

# Natural Resources Law Teachers

## NEWSLETTER

Spring 2008

### ARTICLES, BOOKS AND REPORTS

**Mary Jane Angelo** (Florida) will publish "Harnessing the Power of Science in Environmental Law: Why We Should, Why We Don't, and How We Can," in the *Texas Law Review* (forthcoming 2008). She recently published "The Killing Fields: Reducing the Casualties in the Battle Between U.S. Endangered Species and Pesticide Law," 32 *Harvard Environmental Law Review* 95 (2008) and "Incorporating Energy Synthesis into Environmental Law, An Integration of Ecology, Economic, and Law," 37 *Environmental Law* 963 (with **Mark T. Brown**, 2007).

**Reed D. Benson** (Wyoming) had his latest article, "Dams, Duties, and Discretion: Bureau of Reclamation Water Project Operations and the Endangered Species Act," published at 33 *Columbia Journal of Environmental Law* 1 (2008). The article examines the question of whether Bureau project operations are discretionary actions for purposes of ESA section 7 in light of the Supreme Court's 2007 decision in *National Association of Home Builders v. Defenders of Wildlife*. He is also working on a new 6th edition of the *Water Resource Management* casebook (Foundation), joining longtime authors **Dan Tarlock** (Chicago-Kent), **Jim Corbridge** (retired from Colorado), and **David Getches** (Colorado).

**Michael Blumm** (Lewis & Clark) authored an article on Measures 37 and 49 which was published as "Enacting Libertarian Property: Oregon's Measure 37 and Its Implications," 85 *Denver L.J.* 279 (2007), available at <http://ssrn.com/abstract=1005255>. He is at work on an article on the Western District of Washington's recent endorsement of

a habitat protection right in 19th-century Indian treaties. Several of his articles are now reprinted in books: 1) his 2003 article in *Environmental Law*, "Roads Not Taken: EPA vs. Clean Water," co-authored with **William Warnock '03**, was one of eight articles selected by Indian law professor **Areti Krishna Kumari** for inclusion in her book *WATER POLLUTION: POLICES AND PERSPECTIVES*, published in India in 2007; 2) his 1994 *Environmental Law* article, "The Rhetoric of Water Reform Resistance: A Response to Hobbs' Critique of Long's Peak," was graciously included in Colorado Supreme Court Justice **Greg Hobbs'** book, *THE PUBLIC'S WATER RESOURCE: ARTICLES ON WATER LAW, HISTORY, AND CULTURE*, published in 2007 by the Colorado Bar Association; and 3) another 1994 *Environmental Law* article, "Pinchot, Property Rights, and Western Water (A Reply to Greg Hobbs)," also appeared in Hobbs' book. The latter two articles were part of an extended colloquy between Justice Hobbs and Blumm on proposed reforms to Western water law.

**John Bonine** (Oregon) (with **Svitlana Kravchenko**) is publishing a book, *HUMAN RIGHTS AND THE ENVIRONMENT*, (Carolina Academic Press) as of July 2008. He is also writing a chapter for *THE GLOBAL WARMING READER* (Carolina Academic Press, forthcoming 2008), a study of worldwide access to justice for the World Resources Institute, and a paper for the IUCN Academy of Environmental Law on barriers to access to justice.

**Sara Bronin** (Connecticut) will publish an article entitled "The Quiet Revolution Revived: Sustainable Design, Land Use Regulation, and the States" in the *Minnesota Law Review* in the fall. She is working on a manuscript for a historic preservation law casebook.

**Marcilynn A. Burke** (Houston) recently published "Green Peace? Protecting Our National Treasures While Providing for Our National Security," 32 *Wm. & Mary Env'tl. L. & Pol'y Rev.* 803 (2008).

**Federico Cheever** (Denver) recently published "British National Parks for North Americans: What We Can Learn From a More Crowded Nation Proud of Its Countryside," 26 *Stanford Environmental Law Journal* 247 (2007); recently completed "Everyone Complains About The Weather, But No One Ever Does Anything About It: Interjurisdictional Failure to Designate Responsible Parties For the Climate Crisis," \_\_\_ *Denver University Law Review* \_\_\_ (forthcoming 2008); recently completed "The Future of America's Forests and Grasslands: Globalization, Localization, Instability and the National Environmental Policy Act" in *Future of Natural Resources Law* (University of Colorado forthcoming 2008);

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#### ***The Natural Resources Law Teacher Newsletter***

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

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recently completed “Critical Habitat,” in *The Endangered Species Act: Law, Policy and Perspectives* (American Bar Association forthcoming 2008) (2d ed.) (**Donald Baur & Robert Irvin**, eds.); recently completed “The United States and Sustainable Forest Law: The First Years of the Twenty-First Century” in *Stumbling Toward Sustainability* (Environmental Law Institute forthcoming 2008) (2d ed.) (**John Dernbach**, ed.); Federico is working on a second edition of *Klein, Cheever, Birdsong, NATURAL RESOURCES, A PLACE-BASED BOOK OF PROBLEMS AND CASES*. The new second edition should be available Spring 2009.

**Dan Cole** (IU-Indianapolis) recently published the following articles: “La complexité choix d’un régime de appropriation en matière de protection environnementale,” in *Actes de la Conference Resources Fonciers 75 -88* (**Max Falque, Henri Lamotte, and Jean-François Saglio**, eds, 2007) and “‘Best Practice’ Standards for Regulatory Benefit-Cost Analysis,” 23 *Res. L.& Econ.* 1-47 (2007), which will be reprinted in *Applied Benefit-Cost Analysis* (**Andrew Schmitz and Richard O. Zerbe**, eds, forthcoming 2008). Three other articles are currently in press and should be published in the new few months: “Climate Change, Adaptation and Development” in the *UCLA Journal of Environmental Law and Policy*; “The Stern Review and Its Critics: Implications for the Theory and Practice of Benefit-Cost Analysis” in *Natural Resources Journal* (also forthcoming in Italian translation in *QA-Revista dell’Associazione Rossi-Doria*); and “Climate Change and Collective Action” in *Current Legal Problems*. Cole is currently at work on a book about climate change, *THE ROAD FROM KYOTO*, which will be published in 2009 by Cambridge University Press.

**Barbara Cosens** (Idaho) recently published in the areas of law and science and Indian water right settlements: “Resolving Conflict in Non-Ideal, Complex Systems: Solutions for the Law-Science Breakdown in Environmental and Natural Resource Law,” *Natural Resources Journal*, (publication pending, 2008); “Truth or Consequences: Settling Water Disputes in the Face of Uncertainty,” 42 *Idaho Law Review* 717 (2006); “2005 Indian Water Rights Settlement Conference Keynote Address,” 9 *Denver Water Law Review*, Issue 2 (2006); Book chapters: recently contributed to two volumes on Indian water right settlements: “The Arizona Homeland Standard Measure of Indian Water Rights,” in *Tribal Water Rights: Essays in Contemporary Law, Policy, and Economics*, **John E. Thorson, Sarah Britton, and Bonnie G. Colby** eds. University of Arizona Press (2006); “Filling the Gaps in Western and Federal Water Law,” in *Tribal Water Rights: Essays in Contemporary Law, Policy, and Economics*, **John E. Thorson, Sarah Britton, and Bonnie G. Colby** eds. University of Arizona Press (2006).

**Joe Dellapenna** (Villanova) completed the revision of his part of Volume 2 (Chapter 10, “Related Systems of Water Rights”) of *WATERS AND WATER RIGHTS*. The series is now edited by **Amy Kelley**, of Gonzaga. He also contributed a chapter on “A Human Right to Water: Ethical Position or Realizable Goal?”

in *RECONCILING HUMAN EXISTENCE WITH ECOLOGICAL INTEGRITY*, edited by **Laura Westra, Klaus Bosselman, and Richard Westra**.

**Stephen Dycus** (Vermont) completed “Domestic Military Intelligence Activities,” in *U.S. NATIONAL SECURITY, INTELLIGENCE AND DEMOCRACY – THE CHURCH COMMITTEE AND THE WAR ON TERROR* 162 (**Russell Miller** ed.) (London: Routledge 2008). He also published *TEACHER’S MANUAL FOR NATIONAL SECURITY LAW*, 4th ed. (with **Arthur L. Berney, William C. Banks & Peter Raven-Hansen**) (New York: Aspen Publishers 2008).

**Rob Fischman** (Indiana—Bloomington) has one new article out, “Savings Clauses and Trends in Natural Resources Federalism,” 32 *William and Mary Environmental Law & Policy Review* 129 (with **A. King**). Forthcoming will be “The Divides of Environmental Law and the Problem of Harm in the Endangered Species Act,” 83 *Indiana L.J.* Also forthcoming soon will be the new teacher’s manual to the 6th edition of *FEDERAL PUBLIC LAND AND RESOURCES LAW*, which was published by Foundation Press last year.

**Victor B. Flatt** (Houston) published, “Taking the Legislative Temperature” about U.S. Climate Change Legislation in the *Northwestern University Law Review Colloquy*, and will be publishing an article on Local Government’s influence on social norms related to environmentalism in the *Boston College Environmental Affairs Law Review*.

**Bill Funk** (Lewis & Clark) authored “Electronic Surveillance of Terrorism: The Intelligence/Law Enforcement Dilemma—A History,” which appeared in the Winter 2007 issue of the *Lewis & Clark Law Review*. Last year his chapter on the Endangered Species Act appeared in *CPR FOR THE ENVIRONMENT: BREATHING NEW LIFE INTO THE NATION’S MAJOR ENVIRONMENTAL STATUTES*, which was distributed by the Chair of the House Committee on Oversight and Government Reform to all members of Congress. He was also a co-author of CPR’s *THE TRUTH ABOUT TORTS: USING AGENCY PREEMPTION TO UNDERCUT CONSUMER HEALTH AND SAFETY*. In January, Bill submitted to Thomson/West the manuscript for his new constitutional law casebook, entitled *INTRODUCTION TO AMERICAN CONSTITUTIONAL STRUCTURE*, which should appear this summer. In February, ABA Press published the fourth edition of the *FEDERAL ADMINISTRATIVE PROCEDURE SOURCEBOOK*, which Bill co-authored with **Jeffrey Lubbers** and **Charles Pou**.

**Rob Glicksman** (Kansas) published two articles, “Nothing Is Real: Protecting the Regulatory Void through Federal Preemption by Inaction,” 26 *Va. Envtl. L.J.* 5 (2008); and “Balancing Mandate and Discretion in the Institutional Design of Federal Climate Change Policy,” 102 *Nw. U. L. Rev. Colloquy* 196 (2008). **Rob and George Coggins** (Kansas) published a completely revised second edition of their treatise, *PUBLIC NATURAL RESOURCES LAW* (expanded to four

volumes), in December 2007. In addition, the following articles are due out for publication momentarily: “A Collective Action Perspective on Ceiling Preemption by Federal Environmental Regulation: The Case of Global Climate Change,” 102 *Nw. U. L. Rev.* \_\_\_\_ (2008) (with **Richard Levy**); “Bridging Data Gaps through Modeling and Evaluation of Surrogates: Use of the Best Available Science to Protect Biological Diversity Under the National Forest Management Act,” 83 *Ind. L.J.* \_\_\_\_ (2008); “Effectiveness of Government Interventions at Inducing Better Environmental Performance: Does Effectiveness Depend on Facility of Firm Characteristics?,” 35 *B.C. Envtl. Aff. L. Rev.* \_\_\_\_ (2008) (with **Dietrich Earnhart**); and “Coal-Fired Power Plants, Greenhouse Gases, and State Statutory Substantial Endangerment Provisions: Climate Change Comes to Kansas,” 56 *U. Kan. L. Rev.* \_\_\_\_ (2008). Rob is scheduled to publish chapters in three books, “The Failure of U.S. Climate Change Policy” (with **Chris Schroeder**) and “Anatomy of Industry Resistance to Climate Change: A Familiar Litany,” in *ECONOMIC THOUGHT AND U.S. CLIMATE CHANGE POLICY* (**David Driesen**, ed.) (MIT Press, forthcoming); “Federal Preemption by Inaction,” in *PREEMPTIVE CHOICE: THE THEORY, LAW AND REALITY OF FEDERALISM’S CORE QUESTION* (**William Buzbee**, ed.) (Cambridge Univ. Press, forthcoming); and “Facing Unprecedented Stewardship Challenges: Climate Change and Federal Land Management, in a climate change reader to be edited by **Bill Rodgers** and **Michael Robinson-Dorn** (Carolina Academic Press, forthcoming 2009).

**Dale Goble** (Idaho) has recently published "Recovery in a Cynical Time -- With Apologies to Eric Arthur Blair," 82 *U. WASH. L. REV.* 581-610 (2007), an examination and comparison of decisions delisting species under the ESA.

**Heidi Gorovitz Robertson** (Cleveland-Marshall) recently published an article exploring the development of the field of environmental ethics, as compared to the field of bioethics. It considers the role of law in bolstering bioethics rise to a discipline of practical influence and considers law’s role in leaving environmental ethics a more theoretical one. See “Seeking a Seat at the Table: Has Law Left Environmental Ethics Behind as it Embraces Bioethics?” 32 *Wm. & Mary Envtl. L. & Pol’y Rev.* 273 (2008). She also published an update of “Controlling Existing Facilities,” Chapter 15 in Michael Gerrard and Sheila Foster's “The Law of Environmental Justice,” American Bar Association (2nd Edition, 2008).

**Laura Ireland Moore** (Lewis & Clark) is writing a textbook for animal law clinics.

**Bob Keiter’s** (Utah) article entitled “Breaking Faith with Nature: The Bush Administration and Public Land Policy” is being published at 27 *J. Land, Res., & Envtl. Law* 195 (2007).

**Svitlana Kravchenko** (Oregon) (with **John Bonine**) is publishing a book, *HUMAN RIGHTS AND THE*

*ENVIRONMENT* (Carolina Academic Press) in July 2008, based on a course she has taught for six years. It will be the first casebook in the world on the subject. She recently published “Right to Carbon or Right to Life: Human Rights Approaches to Climate Change,” \_\_\_\_ *Vt. J. Envt’l L.* \_\_\_\_ (2008) and has completed a chapter for *THE GLOBAL WARMING READER* on the same topic (Carolina Academic Press, forthcoming 2008). She is preparing a study of worldwide access to information for the World Resources Institute, and a paper for the IUCN Academy of Environmental Law on public participation, democracy, and poverty in environmental matters.

**Jan G. Laitos** (Denver) wrote and had published by the Harvard Environmental Law Review in 2008 an article on “The Problem With Wilderness.” Cambridge University Press has recently agreed to publish his new book on *THE RIGHT OF NON-USE* (publication date 2010); he is drafting his second edition to *THE REGULATION OF TOXIC SUBSTANCES AND HAZARDOUS WASTES* (Foundation Press 2009, with Applegate and Gaba); he is writing his annual supplement to *LAW OF PROPERTY RIGHTS PROTECTION: LIMITATIONS ON GOVERNMENTAL POWERS* (Aspen 2008).

**Mark Latham** (Vermont) published “The Rehnquist Court and the Pollution Control Cases: Anti-Environmental and Pro-Business?” in the University of Pennsylvania’s *Journal of Constitutional Law* (10 *U. Penn J. Con. Law* 133 (2007)).

**John Leshy** (Hastings) helped **Rob Fischman** prepare the latest edition of the Teacher’s Manual for the 6th edition of Coggins, Wilkinson, Leshy & Fischman, *Federal Public Land and Resources Law*, to be on the street this summer. He also published an encomium to **Joe Sax** that appeared in 14 *Hastings West-Northwest J. Envtl. L. & Policy* 13-17 (2008), and his essay on “Interstate Groundwater: The Federal Role,” will appear in the next few weeks in 14 *Hastings West-Northwest J. Envtl. L. & Policy* No. 2 (2008).

**Susan Mandiberg** (Lewis & Clark) wrote an opinion piece on the current state of federal environmental crime prosecution, “responding” to a piece by **David Uhlmann** (although neither has seen the other’s piece yet) that will appear on the cover of *The Environmental Law Reporter’s “Environmental Forum”* membership publication in May.

**David Markell** (Florida): *COMPLIANCE & ENFORCEMENT: TOWARD MORE EFFECTIVE IMPLEMENTATION OF ENVIRONMENTAL LAW, PROCEEDINGS OF THE 4TH IUCN ACADEMY OF ENVIRONMENTAL LAW COLLOQUIUM* (Cambridge Univ. Press, forthcoming 2008) (co-editor with **Du Qun, Kotze, Markowitz, Paddock & Zaelke**); *ENVIRONMENTAL PROTECTION: LAW AND POLICY* (Aspen Law & Business, 5th ed., 2007) (**Glicksman, Markell, Buzbee, Mandelker, and Tarlock**) (contributed three chapters for this casebook, on the Clean Water Act, Enforcement, and

International Environmental Law) (also served as co-author of 4th edition, **Glicksman, Markell, Mandelker, Tarlock, and Anderson**, published in 2003 – contributed Clean Water Act and Enforcement chapters for this edition, and developed 2004, 2005, and 2006 updates for these chapters); “The North American Agreement on Environmental Cooperation (NAAEC),” Max-Planck Encyclopaedia of Public International Law (Oxford University Press, forthcoming 2008); “The North American Commission for Environmental Cooperation After Ten Years: Lessons about Institutional Structure and Public Participation in Governance,” 26 *Loyola of Los Angeles International & Comparative Law Review (ILR)* 341 (Spring 2004), to be reprinted as commentary in “North American Free Trade Agreements” (Oxford University Press, forthcoming 2008); “Using Empirical Research to Design Government Citizen Participation Processes: A Case Study of Citizens’ Roles in Environmental Compliance and Enforcement,” 57 *Kansas L. Rev.* \_\_\_ (forthcoming 2008) (co-authored with Professor **Tom Tyler**); “Is there a Possible Role for Regulatory Enforcement in the Effort to Value, Protect, and Restore Ecosystem Services?,” 21 *Journal of Land Use and Environmental Law* 553 (2007); “Citizen-Friendly Approaches to Environmental Governance,” 37 *Environmental Law Reporter* 10360 (ELI, May 2007) (updated and edited treatment of the issues covered in “Understanding Citizen Perspectives on Government Decision-Making Processes as a Way to Improve the Administrative State”).

**Nancy A. McLaughlin** (Utah) is working on a book entitled *IN PERPETUITY: THE FUTURE OF CONSERVATION EASEMENTS* (forthcoming with Oxford University Press). She recently published two articles: “Condemning Conservation Easements: Protecting the Public Interest and Investment in Conservation,” 41 *U.C. Davis L. Rev.* 1897 (2008), and “Condemning Open Space: Making Way for National Interest Electric Transmission Corridors (Or Not),” 26 *Va. Envtl. L.J.* 399 (2008).

**Marc Mihaly** (Vermont) published “Living in the Past: The *Kelo* Court and the Public-Private Economic Redevelopment” in *Ecology Law Quarterly*, Volume 34 Number 1, Boalt Hall School of Law, University of California, Berkeley, 2007.

**Robert Miller** (Lewis & Clark) published an editorial in the *Los Angeles Times* on August 6 about Russia’s claim to the Arctic seabed through the doctrine of discovery. The piece was reprinted in Canada, Qatar, India, and American newspapers such as the *Minneapolis Star Tribune* and *The Oregonian*, and it led to interviews by the *Ottawa Citizen*, the *Toronto Star*, and Portuguese and Columbian newspapers. He also published a book chapter in *SHOOT THE INDIAN: MEDIA, MISPERCEPTION AND NATIVE TRUTH*, published by Buffalo State College in New York.

**Janet Milne** (Vermont), director of the Environmental Tax Policy Institute, is co-editor of Volume V of *CRITICAL ISSUES IN ENVIRONMENTAL TAXATION: INTERNATIONAL AND COMPARATIVE PERSPECTIVES*

(2008), published by Oxford University Press. The volume also contains a paper that she wrote on “New Instruments on Old Turf,” which analyzes the institutional challenges of using environmental tax instruments. She submitted comments to the European Commission in August 2007 in response to the Commission’s Green Paper, which solicited views about the use of market-based instruments to achieve environmental protection. Milne also wrote a paper on “Green Taxes and Climate Change: Theory and Reality,” which was published in December in the *DICE Report-Journal for Institutional Comparisons*, a quarterly publication distributed worldwide to 4,000 academic economists, international economic organizations and economic policymakers.

**Janet Neuman** (Lewis & Clark) recently published “Thinking Inside the Box: Looking for Ecosystem Services within a Forested Watershed,” in *Florida State University’s Journal of Land Use and Environmental Law*. Another piece, “Chop Wood, Carry Water: Cutting to the Heart of the World’s Water Woes,” is forthcoming shortly in the same journal.

**Dave Owen** (Maine) published “Law, Environmental Dynamism, Reliability: The Rise and Fall of CALFED” in *Environmental Law*, and published “Climate Change and Environmental Assessment Law” in the *Columbia Journal of Environmental Law*.

**Patrick Parenteau** (Vermont) published “Lead, Follow or Get out of the Way: States Tackle Climate Change,” in 40 *Conn. L. Rev.* No 5 (Spring 2008). He published “Legal Authorities for Ecosystem-Based Management in U.S. Coastal and Marine Environments,” in *OCEAN AND COASTAL LAW AND POLICY*, ABA (2008). Parenteau wrote about “The Take Prohibition” in *THE ENDANGERED SPECIES ACT DESKBOOK*, 2d ed. ABA (2008), and contributed “An Overview of Federal Wildlife Law” in *NATURAL RESOURCES LAW AND POLICY*, 2d ed. ABA (2008).

**Eric Pearson** (Creighton) has published his casebook, *ENVIRONMENTAL AND NATURAL RESOURCES LAW*, 3d Ed., with LexisNexis, along with a Teachers’ Manual and a Statutory Supplement. The offering will be available for fall, 2008, class adoptions. He also wrote “Some Thoughts on the Role of Substantive Due Process in the Federal Constitutional Law of Property Rights Protection,” forthcoming in the *Pace University Law Review*, and “Section 102(1) of the National Environmental Policy Act,” forthcoming in this summer’s environmental law edition of the *Creighton Law Review*.

**Craig Pease** (Vermont) writes a new “Science and the Law” column for *THE ENVIRONMENTAL FORUM*. The first column was entitled “The Absurdity of Individual Harm,” a reprint of an essay originally published in *BIOSCIENCE*. The second column, “A Climate of Uncertainty,” was published in the March/April issue. “A Stone Wall or a Stonewall?” appeared in the May/June issue.

**Dan Rohlf** (Lewis & Clark) coauthored an article on the

Endangered Species Act and climate change with **John Kosyack** of the National Wildlife Federation. The article appeared in the April edition of Environmental Law Reporter.

**Judith Royster** (Tulsa) and **Michael Blumm** (Lewis & Clark) published the second edition of their casebook, NATIVE AMERICAN NATURAL RESOURCES LAW (Carolina Academic Press 2008), complete with teachers' manual.

**Erica Thorson** (Lewis & Clark) recently published an article, "On Thin Ice: The Failure of the United States and the World Heritage Committee to Take Climate Change Mitigation Pursuant to the World Heritage Convention Seriously," in 38 Environmental Law.

**Chris Wold** (Lewis & Clark) wrote "World Heritage Species: A New Legal Approach to Conservation," to be published in Georgetown International Environmental Law Review this year.

**Mary Wood** (Oregon) is publishing: "A Framework of China-U.S. Partnership to Address Global Warming," 3 China Environmental and Resource Law Review, Ocean University (Renmin Press, forthcoming Spring 2008); "Nature's Trust: Reclaiming an Environmental Discourse," 2 Stratigraphy and Sedimentology of Oil-gas Basins, Geology Institute of Azerbaijan National Academy of Sciences, Azerbaijan, Russia (forthcoming Spring 2008); "Government's Atmospheric Trust Responsibility," Ecotone, Environmental Studies Program, University of Oregon, Eugene, OR (forthcoming Spring 2008); "Tribes as Trustees Again (Part I): The Emerging Tribal Role in the Conservation Trust Movement," Harvard Environmental Law Journal (with **Zach Welker**) (forthcoming Spring 2008); and "Tribes as Trustees Again (Part II): Evaluating Four Models of Tribal Participation in the Conservation Trust Movement," Stanford Environmental Law Journal (with **Matthew O'Brien**) (forthcoming Spring 2008); republished in The Sovereignty Symposium 2008 conference proceedings, <http://www.oscn.net/sovereignty/default.aspx>.

## CLINICAL PROGRAMS

**Greg Costello** (Oregon), Adjunct Professor and Executive Director of the Western Environmental Law Center (WELC), reports that clinic students have assisted clinic attorney **Dan Galpern** on a multitude of strategies for mitigating climate change, from drafting a petition to the U.S. Environmental Protection Agency to regulate emissions from industrial machines and heavy equipment used in construction, mining and logging, to working with the Western Governor's Initiative on Climate Change. Galpern also published "Climate Change 101: Urgency and Response," 23 J. Env't'l L. & Litig. 191 (2008). Other clinic students have helped research and draft an appellate brief in state court to protect Washington State's groundwater from the pollution caused by industrial dairies, prepare for and attend a federal District court hearing defending the U.S. Forest Service's decision to ban gas motorboats from Waldo Lake in Oregon, and draft a motion of first impression requesting the substitution of a sole, deceased plaintiff on a NEPA and Appeal Reform Act matter concerning the Scott timber sale in the Tongass National Forest, Alaska.

**The International Environmental Law Project** (Lewis & Clark) has had a busy year. With Acting Director and Clinical Professor **Erica Thorson**, the law students have engaged in a number of exciting international environmental projects. During the fall, IELP worked with a small coalition of activists and lawyers to stop the unregulated dumping of hundreds of tons of iron ore into the ocean. The company involved in the dumping claimed it would thwart climate change by stimulating massive phytoplankton blooms to absorb carbon dioxide, and planned to sell "carbon offsets" generated from the project. IELP also continued its work with the Pacific Salmon Treaty, writing and presenting a white paper on reforming public participation to the Pacific Salmon Commission, which has sparked a serious discussion among U.S. and Canadian

delegates. In addition, IELP continues to work on long-term projects related to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, whaling, and the World Heritage Convention. The U.S. Fish and Wildlife Service (FWS) asked IELP to help draft the national report it is required to submit to the Secretariat for the Convention on Wetlands of International Importance (known as the Ramsar Convention). IELP drafted sections on U.S. invasive species policy, U.S. national wetlands policy, and compliance with relevant principles from the World Summit on Sustainable Development. Also, IELP collaborated with Earthjustice's international office to write the 2008 Environmental Rights Report, which Earthjustice will present to the Human Rights Commission later this year. The Report is a comprehensive look at the relationship between environmental justice and human rights and summarizes developments in this field from around the world.

**The Pacific Environmental Advocacy Center** (Lewis & Clark) has gained some important victories over the past few months. In December, the Oregon state court found unlawful a Clean Water Act permit which authorized continued violations of Oregon's water quality standards for more than nine years. **Melissa Powers** (Lewis & Clark) and alum **Brett VandenHeuvel** co-counseled on this case. In January, Melissa and **Allison LaPlante** (Lewis & Clark) obtained an important ruling regarding the scope of an administrative record in a case challenging the Environmental Protection Agency's approval of Oregon's water quality standards. In March, PEAC Director **Dan Rohlf** and alum **Justin Augustine** were successful in their efforts to overturn a ruling by the U.S. Fish and Wildlife Service that bald eagles adapted to harsh desert conditions in Arizona are not eligible for protection under the Endangered Species Act. The federal district court also ordered FWS to

keep ESA protections for this separate population in place until the agency performs a full review of the birds' biological status (Arizona birds had been removed from the list of threatened

species along with other eagles in the contiguous United States).

## LEGISLATION AND REGULATIONS

**John Leshy** (Hastings) remained engaged in congressional efforts to reform the Mining Law of 1872, testifying before the House Natural Resources Committee (September 2007) and the Senate Energy and Natural Resources Committee (December 2007), submitting extensive answers to followup written questions, working with the staffs of both committees and key members to try to shape acceptable reform, and helping educate members of the media. The House passed a solid reform bill in October, but the effort has bogged down in the Senate. He's been at this far too long to hold his breath about such things; there's always next year. He also lent informal advice to Senate Energy Committee staff on legislative proposals to

recover more money from oil companies in connection with federal oil and gas leasing on the OCS, and to committee staffs of both Houses of Congress and to conservation interests on numerous legislative proposals including proposed wilderness and conservation areas in western Colorado, southwestern Utah, Nevada, and elsewhere.

**David Mears** (Vermont) testified in January before the Vermont House of Representatives' Fish, Wildlife, and Water Resources Committee on water quality provisions relating to small hydropower.

## SPEECHES AND CONFERENCES

**Adell Amos** (Oregon) presented at the American Association of Law Schools' Annual Conference in New York City on the question of "Can Western Water Law be a Tool of Adapting to Climate Change?" She participated in the "Focus the Nation" event in January by delivering an address at Willamette University School of Law entitled, "Water Law and Climate Change." She delivered a faculty talk as part of the University of Oregon's Thinking Out Loud series on "Water Energy and Climate: Making the Connection." At the 26th Annual Public Interest Environmental Law Conference she spoke on a panel with **Janet Neuman** (Lewis and Clark) and **Mark Squillace** (Colorado) on "Water Rights as Public Rights: Prior Appropriation as if the Public Interest Mattered." Amos gave two guest lectures on "Hydropower in the United States" and "Wildlife Law and the Endangered Species Act." Amos was invited to participate in Oregon State University's spring lecture series on "Water in the West"; she delivered two talks, one on "Protecting Federal Purposes Under State Water Law: Does it Work" and the other on "Connecting Western Water Law to Energy and Climate Policy." In May she participated in the Institute for Natural Resources Science-Policy Seminar Dialogue between various professors across disciplinary lines and policy leaders in Oregon from the Oregon Department of Fish and Wildlife.

**Mary Jane Angelo** (Florida) presented "Harnessing the Power of Science in Environmental Law: Why We Should, Why We Don't, and How We Can," at the Texas Law Review symposium on "Harnessing the Power of Information for the Next Generation of Environmental Law" held on February 1 & 2, 2008 in Austin, Texas.

**Aubrey Baldwin** (Lewis & Clark) presented "Fighting New Coal Plants" at Cascade Power Shift 2008: Mobilizing Youth for Climate Justice, a youth climate summit at the University of Oregon on February 9.

**Brett Birdsong** (UNLV) presented a paper on "Severed Minerals and Split Estates in the Oil and Gas Context" at Rocky Mountain Mineral Law Foundation's Special Institute on Surface Use for Mineral Development in the New West: Finding Good Ground, in Westminster, Colorado (February 2008).

**Michael Blumm** (Lewis & Clark) spoke on the public trust doctrine at the Public Environmental Interest Law Conference in March.

**John Bonine** (Oregon) in February spoke at a conference on climate change at Vermont Law School and in March organized the first trans-Atlantic public interest environmental law seminar, linking the Public Interest Environmental Law Conference of the University of Oregon and a sister conference organized by law students in London. In May, he participated in training French judges on access to justice under the Aarhus Public Participation Convention in Paris. In June, he participated as a representative of a network of nongovernmental organizations in the Meeting of the Parties of the Aarhus Public Participation Convention in Riga, Latvia. In July, Bonine will deliver lectures at the University of Cape Town and University of Nairobi. In August, he will participate in the Annual Meeting of the Environmental Law Alliance Worldwide in Mombasa, Kenya.

**Sara Bronin** (Connecticut) organized and spoke at the 15th Gallivan Conference at the University of Connecticut School of Law on February 29, 2008, entitled "Is it Easy Being Green? Sustainable Development and the Law." The conference focused on how our legal regimes can influence building construction in a way that will reduce consumption of scarce resources and best preserve clean air and water. She also presented her draft paper, "The States' Role in Green Building

Regulation,” at the Mid-Atlantic Scholars of Color Conference on January 26, 2008.

**David A. Chapman** (Utah) presented on “Climate Change Science – Is Global Warming More than Hot Air?” at Rocky Mountain Mineral Law Foundation’s Special Institute on Resource Development and Climate Change in Phoenix, Arizona (April 2008).

**Federico Cheever** (Denver) was recently appointed Chair of Natural Resources Law Teachers’ Committee of RMLLF. He is busily planning the AMAZING conference at Chico Hot Springs in Montana (outside Yellowstone), May 27-29, 2009. Be there!

**Dan Cole** (IU-Indianapolis) made presentations at the following conferences and schools in the Fall of 2007 and Spring of 2008: The Lauterpacht Centre for International Law, University of Cambridge; the Faculty of Law, University College London; the Faculty of Law, University of Oxford; the Workshop in Political Theory and Policy Analysis, Indiana University-Bloomington; the annual meeting of the Canadian Law & Economics Association, University of Toronto School of Law; the annual meeting of the Midwest Law & Economics Association, University of Minnesota School of Law; and the UCLA Law School.

**Joe Dellapenna** (Villanova) spoke on: “International Water Law in a Climate of Disruption,” at the MSU College of Law Symposium in East Lansing, MI, on February 15, 2008. “Climate Disruption, the Washington Consensus, and Water Law Reform,” at the Temple Law Review Symposium in Philadelphia, PA, on March 1, 2008; “Water Law in Developing Countries,” at the Philadelphia Global Water Initiative Colloquium in Philadelphia, PA, on April 15, 2008; “Reforming Water Law to Address Climate Disruption,” at the Widener Law Review Symposium in Wilmington, DE, on April 18, 2008; “The Future of Riparianism” at the ABA Eastern Water Law Conference in Charlotte, NC, on May 2, 2008; “International Water Resources Law, Water Needs, and the Israeli-Palestinian Setting” in the Green Cross International Conference on Defining Water Needs in Areas of Fully Exploited Resources in Geneva, Switzerland, on May 3, 2008; “The Fourth World Water Forum in Mexico City” at the Environment and Water Resources Institute of the American Society of Civil Engineers in Honolulu, HI, on May 12, 2008; and on “Preparing for the Upcoming Storm ... or Drought ... or Whatever: Adaptive Management of Water Resources at the Basin Level—The Legal Dimension” at the same Institute in Honolulu, HI, on May 13, 2008. He also spoke on “Abortion Across State Lines” at the BYU Law Review Symposium in Provo, UT, on Feb. 1, 2008.

**Stephen Dycus** (Vermont) delivered a talk on January 4 entitled “Outsourcing Domestic Military Intelligence” for a program sponsored by the Section on National Security Law at the AALS Annual Meeting in New York.

**Victor B. Flatt** (Houston) has spoken at two symposiums on climate change and presented at three CLEs on climate change legislation. He will deliver the keynote address to the Washington State Bar Association’s Environmental and Land Use Law Section mid-year meeting in May.

**Alyson Flournoy** (Florida) presented “Harnessing the Power of Information to Protect Our Public Natural Resource Legacy” at the Texas Law Review symposium on “Harnessing the Power of Information for the Next Generation of Environmental Law” on Feb. 1, 2008.

**Bill Funk** (Lewis & Clark) appeared on the panel of the Administrative Law Section at the January annual meeting of the Association of American Law Schools in New York City, where he spoke on agency preemption of state tort law.

**Roger Flynn** (Colorado, Wyoming) taught a session on general mining law, which covered mining rights, patents and pending legislation, at Rocky Mountain Mineral Law Foundation’s Mineral Law Short Course in Boulder, Colorado (May 2008).

**Rob Glicksman** (Kansas) made the following presentation: “The Holcomb Power Plant Imbroglia: Using Statutory Endangerment Provisions to Combat Climate Change,” presentation to the University of Kansas School of Law faculty, Lawrence, KS (April 25, 2008).

**Dale Goble** (Idaho) presented a paper entitled “Conservation Reliant Recovery and the ESA,” at 15th Annual ALI-ABA Endangered Species Act Conference in February.

**Heidi Gorovitz Robertson** (Cleveland-Marshall) presented, “Law in the Development of Bioethics and Environmental Ethics,” at the First Annual Conference on Law, Ethics, and the Life Sciences, at the University of Louisville, Louis Brandeis School of Law, October 26-27, 2007. In addition, she has been interviewed numerous times for newspaper and magazine articles concerning the property rights of contractors and homeowners when valuable objects are found behind the walls of a house during a construction project. She has also done presentations on Current Issues in Storm Water Regulation, and on Environmental Law in Legal Education.

**Lin Harmon** (Lewis & Clark) taught a session on administrative law for the law school’s annual Endangered Species Act workshop for Forest Service line officers and decisionmakers in May at Key West, Florida.

**Bruce Kramer** (Texas Tech) presented a paper, “Local Land Use Regulation of Oil and Gas Development” and moderated a panel of attorneys on “County and Municipal Efforts to Regulate and Permit Oil and Gas: Different Perspectives” at Rocky Mountain Mineral Law Foundation’s Special Institute on Surface Use for Mineral Development in the New West: Finding Good Ground (February 2008); Kramer spoke on “Property Provisions of the Joint Operating Agreement” at Rocky Mountain Mineral Law Foundation’s Special Institute

on Oil and Gas Agreements: Joint Operations, in Denver, Colorado (March 2008).

**Svitlana Kravchenko** (Oregon) in February spoke at a conference on climate change at Vermont Law School on the “right to carbon, right to life,” and in May participated in training French judges on access to justice under the Aarhus Public Participation Convention in Paris. In March and June, she participated as Vice-Chair of the Compliance Committee of the Aarhus Public Participation Convention in Geneva, Switzerland, and then at the Meeting of the Parties of Convention in Riga, Latvia, in June. In July, Kravchenko will travel to Africa to introduce Oregon’s LL.M. program to candidates in Africa and will deliver lectures at the University of Cape Town and University of Nairobi. In August, she will participate in the Annual Meeting of the Environmental Law Alliance Worldwide in Mombasa, Kenya.

**Jan G. Laitos** (Denver) spoke at the Bettman Symposium at the American Planning Association’s 100th Annual Planning Conference on “The Law of Airport Zoning” (April, 2008); he delivered a paper at the Rocky Mountain Mineral Law Foundation’s Special Institute on Strategic Risk Management – “Managing Risk When Confronting Government Limits on Resource Development” (May, 2008).

**Jacqueline Lang Weaver** (Houston) spoke at the New Zealand Petroleum Conference ‘08 in Auckland, New Zealand in March 2008 at the invitation of the Crown Minerals Department and received a Speaker’s Trophy Award for her talk on the Future of the Petroleum-Based Economy. She gave a similar speech to the Council of Foreign Relations branch in Tulsa in May and to the Permian Basin Landman’s Association in March.

**Allison LaPlante** (Lewis & Clark) spoke in January at an air quality and global warming conference/CLE in Portland, sharing a panel with private practitioners **Tom Wood** of Stoel Rives and **Tom Lindley** of Perkins Coie. The panel discussed the Clean Air Act, global warming litigation and other developments. In March, she participated in workshops on the Clean Water Act, the Clean Air Act, and legal ethics in practicing environmental law at the Public Interest Environmental Law Conference in Eugene, Oregon. In May she spoke to high school students about global warming and the law as part of Lewis & Clark’s Classroom Law Project’s “Law Day” conference.

**John Leshy** (Hastings) made a presentation on interstate groundwater issues at the 26th annual Water Law Conference of the ABA Section on Environment, Energy and Resources, San Diego, February 2008; was a panelist in a “hot issues” update on Mining Law Reform sponsored by the ABA Section on Environment, Energy and Resources, March 2008 (open line call-in); and made a presentation on federal lands grazing policy at a scholarly conference on “Breaking the Logjam in Environmental Law,” sponsored by NYU in March 2008, where he enlightened Manhattanites and other urbane

easterners about cows. The conference papers (his co-authored with **Molly S. McUSIC**, entitled “Where’s the Beef: Facilitating Voluntary Retirement of Federal Land from Livestock Grazing”) will be compiled into a book to be published this fall.

**Lewis & Clark** continues its open-access podcasting of environmental and animal law program conferences and events which are available for free download. A catalog of podcasts is available at [www.lclark.edu/dept/elaw/podcasts.html](http://www.lclark.edu/dept/elaw/podcasts.html).

**Lewis & Clark College** was the home of “Focus the Nation,” a nationwide teach-in day on climate change involving more than 1,500 institutions and organizations around the country, on January 31. Clinical professors **Melissa Powers**, **Erica Thorson** and **Aubrey Baldwin**, with assistance from associate dean **Janice Weis** and assistant director **Lin Harmon** (Lewis & Clark), organized the law school’s “Focus the Nation” activities on January 31. The event featured local and sustainable refreshments, speakers from the law school and beyond, and a showing of “Who Killed the Electric Car?” Melissa spoke regarding national efforts to reduce greenhouse gas emissions from motor vehicles, Aubrey spoke on fighting new coal plants, and **Dan Rohlf** spoke on climate change and salmon. Meanwhile, Lewis & Clark law professors also participated in the separate day of “Focus the Nation” events held at the Lewis & Clark College campus. **Janet Neuman** spoke about “Northwest Impacts: Water” in the global warming impacts panel, **Chris Wold** spoke on “Beyond Kyoto” in the international engagement panel, and **Dan Rohlf** and **Jim Huffman** took opposite sides in a “Debate: Resolved that Congress should establish a goal of 70% reduction from 2008 greenhouse gas emissions to be achieved by the year 2050.” Podcasts of some of the many Focus the Nation events are available at <http://lawlib.lclark.edu/podcast/?p=407>.

**Patricia Nelson Limerick** (Colorado) presented on ways to talk about energy in the west and previewed the Center of the American West’s new film, “Living with Energy” at Rocky Mountain Mineral Law Foundation’s Special Institute on Surface Use for Mineral Development in the New West: Finding Good Ground, in Westminster, Colorado (February 2008).

**John S. Lowe** (Southern Methodist) presented on operators, including duties and standard of care, selection and removal, at the Rocky Mountain Mineral Law Foundation’s Special Institute on Oil and Gas Agreements: Joint Operations, in Denver, Colorado (March 2008).

**Susan Mandiberg** (Lewis & Clark) participated on a panel at the Public Interest Environmental Law Conference on March 7. The panel, entitled “Environmental Crimes in the New Millennium,” was convened by **David Uhlmann**, former Chief of the U.S. Department of Justice Environmental Crimes Section and now Jeffrey F. Liss Professor from Practice at Michigan Law School and inaugural director of its Environmental Law & Policy Program.

**Nancy A. McLaughlin** (Utah) presented on conservation easements at a faculty colloquium at Indiana University School of Law, Bloomington, in January of 2008. She presented at a symposium on “Modifying and Terminating Perpetual Conservation Easements” at the Lincoln Institute of Land Policy in Cambridge, Massachusetts, in February of 2008, and will comment on Professor **Gerald Korngold**’s work on conservation easements at the Institute’s Conference on Land Policies and Property Rights in June of 2008. She participated in a roundtable discussion on balancing private initiatives and regulatory measures at the Georgetown Environmental Law & Policy Institute, Georgetown University Law Center, in April 2006. She also presented on nonprofit governance issues in the land conservation context at the American College of Trust and Estate Counsel’s annual meeting in March of 2008.

**David Mears** (Vermont) participated in a panel discussion in March, 2008, entitled “Cornerstones: A Primer for the Environmental Attorney” at the ABA Section of Environment, Energy and Resources 37th Annual Conference on Environmental Law in Keystone Colorado.

**Robert Miller** (Lewis & Clark) was a keynote speaker at the Native American Finance Conference in Connecticut, gave a CLE to the Oregon State Bar Legal Heritage group, gave a training on Federal Indian Law to over 100 U.S. Fish & Wildlife officials, and spoke at Portland’s book fair, Wordstock, and at the Worldpeace Institution conference at PSU. He also helped organize and presented a paper in April at the Lewis & Clark Law Review Symposium conference, “Indigenous Economic Development: Sustainability, Culture, and Business.” In April, he spoke at the Second Annual Native American Studies Conference at University of Georgia, at Denver University Law School, and at a Seattle CLE.

**Janet Neuman** (Lewis & Clark) appeared on a panel of deans and associate deans speaking on “Balance in Legal Education” at the American Association of Law Schools Annual Meeting in New York City. In March, she spoke about water law at the Public Interest Environmental Law Conference at the University of Oregon, on a panel entitled “Prior Appropriation as if People Mattered.” In May, she spoke to graduate water policy students at Portland State University about Western Water Policy Review Advisory Committee’s work, and developments in water policy in the ten years since the Commission’s final report. In June, she will speak at the University of Colorado’s conference “Shifting Baselines and New Meridians: Water, Resources, Landscapes, and the Transformation of the American West,” on a panel entitled “Rethinking Western Water Law.”

**David E. Pierce** (Washburn) presented on “The Basics of Joint Operations,” at Rocky Mountain Mineral Law Foundation’s Special Institute on Oil and Gas Agreements: Joint Operations, in Denver, Colorado (March 2008).

**Melissa Powers** (Lewis & Clark) spoke on two panels, “Redefining the Definition of Solid Waste,” and “Clean Water

Act Year in Review,” at the Public Interest Environmental Law Conference in March.

**Arnold W. Reitze, Jr.**, (Utah, George Washington) presented on “Lessons Learned from Other Environmental Programs” at Rocky Mountain Mineral Law Foundation’s Special Institute on Resource Development and Climate Change, in Phoenix, Arizona (April 2008).

**Dan Rohlf** (Lewis & Clark) was one of two featured participants in early April at a session of Northern Arizona University’s Bruce Babbitt Visiting Scholar Series in Landscape Conservation devoted to issues of forest management. He also taught his fifteenth annual Endangered Species Act workshop for Forest Service line officers and decisionmakers in May at Key West.

**Samuel B. Romberger** (Colorado School of Mines) presented on “Foundational Geology and Mineral Deposition” at the Rocky Mountain Mineral Law Foundation’s Mining Law Short Course in Boulder, Colorado (May 2008).

**Judith Royster** (Tulsa) delivered a presentation on April 4 on “Tribal Economic Development: Practical Sovereignty, Political Sovereignty, and the Secretary’s Shrinking Role in Natural Resources Development” at the Lewis & Clark Law Review Symposium on Indigenous Economic Development: Sustainability, Culture, and Business. On April 12, she spoke on “Indian Country in Oklahoma” at a conference on “The Indian Country Statute: 60 Years Later,” sponsored by the American Indian Law Center and the University of New Mexico School of Law.

**Nancy Shurtz** (Oregon) gave a speech at the national Critical Tax Conference in Tallahassee Florida on April 4, 2008, entitled “Mother Earth Says: I’m Cool with Carbon Taxes.” On April 11, 2008, she moderated a panel on Carbon Policy at the Sustainable Business Symposium at the University of Oregon School of Law. Shurtz also attended a conference entitled “Going Green: Advising Clients in the New World of Sustainability” in Portland, Oregon on April 25, 2008.

On March 6-9, 2008, the student group Land Air Water at the University of Oregon hosted the 26<sup>th</sup> Annual Public Interest Environmental Law Conference in Eugene, Oregon. This year’s theme was “Compelling a Climate of Change.” Keynoters included: **Edith Brown Weiss** (Francis Cabell Brown Professor of International Law at Georgetown University Law Center); **David Cobb** (former Presidential nominee); **Carrie Dann** (Western Shoshone leader); **Dave Foreman** (The Rewilding Institute); **Cynthia McKinney** (former Congresswoman and Presidential nominee); **James Milkey** (Assistant Attorney General and Chief of the Environmental Protection Division of the Massachusetts Office of the Attorney General); **Sophia Rabliauskas** (Poplar River First Nation leader); **William H. Rodgers, Jr.** (Stimson Bullitt Professor of Environmental Law at the University of Washington); **Jane Williams** (California Communities Against

Toxics). Law professor speakers and attendees included: **Adell Amos** (Oregon), **Reed Benson** (Wyoming); **Michael Blumm** (Lewis & Clark); **John Bonine** (Oregon), **Maxine Burkett** (Colorado); **Kim Connolly** (South Carolina); **Alexandra Dunn** (Pace), **Matthew Fletcher** (Michigan State); **Jordon Kahn** (NYU); **Svitlana Kravchenko** (Oregon); **Ryke Longest** (Duke); **Janet Neumann** (Lewis & Clark); **Susan Mandiberg** (Lewis & Clark); **Lesley McAllister** (University of San Diego), **Hari Osofsky** (Oregon), **Larry Sanders** (Emory); **Melissa Powers** (Lewis & Clark); **Heidi Grovitz Robertson** (Cleveland-Marshall); **Michael Robinson-Dorn** (Washington); **Calvin Sanborn** (Victoria); **Mark Squillace** (Colorado); **Jack Tuholske** (Vermont); **Cliff Villa** (Seattle); and **Mary Wood** (Oregon). The conference also included tribal representatives, federal and state employees, scientific experts, and faculty from across the country.

**Erica Thorson** (Lewis & Clark), continuing her work on the Pacific Salmon Treaty, represented the International Environmental Law Project at an Executive Session of the Pacific Salmon Commission in Coeur d'Alene, Idaho in October to speak about reforming the public participation process. In November, she attended a Pacific Salmon Treaty workshop at the Wood Institute for the Environment at Stanford Law School as an invited participant. Erica spoke at the 15th annual Animal Law Conference at Lewis & Clark in September, presenting a lecture entitled "Can the Wildlife Trade Bridge the Poverty Gap?: CITES, Livelihoods, and Sustainable Use" (available at <http://lawlib.lclark.edu/podcast/?p=392>).

**Chris Wold** (Lewis & Clark) spoke at St. Louis University School of Law at a conference entitled "The Changing Tide of Trade." His topic was the evolution of environmental provisions and institutions in regional free trade agreements. He is finishing work on a textbook, *CLIMATE CHANGE AND THE LAW*, co-authored with **David Hunter** (American) and **Melissa Powers** (Lewis & Clark).

**Mary Wood** (Oregon) gave an address called "Nature's Trust: A Global Paradigm for Managing Natural Resources" at Lane Community College, Eugene, OR (May 5, 2008). At the Public Interest Environmental Law Conference, she was a speaker on the following panels: "Tribes as Trustees: The Emerging Role in the Global Conservation Trust Movement," Panel Presentation, Public Interest Environmental Law Conference, Eugene, OR (March 8, 2008); "Culvert Case:

Implications for the Future," Panel Presentation, Public Interest Environmental Law Conference, Eugene, OR (March 7, 2008); "Building a Better Atmosphere: Legislative & Agency Responses to Global Warming," Panel Presentation, Public Interest Environmental Law Conference, Eugene, OR (March 7, 2008); "Using the Energy of the Law to Change the Energy of the World," Panel Presentation, US-UK Video-linked Panel, Public Interest Environmental Law Conference, Eugene, OR (March 7, 2008); and "Public Trust: Tapping the Potential of the Common Law Trust," Panel Presentation, Public Interest Environmental Law Conference, Eugene, OR (March 6, 2008). On February 29, 2008, Wood presented "Aspiring Towards Global Peace Through Nature's Trust Principles," Lane Peace Center's Peace and Democracy Conference, Lane Community College, Eugene, OR On February 28, 2008, she gave a keynote address entitled "Nature's Trust: A Legal Paradigm for Protecting Land and Natural Resources for Future Generations," at The Triumph or Tragedy of the Commons, The Spring Creek Project for Ideas, Nature, and the Written Word, Oregon State University, Corvallis, OR. On February 19, 2008, Wood gave a keynote address by video-conference called "Law and Climate Change: Government's Atmospheric Trust Responsibility," aired at the University of Montana, Missoula, MT. She gave a keynote address entitled "Victory Speakers for Climate Crisis: Voicing Government's Obligation," at the Eugene City Public Library, Eugene, OR (February 17, 2008) and a panel presentation "Advancing Climate Solutions in Business, Law, Design, and Public Health: How You Can Do Activism in Your Career," at Cascade Power Shift, University of Oregon, Eugene, OR (February 9, 2008). She addressed the Idaho chapter of the American Fisheries Society on "Nature's Trust: A Legal, Political, Economic, and Moral Frame for Global Warming," at their annual meeting (February 5, 2008). On February 1, 2008, Wood gave "Remarks at the Unveiling of the Portrait of Chief Joseph," at the University of Oregon School of Law, Eugene, OR. Wood also gave several interviews including: Interview with **Jason Bradford** for "NPR's The Reality Report," KZYX, <http://www.kzyx.org/joomla/>, Mendocino County, CA (April 14, 2008); Interview with **Sally Mock**, "NPR's Montana Evening Edition," KUSM, <http://www.mtpr.net/programs/2008-02-19>, Missoula, MT (February 19, 2008); Interview with Hosts **Andrew Bartholomew** and **Claude Offenbacher**, "Sunday at Noon," KLCC, <http://www.klcc.org/OnlineAudio.asp>, Eugene, OR (February 17, 2008).

## UNIQUE COURSES

**Adell Amos** (Oregon) taught, for the first time, an interdisciplinary course on Environmental Conflict Resolution with **Tim Hicks**, the Director of the Conflict and Dispute Resolution Master's Program at the University of Oregon. The course focused on when and where collaborative efforts best serve environmental interests and the use of collaborative approaches to conflicts over natural resources and

environmental decision-making. The course was opened to both J.D. and M.A. students.

**Michael Axline** (Oregon) taught a course on complex civil litigation and advanced toxic tort as a Visiting Professor this spring. Axline practices multimillion-dollar toxic tort litigation, including prosecuting suits against oil companies

that have polluted municipal drinking water supplies. Most recently, he represented agriculture workers, securing millions of dollars in compensatory and punitive damages against food giant Dole for the use of pesticides on banana plantations in Nicaragua. Prior to joining Miller, Axline & Sawyer, Axline was a law professor at Oregon, teaching civil procedure, administrative law, and the environmental clinic for more than two decades.

**Steve Bender** (Oregon), with **William Holmes**, the energy and telecommunications practice group leader at Stoel Rives, taught, for the first time this spring, Renewable Energy. The course, one of the first of its kind in the nation, emphasized legal issues associated with financing, permitting and constructing a renewable energy project and was taught in Portland through the law school's Portland Program.

**Barbara Cosens** (Idaho) and a team of UI faculty in disciplines including engineering, hydrology, aquatic biology, geology, political science, rural sociology, and philosophy have recently developed a new graduate program in water resources that allows students to obtain an M.S. or Ph.D. in one of three tracks: Law, Management and Policy, Science and Management, and Engineering and Science, with the option of pursuing a concurrent J.D. with either of the degrees in any of the three tracks. The program was internally funded as part of the UI Strategic Initiative process with \$1.6 million in seed money and includes the addition of one new faculty to the College of Law (Professor **Jerrold Long** who began in Fall 2007). The program includes the development of team-taught interdisciplinary courses. The first of these courses: Interdisciplinary Methods in Water Resources, was taught in Fall 2007, and focused on methods for communication and problem solving across disciplines. Students from multiple disciplines formed groups to address a water resource problem modified from one of the subbasin integrated assessments currently the focus of research for both students and faculty in the program.

**Stephen Dycus** (Vermont) taught a new seminar in the fall term 2007 entitled "Secrecy and Democracy." It dealt with, *inter alia*, congressional access to executive branch

information, FOIA, state secrets, whistleblowers, NEPA secrets, and emergency planning under CAA §112r and EPCRA.

**Victor B. Flatt** (Houston) will be co-teaching a new course in Spring 2009 with the Global Environmental Management Institute (Houston) on the "Current and Future Practice of CO2 Trading."

**Dale Goble** (Idaho) co-led a distributed seminar entitled "Priorities, Obstacles, and Opportunities for Implementing the State Wildlife Action Plans." The seminar brought together graduate and law students from University of California, Santa Barbara, University of Alaska Fairbanks, Duke University, Indiana University, University of Michigan, Northern Arizona University, and Texas A&M University.

**Bob Keiter** (Utah) will teach next academic year an undergraduate Honors College Think Tank course entitled "Wallace Stegner and Western Lands" that coincides with university- and city-wide centennial celebrations of Wallace Stegner's birth. The course will be co-taught with **Stephen Trimble**, local author and photographer. After studying Stegner and other writers who address the western landscape, the class will culminate with a student project focused on Canyonlands National Park.

**Patrick Parenteau** (Vermont) is teaching "Climate Litigation," a review of statutory and common law claims, claims before international tribunals, SEC disclosures, and corporate derivative actions.

**Dan Rohlf** (Lewis & Clark) and alum **Bob Sallinger** of the Portland Audubon Society will teach a new summer legal ecology field course, "Legal Ecology: Urban Biodiversity and the Law," this summer. Students will learn about the challenges of urban biodiversity management through lectures and field trips in the Portland, Oregon, metropolitan area; Dan and **Amy Bushaw** (Lewis & Clark business law professor) have combined disciplines to create a new sustainability course, "Sustainability Law and Business Seminar," which they will teach this upcoming fall.

## UNIQUE LITIGATION

**Jan G. Laitos** (Denver) served as a consultant to several firms on the case of Seven-Up Pete Venture v. State of Montana, 9th Circuit Court of Appeals (2008) (sovereign immunity claims when a state is sued directly for a taking of valuable mineral properties).

**Jami Pannell** (Lewis & Clark), Animal Law Clinic professor, successfully defended one of the law-abiding animal rights protesters in a lawsuit brought by Schumacher Furs in federal court. The court granted the clinic's anti-SLAPP motion and awarded attorney fees.

## PERSONAL NOTES

**Reed D. Benson** is leaving the University of Wyoming to join the faculty at the University of New Mexico School of Law,

where he will serve as faculty editor of the "Natural Resources Journal."

**Federico Cheever** (Denver) was selected Chair of the University of Denver Sustainability Council, carrying out the University's obligations under the American College and University Presidents Climate Commitment (ACUPCC).

**Joe Dellapenna** (Villanova) was awarded the Raoul Wallenberg Medal by the Raoul Wallenberg Foundation in a ceremony at Ellis Island on March 31, 2008. He was awarded the medal for his work in suing the USSR in the 1980s in litigation that led eventually to the opening of the Soviet archives to the commission jointly appointed by the USSR and Wallenberg's family to determine what happened to Mr. Wallenberg. Wallenberg, a Swedish diplomat, is credited with saving the lives of about 100,000 Jews from the Holocaust in Hungary in 1944 and 1945, only to be arrested by the Soviets in 1945, never to be seen in public again. The Commission determined in 2000 that Wallenberg had been executed by the KGB in 1947 in Moscow.

**Rob Glicksman** (Kansas) joined the Board of Directors of the Center for Progressive Reform.

**Bob Keiter** (Utah): The University of Utah board of trustees recently named Bob Keiter a Distinguished University Professor.

**Constance Lundberg** (BYU) is retiring from BYU effective May 1.

**Larry MacDonnell** (Wyoming), former director of the Natural Resources Law Center, will be a visiting professor at the University of Wyoming College of Law for the fall 2008 semester. He will be teaching water law and a natural resources & environment seminar.

**James Rasband** (BYU) has moved into the University administration for five years as Associate Academic Vice President for Faculty.

**Arnold Reitze** (Utah) moved from the George Washington University to the University of Utah where he is a Professor of Law.

## SABBATICALS

**Dan Cole** (IU-Indianapolis) spent a sabbatical semester in the Fall of 2007 in residence at the Workshop in Political Theory and Policy Analysis, Indiana University-Bloomington.

**Victor B. Flatt** (Houston) will be the Visiting Distinguished Taft Professor in Environmental Law at the University of North Carolina. While in this position, he will co-host a workshop sponsored by the University of Houston and the University of North Carolina on climate change adaptation.

**Dale Goble** (Idaho) will be at Lewis and Clark as the Distinguished Visiting Natural Resources and Environmental Law Professor for the 2008-2009 academic year.

**Heidi Gorovitz Robertson** (Cleveland-Marshall), spent the Spring Semester visiting at the University of Westminster School of Law in London, England, teaching "Introduction to International Environmental Law and Policy" to undergraduate law students.

**Janet Neuman** (Lewis & Clark) will be on sabbatical during 2008-09. Her water law classes will be covered by visiting professor **Gabriel Eckstein** (Texas Tech).

## OTHER ITEMS OF INTEREST

**Adell Amos** (Oregon) was selected to serve on the Editorial Board for the ABA Energy and Environment Section's publication *Trends*.

**John Bonine** (Oregon) and **Richard Hildreth** (Oregon) have both been named as Dean's Distinguished Faculty Fellows.

**Dan Cole** (IU-Indianapolis) has been named an Affiliated Faculty Member of the Workshop in Political Theory and Policy Analysis, Indiana University-Bloomington.

**Victor B. Flatt** (Houston), A.L. O'Quinn Chair in Environmental Law, has been named the Director of the new Center for Environment, Energy, and Natural Resources at the University of Houston Law Center. Member Scholars include **Darren Bush**, **Marcilynn Burke**, **Jacqueline Weaver**, and in the Fall, **Brigham Daniels**. The Center will focus on legal issues at the intersection of environment, energy, and natural resources, and will provide training in these overlapping areas

in the J.D. and L.L.M. program. Current projects include the Program for Interagency Environmental Cooperation, which is working on possible legislation for CO2 sequestration, and a consideration of EU and US Carbon trading; Victor's article, "Gasping for Breath," 34 *Ecol. L. Q.* (2007) was selected as one of the ten best environmental law review article of the last year by the *Journal of Land Use and Environmental Law*.

**Bill Funk** (Lewis & Clark) has been named to the OMB Watch Task Force on Transparency and Public Participation, which is studying possible improvements in the administrative process for proposals for a new administration. While in New York for the AALS Annual Meeting, he also attended the semi-annual meeting of the Center for Progressive Reform, where he is a Member Scholar.

**Lin Harmon** (Lewis & Clark) coached her 2008 Merhige National Environmental Negotiation Competition team to a

second-place finish at the competition in Richmond, Virginia, Lewis & Clark's third year in a row as a finalist in the competition.

**Laura Ireland Moore** (Lewis & Clark) organized the 15th Annual Animal Law Conference in October 2007 and the National Animal Advocacy Competitions in spring 2008, as well as Lewis & Clark's summer animal law program. She also gave dozens of media interviews on animal law topics for bar associations, newspapers, magazines, radio, and television.

**Craig Johnston** and **Allison LaPlante** (Lewis & Clark) co-coached Lewis & Clark's National Environmental Law and National Animal Law moot court teams to national championships. In February, Allison accompanied the students to the National Animal Advocacy Moot Court Competition at Harvard Law School, where team members received both first place and best oralist awards. On the following weekend, Craig accompanied the Environmental Moot Court team to Pace Law School, where they captured the national championship, Lewis & Clark's fifth in 15 years.

**Svitlana Kravchenko** (Oregon) was recently re-nominated to the Compliance committee of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. Committee elections will be held at the meeting of the Parties in June at Riga, Latvia.

**John Leshy** (Hastings) will leave the Board of Arizona Raft Adventures (a commercial outfitter operating river trips in the Grand Canyon) after 26 years (with time out during the Clinton Administration), following one last two-week paddle trip through the Canyon in May. He remains on the Board of the Grand Canyon Trust and the Natural Heritage Institute, joined the Board of Western Progress (a communications-oriented progressive think-tank in the intermountain West), and stepped down as President but became Vice-Chair of the Board of Wyss Foundation, which funds wildlands conservation efforts in the intermountain West.

Lewis & Clark is very pleased to announce that **Melissa Powers**, formerly clinical professor with the Pacific Environmental Advocacy Center, is joining Lewis & Clark's tenure-track faculty following a nationwide search process. In

the upcoming academic year she will teach Administrative Law, Climate Change, and Energy Law. Replacing Melissa and retiring managing attorney **Stephanie Parent** are **Tom Buchele**, the new PEAC managing attorney and clinical professor, formerly director of the environmental law clinic at University of Pittsburgh, and **Dan Mensher**, clinical professor, formerly a law clerk for Hon. **Rick Haselton** of the Oregon Court of Appeals.

**Nancy A. McLaughlin** (Utah) was awarded a chaired professorship at the University of Utah SJ Quinney College of Law in May of 2008. In the fall of 2008 she was elected to membership in the American Law Institute and as a fellow of The American College of Trust and Estate Counsel.

**Jami Pannell** (Lewis & Clark) recently appeared on the Oregon State Bar's LegalLinks television show to film a 30-minute episode on animal law along with incoming Animal Law Program Director **Pamela Frasch**. In addition, Jami served as a judge for the closing argument portion of the 2008 National Animal Advocacy Competitions (NAAC) at Harvard Law School. She also coached two student competitors for the NAAC's Legislative Lobbying and Drafting Competition at George Washington University School of Law, one of whom won that competition. Jami is section treasurer of the newly-formed Oregon State Bar Section of Animal Law and is serving on the conference planning committee for Lewis & Clark's 16th annual Animal Law Conference this fall.

**Dan Rohlf** (Lewis & Clark) accepted an invitation to join the Center for Progressive Reform, a group of scholars dedicated to developing scholarship with application to pressing real-world policy issues.

**The Law Students for Sustainable Business** at the University of Oregon will make a gift of approximately \$40,000 to the law library to start a new Sustainable Business Collection. This gift will purchase over 350 books and videos to establish a core collection unique in the Northwest.

**The University of Denver Sturm College of Law Environmental and Natural Resources Law Program** received in August, 2007, the American Bar Association Award for Distinguished Achievement in Environmental Law and Policy.