability to limit sprawling growth. The direct link to the interview is www.loe.org/shows/segments.htm?programID=06-P13-00042&segmentID=4. In October, Jim spoke as commentator on the keynote address by **Michael Shellengerger** and **Ted Nordhaus** (authors of *The Death of Environmentalism*) at the annual Lewis & Clark Environmental Affairs Symposium. Jim also spoke at the University of Nebraska Federalist Society Chapter on *Kelo* and the power of eminent domain.

Christine Klein (Florida) presented “The Law of the Lakes: From Protectionism to Sustainability” at a conference on “The Great Lakes Water Basin: International Law and Policy Crossroads,” Chicago, December 1-2, 2006 (sponsored by the Institute for Trade in the Americas and Michigan State University College of Law).

Bruce M. Kramer (Texas Tech) co-authored and presented a paper with Susan S. Fortney on “Ethical Considerations When Negotiating Purchase and Sales Agreements” at the Foundation’s Institute on Oil and Gas Agreements: Sales and Financings in Santa Fe, New Mexico, in May 2006. He also lectured on “Ownership, Rule of Capture, and Correlative Rights,” on “Pooling and Unitization,” and on “Administration of Production Payments and Division Orders” in both split sections at the Foundation’s Short Course on Oil & Gas Law in Houston in October. In November he presented the leadoff paper on “Conservation Principles and Development of Pooling and Unitization” at the Foundation’s three-day Institute on Federal Onshore Oil & Gas Pooling and Unitization in Westminster, Colorado.

Svitlana Kravchenko (Oregon) gave a talk entitled “Giving the Public a Voice in Compliance with Multinational Environmental Treaties” as part of the University of Oregon School of Law’s Fireside Conversation Series in November, 2006. She also presented a paper entitled “Giving the Public a Voice in MEAs Compliance Mechanisms” and spoke on the panel “Setting the Stage – Dialogue on the Role of Environmental Compliance as an Important Foundation for Rule of Law” on the issue of “Citizen Enforcement in Eastern Europe” at the 4th IUCN Environmental Law Academy Symposium on October 15-20, 2006, at Pace University. She participated in the annual meeting of the Environmental Law Alliance Worldwide (E-LAW) in Chile in October 2006 and chaired a discussion of the Climate Change Working Group. Professor Kravchenko also participated at the 3d Conference on Environmental Law, at the University of Chile, Santiago, October 25, 2006. In March and June, 2006, she participated in two meetings of the Compliance Committee of the Aarhus Public Participation Convention as its Vice-Chair (Geneva, Switzerland).

Allison LaPlante (Lewis & Clark) spoke on global climate change with **Randall Abate** (Florida Coastal) at a conference in November hosted by Florida Coastal. Allison’s remarks highlighted some of the challenges citizens are facing in bringing climate change litigation. She discussed a recent case against Owens Corning brought by Pacific Environmental Advocacy Center (Lewis & Clark) and the court’s in-depth analysis finding that PEAC’s clients had standing to sue for global harms because they alleged that climate change and ozone depletion would harm their interests in Oregon. Other panelists on the climate change panel included **John Dernbach** (Widener), who spoke about sustainable development, and **Brian O’Neil** of Faegre & Benson LLP, who has been the lead attorney in 17 years of litigation against Exxon regarding damages from the Valdez spill.

John Leshy (UC Hastings) debated Mining Law Reform with Bush Administration and mining industry spokespeople, San Diego, ABA Section on energy and environmental law, October 2006; addressed an Antiquities Act anniversary conference, U. CO. Natural Resources Law Center, October 2006; was on a panel addressing recent developments in Ninth Circuit and California Supreme Court, California Environmental Law Conference, Yosemite, October 2006; and addressed the annual conference on takings litigation sponsored by Georgetown Environmental Law and Policy Institute at Boalt Hall, October 2006, talking about takings and water and ranchers on federal lands.

Lewis & Clark and the Center for Progressive Reform will present an interdisciplinary, interactive forum on Law, Science and the Environment on April 19-20, 2007 in Portland, Oregon. Presentations and attendance are by invitation. If you or someone you know is an interdisciplinary thinker who would relish an opportunity to bridge the gap between these disciplines in order to solve current environmental law problems, please notify forum organizer **Dan Rohlf** at rohlf@lclark.edu.

Lewis & Clark hosted its 2006 Environmental Law Seminar for Federal Judges in October. Fourteen district court judges and two courts of appeals judges from around the nation spent three days in lectures and seminars conducted by the Lewis & Clark faculty. Topics and presenters included “Justiciability in Environmental Cases” (**Bill Funk**), “Tribal Natural Resources” (**Mike Blumm**), “The Endangered Species Act” (**Dan Rohlf**), “The National Environmental Policy Act” (**Janice Weis**), “The Clean Water Act: Introduction to Main Provisions & Overview of Other Major Regulatory Statutes” (**Craig Johnston**), “The Clean Water Act: Wetlands” (**Bill Funk**), “CERCLA Liability” (**Craig Johnston**), “Civil Enforcement in Environmental Cases” (**Craig Johnston**), “Criminal Enforcement in Environmental Cases” (**Susan Mandiberg**), and “Introduction to Natural Resources Law” (**Janet Neuman**).

Susan Mandiberg (Lewis & Clark) chaired a panel on “The Role and Value of Criminal Enforcement” at the 4th Annual International Union for the Conservation of Nature and Natural Resources (IUCN) Academy of Environmental Law Colloquium, “Toward More Effective Implementation of Environmental Law: Enforcement & Compliance,” at Pace University School of Law in October. Speakers on the panel were Prof. **Heinrich Winter**, University of Groningen (Netherlands); Prof. **Felicity Heffernan**, New Zealand Dept. of Environmental Conservation; Prof. **Jeffrey Miller** (Pace); and Prof. **Michael G. Faure**, Maastricht Univ. (Netherlands).

Patrick H. Martin (Louisiana State) lectured on “Enactment of the Outer Continental Shelf Lands Act, Continuing Issues of Federal/State Jurisdiction, and the Role of the Department of the Interior” at the Foundation’s three-day Short Course on Federal Offshore Oil & Gas Leasing and Development in Houston in October. He also lectured on “The Oil and Gas Lease: Defining What is Granted and the Duration of the Grant” in both split sections at the Foundation’s five-day Short Course on Oil & Gas Law in Houston in October.

Nancy A. McLaughlin (Utah) was invited to present on private land conservation and conservation easement-related issues at numerous venues during the past year, including: University of Denver College of Law, Law Review Symposium on Borrowing the Land: Cultures of Ownership in the Western Landscape (Feb. 2006); Public Interest Environmental Law Conference, University of Oregon School of Law (March 2006); Utah Annual Appellate Court Conference, Moab, Utah (April 2006); Stanford Law School Environmental Workshop Seminar (April 2006); University of California, Berkeley, Land Conservation Lunch Series (April 2006); Georgetown University Law School Roundtable on Coordinating Incentive-Based and Regulatory Land Protection Measures (Sept. 2006); Georgetown University Law School Environmental and Land Use Workshop (Oct. 2006); 9th Annual Georgetown Regulatory Takings Conference, hosted by University of California, Berkeley, School of Law, Boalt Hall (Oct. 2006); Brigham Young University, J. Reuben Clark Law School Faculty Workshop (Nov. 2006); and Utah Open Lands Seminar on Conservation Easements (Nov. 2006).

David Mears (Vermont) gave a presentation at the “Wetlands Regulation in the Wake of Rapanos” conference sponsored by the National Sea Grant Law Center at the University of Mississippi on October 13.

Janet Milne (Vermont) delivered a lecture on environmental taxation at the October 16 session of the “Environmental and Land Use Law Workshop” series at Georgetown University Law Center in Washington, D.C. Milne also presented a paper on “New Instruments on Old Turf: The Institutional Challenges of Environmental Taxation” at the Seventh Annual Global Conference on Environmental Taxation in Ottawa, Canada, on October 23. Vermont Law School’s Environmental Tax Policy Institute was a partner organization in the two-day conference, which brought together 255 people from 33 countries.

Janet Neuman (Lewis & Clark) spoke at Florida State University College of Law in October as the Distinguished Lecturer in Environmental Law. Her speech, “Chop Wood, Carry Water: Cutting to the Heart of the World’s Water Woes,” will be published in 2007 in FSU’s *Journal of Land Use & Environmental Law*. While at FSU, she also presented a faculty colloquium.

The **University of New Mexico** School of Law’s Utton Transboundary Resources Center and the American Indian Law Center are sponsoring a conference to celebrate the centennial of the landmark

Winters v. United States Indian water rights case. The conference will be held June 9-12, 2008, at the Tamaya Hyatt Resort at Santa Ana Pueblo, New Mexico.

Marilyn C. O'Leary (New Mexico) presented a paper, co-authored with **George William Sherk** (Colorado School of Mines and University of Denver) on "Reinventing the Interstate Water Compact: A New Model" at the Foundation's 52nd Annual Rocky Mountain Mineral Law Institute in July 2006.

The **University of Oregon** School of Law co-sponsored the Third Annual Conference on Northwest Tribal Water Rights on October 26-27, 2006. This year's theme was "Beyond Conflict: Tribal Water Rights, Settlement Strategies, and Environmental Justice." Law professor speakers included **Hari Osofsky** (Oregon), **Lottie Cunningham-Wren** (Bluefields Indian Caribbean University Law School), **Amy Cohen** (Ohio State), **James Hopkins** (Arizona), **Mary Wood** (Oregon), **Barbara Cosens** (Idaho), **Robert Anderson** (Washington) and **Rebecca Hanley** (Oregon). The conference also included tribal representatives, federal and state employees, and water law and science experts with a keynote address by **Michael Bogert**, Counselor to the Secretary, U.S. Department of the Interior. Papers from this event will likely appear in a future issue of Oregon's Journal of Environmental Law and Litigation.

Hari Osofsky (Oregon) participated as a panelist on International Advocacy Initiatives from the Grass Roots at the Third Annual Northwest Tribal Water Rights Conference at the University of Oregon School of Law on October 26, 2006. In August, 2006, Osofsky gave a talk entitled "The Geography of Climate Change Litigation" as part of the University of Oregon School of Law's Fireside Conversation Series. Osofsky gave faculty workshop presentations at the University of Houston Law Center, Arizona State University College of Law and the University of Oregon School of Law on draft article on climate change litigation in August and September, 2006. In Spring, 2006, Osofsky presented the Keynote Lunch Address at the Coalition Against Environmental Racism's 11th Annual Environmental Justice Conference.

James Otto (Denver): "Taxation Regimes," World Bank Group Mining Fiscal Issues Workshop, Washington D.C., October 4-5, 2006.

Patrick Parenteau (Vermont) reports that Vermont Law School co-hosted (with the University of Vermont) the annual meeting of the Society for Environmental Journalists in Burlington VT on October 25-29. The event, which drew over 800 journalists producers and free lance writers, featured a day long "environmental law boot camp for journalists" at VLS, as well as numerous panels and field trips organized by the VLS faculty and students. Parenteau also spoke at the ALI/ABA Conference on the Law of Protected Species in Washington DC on November 16.

Eric Pearson (Creighton) has agreed to chair the Foundation's Natural Resources Law Teachers Committee, taking over the reins from **Jim Rasband** (Brigham Young). Eric will be working on the program for the **Institute for Natural Resources Law Teachers** in 2007 (but see University of Colorado, above) or in 2008, and selecting a presentation for the Natural Resources Law Teachers luncheon in Vancouver next July in conjunction with the 53rd Annual Rocky Mountain Mineral Law Institute. Comments as to Institute timing and as to the presentation in Vancouver are welcome.

John C. Peck (Kansas) is serving as Water Program Chair for the 53rd Annual Rocky Mountain Mineral Law Institute on July 19-21, 2007, in Vancouver, BC.

Robert J. Peroni (Texas) lectured on “Ethics for Oil and Gas Lawyers and Landmen” and “Principles of Natural Resource Taxation” at the Foundation’s Oil & Gas Law Short Course in Houston in October.

David E. Pierce (Washburn) lectured on “Technical Aspects of Oil & Gas Exploration, Production, and Marketing,” on “Common Interest Created in Oil and Gas,” and on “The Oil and Gas Lease: Implied Covenants” in both split sections at the Foundation’s Short Course on Oil & Gas Law in Houston in October. He also serves as Program Chair for the 53rd Annual Rocky Mountain Mineral Law Institute on July 19-21, 2007, in Vancouver, BC.

Melissa Powers (Lewis & Clark) spoke on a panel at the IUCN Academy of Environmental Law Colloquium at Pace in October. Her panel focused on “Mechanisms for Public Involvement in Environmental Compliance Enforcement.” The panel was chaired by **Eric Schaeffer**, Director, Environmental Integrity Project. Others on her panel were **Andriy Andruskevych** (Ukraine); **Peter Lehner**, Chief, Environmental Division, NY State Attorney General’s Office; and **John Cronin**, Executive Director, Beacon Institute for Rivers and Estuaries.

James R. Rasband (Brigham Young) is serving as Public Lands Program Chair for the 53rd Annual Rocky Mountain Mineral Law Institute on July 19-21, 2007, in Vancouver, BC.

Dan Rohlf (Lewis & Clark) was quoted in the Washington Post on October 6, 2006, in an article discussing a series of federal court decisions that have sharply criticized resource management decisions by federal agencies. As a result of the Washington Post article, *Forest* magazine asked Dan to write an op-ed piece on a similar topic, which will appear in the magazine’s upcoming issue. In early October, Dan participated on a panel at the fall meeting of the ABA’s fall meeting of the Section on Environment, Energy, and Resources (SEER) in San Diego. The panel, which also included an attorney with the Pacific Legal Foundation and an attorney who represents real estate developers in southern California, explored conflicts between efforts to conserve endangered species and private property interests, including whether regional habitat conservation plans hold potential for reducing these conflicts.

Judith Royster (Tulsa) made the following presentations: “Tribal Taxation of Oil and Gas Production” at the Oklahoma Independent Petroleum Association Annual Meeting in June; “Property Taxation of Indians in Oklahoma” at the Oklahoma Tax Commission Ad Valorem Tax Conference in August; and “Tribal Rights to Water in Riparian Jurisdictions” at Cornell Law School’s conference on Native Water Law and Public Policy in November.

J.B. Ruhl (Florida) spoke on “Intertemporal Choice in the Regulatory State” at the Annual Meeting of the Gruter Foundation for Law and Biology (June 2006) and the Annual Meeting of the Society for Evolutionary Analysis in Law (April 2006). He spoke on “Property Regimes and Ecosystem Services” at the FSU College of Law Symposium on the Law and Policy of Ecosystem Services (April 2006).

Rachael E. Salcido (McGeorge) presented a paper on “Public Lands Access: Everything Old is New Again” at the Foundation’s 52nd Annual Rocky Mountain Mineral Law Institute in July 2006 in Santa Fe, New Mexico.

Jacqueline Lang Weaver (Houston) spoke on “Peak Oil, Big Oil, Chinese Oil, Flags and Open Doors: The Traditional Petroleum-Based Economy’s Eventful Future,” at the symposium sponsored

by the Cumberland School of Law's Center for Biotechnology, Law and Ethics titled "Biofuels and the New Energy Economy" in February 2006; she spoke on this topic again to higher education environmental professors and legislators at a conference in Birmingham, Alabama in April. She also attended a Symposium on the "Law and Policy of Ecosystem Services" in April at Florida State University College of Law and commented on the papers submitted for discussion of "Second Generation Approaches for Energy and the Environment." She spoke to numerous groups on the topic of "The Future of our Traditional Hydrocarbon-based Economy: Of Peak Oil, Big Oil, Chinese Oil, Flags and Open Doors," including the Mineral Owners Association of America, the Women's Energy Network of Houston, and the group of visiting foreign LLM students from St. Gallens' University (in Switzerland) at UT's course in international petroleum. She will also give a similar speech to the Council of Foreign Relations in Boise, Idaho. The article was also reprinted in the State Bar of Texas, Oil, Gas & Energy Resources quarterly journal. She also taught in Rocky Mountain Mineral Law Institute's Short Course on U.S. Oil and Gas law.

Chris Wold (Lewis & Clark) traveled to Budapest, Hungary to develop a strategy with Species Survival Network (SSN), an international coalition of over eighty organizations. He traveled to Geneva in October to participate in discussions concerning the links between the Convention on International Trade in Endangered Species (CITES) and the World Trade Organization, as well as other wildlife trade issues. While there, he also observed the panel hearings in the continuing dispute over the European Communities (EC) import ban on meat treated with growth hormones. Although the United States has declared at least one of the hormones, estradiol-17beta used to promote growth in cattle as a "known human carcinogen," the U.S. and Canada claim that the residue levels in meat products do not pose a risk to human health. The EC believes otherwise, claiming that any additional risk should be avoided, even though this hormone is produced naturally by humans and is found naturally in other food products, such as cheese, milk, and broccoli, which it does not regulate for this hormone. Also in October, he traveled to El Paso, Texas as part of EPA's National Advisory Committee to discuss trade and environment issues concerning the NAFTA. This fall he also attended meetings in San Diego and Washington, D.C. of the U.S. National Advisory Committee, which provides advice to EPA on a range of strategic, legal, and regulatory issues for the implementation of the NAFTA environmental side agreement.

Mary Wood (Oregon) gave the Welcome Address at the Third Annual Northwest Tribal Water Rights Conference, at the University of Oregon School of Law on October 27, 2006. Wood also presented the Keynote Address, "Nature's Trust: Reclaiming Environmental Discourse," at the Oregon Bioneers Conference in Eugene, Oregon on October 20, 2006. On September 20, 2006, Wood gave a talk entitled "Nature's Trust: Reinventing the Discourse of Environmental Law" as part of the University of Oregon School of Law's Fireside Conversations Series. Wood also presented the Keynote Address at EPA Region 10 Tribal Leaders Summit, in Pendleton, Oregon, at the Umatilla Indian Reservation on August 22, 2006. In June and July, 2006, Wood spoke on "Restoring the Abundant Trust: Tribal Litigation in Pacific Northwest Salmon Recovery" at the Idaho Environmental Forum: Exploring the Environmental Puzzle, Forum Number 133 in Boise, Idaho and "Salmon Litigation in Pacific Northwest," National Public Radio (NPR), KBSU, Boise, Idaho.

Donald N. Zillman (Maine) presented and co-authored a paper on "Innovative Regulation for Energy and Resources" at the Foundation's 52nd Annual Rocky Mountain Mineral Law Institute in July 2006 in Santa Fe, New Mexico.

UNIQUE COURSES

Bill Andreen (Alabama) taught an intensive post-graduate course, “The American Model of Environmental Law,” for the Australian Centre for Environmental Law at the Australian National University in June-July 2006.

Barbara Cosens (Idaho) has just joined with other colleges at the University of Idaho to launch an interdisciplinary water resources program that will include options for concurrent JD/MS and JD/PhD degrees. New courses within the College of Law made possible by the new program will include natural resources law and science and international water and environmental law. All students in the concurrent degree program will take a team-taught course in integrating multi-disciplinary information through a problem based approach.

Lin Harmon (Lewis & Clark) taught a 30-hour Summer Institute for incoming international LL.M.s, introducing them to the arcane mysteries of legal study in the common law context, the constitutional and administrative bases for U.S. environmental law, and elements of U.S. environmental legal research and writing.

Christine Klein (Florida) is offering an Environmental Capstone Colloquium course featuring speakers **Alyson Flournoy** (Florida), **Bob Irvin** (Senior Vice President of Conservation, Defenders of Wildlife), **Marc Mihaly** (Vermont), **J.B. Ruhl** (Florida State), and **Amy Sinden** (Temple).

Svitlana Kravchenko (Oregon) is teaching a course entitled “Global Environmental Challenges” at the University of Oregon School of Law. The course includes three main global environmental problems: climate change, ozone depletion, and biodiversity loss. Students discuss scientific data, international treaties, compliance or implementation mechanisms and cases and litigation.

Al Lucas (Calgary) taught an intensive two day course on “The Canadian Approach to Environmental Legislation” in the Doctoral Program of The Instituto Mexicana de Investigaciones en Derecho Ambiental (IMADA) in Mexico City, June 23 and 24, 2006.

Karin Sheldon (Vermont) taught “Foundations of American Natural Resources Law” in the University of Colorado Law School’s summer program.

Jacqueline Lang Weaver (Houston) presented a two-week course on “Natural Gas: Domestic and International Legal Frameworks” at the Vermont Law Center’s summer program in Environment and Energy Law. The course focused on “the golden fuel,” most favored environmentally for its clean-burning qualities, and addresses: the natural gas resource base; U.S. laws and lease contracts governing gas production and its externalities at the state level and on federal lands (the Outer Continental Shelf and coalbed methane in the Rockies); the lessons learned from past policies of price controls; FERC restructuring of the natural gas pipeline industry and its impacts on electricity restructuring; the legal and national security issues of developing natural gas overseas (particularly in the Amazon); the international contracts and framework used to develop resources in foreign nations; and the siting of LNG import terminals in the United States. She will be presenting a 2-credit hour course in Beijing, China in January 2007 to Executive MBA students (all of whom are Sinopec managers) enrolled in the University of Houston’s Bauer College of Business on its Beijing campus. The course will cover international petroleum contracts in four 10-hour days, which is why she is thankful that Prof. **Owen Anderson** (Oklahoma) is joining her! She is also helping BP Angola

establish an LLM curriculum for a Masters of Law in Oil and Gas to be taught in the main university in the Angolan capital.

UNIQUE LITIGATION

John Leshy (UC Hastings) has been advising the Edwards Aquifer Authority, Texas, on various pieces of litigation which challenge the constitutionality of Texas's attempts to regulate groundwater withdrawals. So far so good.

Ian Rounthwaite (Calgary) recently brought an application for judicial review against Canada's Minister of the Environment for failing to add an endangered species of sockeye salmon to the Species at Risk List under the emergency listing provisions of Canada's *Species at Risk Act*. Unlike the U.S. Endangered Species Act where wildlife species are protected based on a scientific assessment of the species population status only, the Canadian Act may or may not permit economic, political or social concerns to trump scientific assessment. The Act contemplates adding species to the List in one of two ways. The "normal" listing process involves a scientific assessment of the population status of a wildlife species by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), an independent scientific assessment agency created under the Act. The Minister of the Environment, after receipt of a COSEWIC status report and after consultation with interested stakeholders, makes a recommendation to the Governor in Council (the Canadian cabinet) whether the species should or should not be added to the List. The Act also provides for an endangered species to be added to the List on an emergency basis if COSEWIC and the Minister are of the opinion that "there is an imminent threat to the survival of a wildlife species..." In making a recommendation under the normal listing process, the cabinet may consider social and economic factors; it is questionable whether non-scientific factors can be considered by the Minister when a recommendation is made through the normal listing process or on an emergency basis.

The Sakinaw Lake sockeye salmon is a genetically distinct sub-species of sockeye salmon which only reproduces in Sakinaw Lake, British Columbia. Between 1947, when records began, until 1988, an average of 5000 adults returned to the lake to spawn. Since 1988, there has been a precipitous decline; in 2004, 99 adults, in 2005, 28 adults and this year, only 2 adults were counted into the lake. In February, Rounthwaite applied to COSEWIC to conduct an emergency assessment of the Sakinaw sockeye. In April, COSEWIC concluded that the sub-species faces an imminent threat to its survival.

This is the first application under the Species at Risk Act in which the Federal Court is asked to determine the meaning of "imminent threat to the survival of a wildlife species" and the statutory meaning of "an emergency." The application also seeks a declaration that the Minister is not entitled to consider social and economic factors or federal-provincial relations in forming an opinion whether the Sakinaw Lake sockeye faces an imminent threat to its survival.

Although the Minister was advised by COSEWIC that the Sakinaw sockeye faces an imminent threat to its survival in April of this year, she has yet to form an opinion as required under the emergency listing sections of the Act. In addition to declaratory relief, the application seeks an order in the nature of *mandamus* to compel the Minister to reach a decision. The Act contains strong prohibitions to protect listed threatened and endangered wildlife species. If the application is successful, it may require closing the Fraser River sockeye fishery since Sakinaw sockeye migrate to and from the Pacific with other species of

sockeye salmon and their status is so precarious that incidental take permits cannot be issued under the Act.

PERSONAL NOTES

Owen L. Anderson (Oklahoma) was appointed Senior Fellow, University of Melbourne Faculty of Law, Melbourne, Australia in 2006, and continues as a Distinguished Lecturer & Research Fellow at the Centre for Energy, Petroleum & Mineral Law & Policy, University of Dundee, Dundee, Scotland, United Kingdom; Academic Award, Association of International Petroleum Negotiators, 2006.

Reed D. Benson has been named Winston S. Howard Distinguished Professor at the University of Wyoming College of Law. This three-year professorship was previously held by **Deb Donahue**.

Michael Blumm (Lewis & Clark) coached the Sisters, Or., Little League all stars for the third straight year.

John Davidson (South Dakota) will retire from teaching in May. He will remain active in conservation and environmental work outside of the law school.

Christine Klein (Florida) was appointed Associate Dean for Faculty Development.

Bruce M. Kramer, Maddox Professor of Law (Texas Tech) has retired this month after 30 years of teaching. He recently was honored with a Commemorative Roast. Contributions thereto have been and will be used to establish the Bruce Kramer Endowed Scholarship.

Al Lucas (Calgary) was appointed Acting Dean of the University Law School for one year from July 1, 2006.

Patrick Parenteau (Vermont) reports that he is the recipient of the National Wildlife Federation's National Conservation Achievement Award for 2006 in the Legal/legislative category. Parenteau comments that the award is proof that antiquity still counts for something in a nanotech world.

It took a while, but **J.B. Ruhl** (Florida) received his Ph.D. in Geography from Southern Illinois University in August 2006. His dissertation on "The Law and Policy of Ecosystem Services" will be published by Island Press as a book due out in May 2007 (co-authored with geographer **Chris Lant** and economist **Steve Kraft**).

David E. Pierce (Washburn) recently received one of three Meritorious Achievement Awards for demonstrated professional growth and advancement from Pittsburg State University where he graduated in 1974 before going on for his JD at Washburn in 1977 and LLM from Utah in 1983.

Frank J. Slagle (South Dakota) passed away earlier this Fall after a long bout with cancer.

Kinvin Wroth (Vermont) received a grant from the Canadian Embassy's Canadian Studies Program for continued development of Vermont Law School's joint project with McGill University on cross-border sustainability.

SABBATICALS

Federico Cheever (Denver): Sabbatical at Australian National University, Canberra, Australia, Spring 2007.

Eric Freyfogle (Illinois) will be teaching natural resources law and wildlife law during the “winter term” of 2007 at the University of Michigan Law School.

James Huffman (Lewis & Clark) is on sabbatical this academic year.

Nancy A. McLaughlin (Utah) was awarded a University of Utah Faculty Fellow Award for the Fall 2006 semester, and the Virgil C. Aldrich In-Residence Research Fellowship in the Humanities, Obert C. & Grace Tanner Humanities Center at University of Utah, for the Spring 2007 semester to work on a book tentatively entitled “Conservation Easements: An Experiment in Land Preservation.”

OTHER ITEMS OF INTEREST

John Bonine (Oregon) participated on behalf of European environmental groups as an NGO observer in two meetings of the Compliance Committee of the Aarhus Public Participation Convention, Geneva, Switzerland, March and June 2006. Along with colleagues **Zygmunt Plater** from Boston College and others, including law student Pamela Hardy, Bonine organized an international campaign of support from 250 environmental law professors on behalf of Philippine law professor Antonio Oposa, UN Global 500 Award winner. Oposa’s colleague, **Jojo de la Victoria**, was assassinated and Oposa had his life threatened in April 2006, because of the work both were doing to combat illegal fishing in the Visayan Marine Triangle.

Robert Glennon (Arizona) was the Julian Simon Fellow, Property and Environment Research Center (PERC), Bozeman, Montana (June and July, 2006).

Jamie Grodsky (George Washington) accepted a lateral offer from The George Washington University Law School and has relocated to Washington, D.C., where she has family and professional ties (prior to entering academia, she served as a Counsel to the House Committee on Natural Resources, a Counsel to the Senate Judiciary Committee, and Senior Advisor to the General Counsel at EPA). She is enjoying many opportunities to integrate her academic life with work on public policy issues. In March, the George Washington University Law School will host the National Association of Environmental Law Societies (NAELS) conference, where students from around the U.S. will convene for three days to ponder the future of environmental protection. The conference will emphasize legal and policy issues surrounding global climate change, including a discussion with Al Gore. Grodsky looks forward to a reunion of sorts, as many of her former colleagues from Capitol Hill and the Clinton Administration will participate.

Anne Mansfield (Vermont): On September 29, Vermont Law School was awarded a \$1.8 million, three-year award from USAID. The funding will enable VLS and its partner institution, Sun Yat-Sen University School of Law in China, to provide training in environmental law, with a particular emphasis on energy law. The program will further the understanding of how systems of environmental regulation and enforcement relate to the larger legal context in which they operate, and the crucial role played by adherence to the rule of law. A major component of the program features workshops on policy-based clinical legal education for the faculty of the eight law schools located throughout China’s Guangdong Province.

Vermont Law School and the University of Vermont co-hosted the Society of Environmental Journalists annual conference in October. The event drew over 800 environmental reporters, broadcasters, film producers, and writers to Burlington, Vermont. The conference included a day-long program on the VLS campus. VLS faculty featured in workshops and panels throughout the four day conference included **Richard Brooks, Michael Dworkin, Martha Judy, Mark Latham, David Mears, Marc Mihaly, Janet Milne, Patrick Parenteau, Karin Sheldon, Kinvin Wroth, and Tseming Yang.**

Nancy A. McLaughlin (Utah) was awarded the 2006 Peter W. Billings Excellence in Teaching Award.

Hari Osofsky (Oregon) is serving as a Co-Organizer of the Junior International Law Scholars Roundtable, as Co-Chair of the Rights of Indigenous Peoples Interest Group of the American Society of International Law, as an Organizing Committee Member for International Law Weekend 2006 and for International Law Weekend – West 2007, and as an Executive Committee Member for the Property Section of the American Association of Law Teachers.

Melissa Powers (Lewis & Clark) will be a visiting professor at University of Maine School of Law during spring semester 2007. She will teach the environmental law survey course and coastal zone law.

Dan Rohlf (Lewis & Clark) hosted a group of lawyers and academics from the Japanese Federation of Bar Associations in September. The group visited the law school for two days to gather information on environmental legal education in the United States, and followed up on presentations Rohlf gave in Japan in April. The visitors, which included two LC LL.M. alums, met with the Dean as well as environmental program faculty and students. Discussions are underway about further cooperation between Lewis and Clark's environmental and natural resources program and Japanese lawyers and law professors. As part of Lewis & Clark's recent Business Law Forum, Rohlf served as guide for a trip for Forum participants around the famous Columbia Gorge-Mt. Hood "Loop." The group saw spawning salmon, learned about the Gorge's dynamic geological and human history, and dined at historic Timberline Lodge. Dan also gave participants an introduction to some of the pressing legal issues surrounding management and conservation of the region's species and ecosystems.

Mary Wood (Oregon) is serving as the 2006-07 Morse Center for Law and Politics Resident Scholar at the University of Oregon and has recently been named the Philip H. Knight Professor of Law.

The University of Oregon received acquiescence from the American Bar Association in spring 2006 for its new LL.M. degree in Environmental and Natural Resources Law. The first class will start its studies in August 2007. Information on the new LL.M. can be found on the website www.law.uoregon.edu/LLM/.

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