

University of Maryland School of Law

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In this issue . . .

<i>Endowed Professorships.</i>	<i>1</i>
<i>Environmental Film Festival</i>	<i>2</i>
<i>Kerry Rodgers Joins Program.</i>	<i>3</i>
<i>Regents Award.</i>	<i>3</i>
<i>New Summer Seminar.</i>	<i>4</i>
<i>Charles Taylor Adjunct Award.</i>	<i>4</i>
<i>Environmental Clinic Update.</i>	<i>5</i>
<i>Global Collaboration.</i>	<i>7</i>
<i>Chad/Cameroon Judges Visit.</i>	<i>11</i>
<i>Environmental Student Projects.</i>	<i>12</i>
<i>View from Top of Mt. Helens.</i>	<i>13</i>
<i>Living in New Zealand.</i>	<i>17</i>
<i>Student Article Published.</i>	<i>18</i>
<i>Annual Winetasting.</i>	<i>19</i>
<i>MELS Speaker's Series.</i>	<i>21</i>
<i>Ward Kershaw Symposium.</i>	<i>22</i>

PERCIVAL AND STEINZOR HONORED WITH ENDOWED PROFESSORSHIPS



Professor Robert Percival



Professor Rena Steinzor

Dean Karen Rothenberg has announced that Professors Robert Percival and Rena Steinzor have been named to endowed professorships. Professor Percival, director of the University of Maryland Environmental Law Program, will become the first Robert F. Stanton Distinguished Professor of Law. Professor Steinzor, director of Maryland's Environmental Law Clinic, will be the Jacob A. France Research Professor.

The Robert F. Stanton Distinguished Professorship is the result of a major new endowment that the school has received. It is named in honor of the late Robert F. Stanton, who served as Associate Judge on the Supreme Bench of Baltimore City from 1916 to 1938 and as Baltimore City Police Commissioner from 1938 to 1942. Percival will deliver his inaugural lecture as the Robert F. Stanton Distinguished Professor of Law at the law school on April 21 when he speaks on "The State of Environmental Law in the Twenty-First Century."

The Jacob A. France Research Professorship is part of a series of rotating research professorships to facilitate faculty research and to honor faculty for their outstanding contributions to legal scholarship. During her tenure as Jacob A. France Research Professor, Professor Steinzor will be working on two books, "Rescuing Science from Politics," to be published by Cambridge University Press, and "Mother Earth and Uncle Sam: How Pollution and Hollow Government Hurt Our Kids," to be published by the University of Texas Press.

This newsletter is published by the University of Maryland Environmental Law Program.

**Robert V. Percival, Director
Environmental Law Program**

**Rena I. Steinzor, Director
Environmental Law Clinic**

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Contributors to this newsletter include faculty, alumni, students, and friends of the Environmental Law Program.

STUDENTS EARN “GOLDEN TREE” AWARDS AT 2005 ENVIRONMENTAL LAW FILM FESTIVAL

On March 14 the Maryland Environmental Law Program hosted its annual Environmental Law Film Festival to showcase films made by students in Professor Percival’s Environmental Law class. For the past three years students in this class have formed small groups to make short documentary films about environmental issues they select. After the films are shown in class they are submitted to an independent panel of judges who vote for “Golden Tree” awards in seven categories. The purposes of the film projects are to make Environmental Law more fun and to give students an appreciation of how difficult it can be to communicate complicated issues of environmental policy to a wider lay audience.

Each year the films demonstrate how remarkably creative students can be in their selection of topics and their approaches to filmmaking. This year’s crop of films included “The Death Project,” “Got rBST?,” “The Poop Movie,” “The Recycling Witch Project,” and “Talkin’ Trash.”

“The Death Project” examines the environmental implications of human burial practices from ancient times to the present. Produced by Jeremiah Chiapelli, Andrea Curatola, and Anne Merwin, the film won three “Golden Tree” awards, including “Best Acting,” “Best Use of Humor,” and “Best Picture.” Accepting the “Best Picture” award from Dean Karen Rothenberg, the group noted that the project taught them how easy it is to get people to honor strange requests if you tell them you are making a movie.



(left to right) Jeremiah Chiapelli, Andrea Curatola and Anne Merwin accept “Best Picture” award.

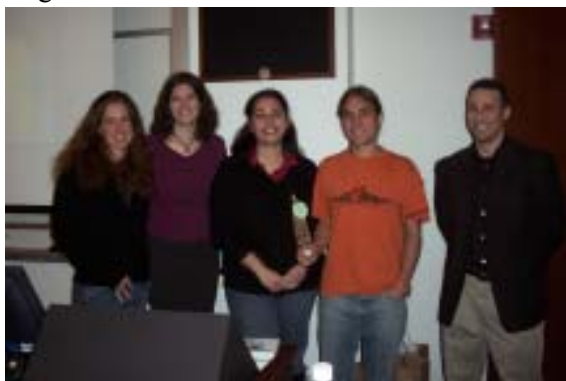
workings of the RESCO incinerator and the reactions of residents who live nearby to having an incineration facility in their neighborhood. Produced by Leila D’Ambrosio, Natalie Havlina, Erin Holbrook, Matt Schudtz, and Erica Zilioli, the film won the “Golden Tree” award for “Most Educational Film,” “Best Original Film Footage,” and “Best Narration.”

The film “Got rBST?” explores the debate over the environmental implications of using recombinant bovine growth hormones in dairy cows. The film includes some terrific interviews with an organic dairy farmer who does not use rBST and a farmer who does. Produced by Sam Hawkins, Candace Howard, Amy Roth, Briana Strippoli, Erica Thomas, and Amber Tysor, the film won the “Golden Tree” award for “Best Interviews.”

In the film “The Recycling Witch Project” a group of Maryland law students go searching in the woods in pursuit of the law school’s long lost recycling program. Like “The Blair Witch Project,” the movie that inspired the student film, the ending is neither happy nor pretty. Mindy Goldstein, Mike McCarthy, and Megan Moeller produced the film, which was nominated for awards for acting and use of humor.

“The Poop Movie” examines the environmental problems created by combined animal feeding operations. It includes interviews with several legal and scientific experts and graphic scenes of CAFOs in operation. Karlene Fischer, Sriram Gopal, Jong Kim, Mike Vesely, and Katie Wainwright produced the film, which was nominated for awards for acting, interviews, film footage, and most educational film.

This year’s film festival was attended by a record crowd, including many first year students who already are making plans for the films they will produce in next fall’s Environmental Law class.



(left to right) Erin Holbrook, Erica Zilioli, Leila D’Ambrosio and Matt Shudtz accept award from Professor Mike Strande.

“Talkin’ Trash” traces what happens to solid waste after it is discarded at the law school. After interviewing law students who had no idea where their waste goes, the film visits the municipal incinerator that burns Baltimore’s garbage. The film shows the inner

KERRY RODGERS JOINS ENVIRONMENTAL LAW PROGRAM AS VISITING PROFESSOR



Kerry Rodgers

On June 1, 2005, Kerry Rodgers will be joining Maryland's Environmental Law Program as a visiting professor. Rodgers currently is the Acting Assistant General Counsel for Clean Air Act Title V Permits in the U.S. Environmental Protection Agency's Office of General Counsel. During the 2005-2006 academic year, Rodgers will be teaching in Maryland's Environmental Law Clinic.

Rodgers comes to Maryland after a distinguished career in private practice and government service. She is a 1995 graduate of New York University Law School where she was the senior articles editor of the NYU Environmental Law Journal. Following her graduation from law school she served as an associate in the environmental practice group at the law firm of Dewey Ballantine LLP in New York City. Rodgers joined EPA's Office of General Counsel in 2000.

In addition to being an experienced environmental attorney and a leading expert in Clean Air Act regulation, Rodgers is an accomplished marathon runner. In the 2003 Baltimore Marathon she finished sixth among the 725 women runners with a time of 3:08:32.

PERCIVAL AND SCHREURS WIN REGENTS AWARD FOR INTERDISCIPLINARY COLLABORATION

The University System of Maryland (USM) Board of Regents has selected Professors Robert V. Percival and Miranda Schreurs as the recipients of the 2005 USM Regents' Faculty Award for Collaboration in Teaching. Professor Percival is the Director of the Maryland Environmental Law Program and the Robert F. Stanton Distinguished Professor of Law. Professor Schreurs is an associate professor in the Department of Government and Politics at the University of Maryland-College Park and an Affiliate Associate Professor of Law at the Law School. The award is the highest honor that the Board of Regents bestows to recognize outstanding faculty achievement in the nation's 12th largest university system.

The award recognizes the work of Percival and Schreurs in teaching an interdisciplinary seminar on Comparative Environmental Law and Politics that is offered simultaneously through videoconferencing to law students in Baltimore and students in the Department of Government and Politics at College Park (for further description of the course see "Wired Classroom Connects Campuses" in the Winter/Spring 2004 issue of "Environmental Law at Maryland"). Percival and Schreurs also have collaborated with a multi-disciplinary team of international scholars on a long-term research project on comparative environmental justice in the United States, Japan, and Germany, funded by the Tamaki Foundation. The Regents' Faculty Award, which includes a \$1,000 prize, will be presented to Percival and Schreurs at a public meeting of the Board of Regents on April 8.



Professors Miranda Schreurs and Robert Percival in Salzburg, Austria, where they both were speakers at a conference on Comparative Climate Change Policy.

ENVIRONMENTAL PROGRAM TO OFFER NEW SUMMER SEMINAR ON CHESAPEAKE BAY POLICY



Gerald Winegrad

During the summer session 2005 the University of Maryland Environmental Law Program will offer a new seminar on “The Pollution and Restoration of the Chesapeake Bay: A Public Policy Perspective.” The seminar will focus on the long history of efforts to protect and restore the Chesapeake Bay, the largest estuary in the United States. The seminar will be taught by Gerald Winegrad, a 1969 graduate of the law school, who as a state senator played a major role in launching efforts to “Save the Bay.” Winegrad served 16 years in the Maryland Legislature, where as Chairman of the Senate Environment Subcommittee, he wrote, sponsored, and managed nearly all environmental legislation that passed the Senate, including the initial Chesapeake Bay legislation.

Winegrad has served as counsel to the National Wildlife Federation and as vice president for policy for the American Bird Conservancy. Winegrad has been called the “environmental conscience” of the Maryland Senate by the *Washington Post*. Upon his retirement from the legislature, Winegrad was hailed by environmental journalist Tom Horton as “the person who more than any other set Maryland’s environmental agenda.” In 2002 Winegrad was presented with the prestigious Lifetime Achievement Award by the Chesapeake Bay Foundation, only the third person to be so honored. The University of Maryland Environmental Law Program is delighted to welcome Gerald Winegrad to its adjunct faculty.

MIKE WALKER NAMED CHARLES TAYLOR FELLOW



Professor Percival presents award to Mike Walker.

The University of Maryland Environmental Law Program has named EPA Attorney Mike Walker the 2004-2005 Charles Taylor Fellow. The award is presented annually to honor outstanding teaching by an adjunct professor in Maryland’s Environmental Law Program. Mike Walker is senior enforcement counsel for administrative litigation in the Office of Enforcement and Compliance Assurance at the U.S. Environmental Protection Agency. He received the award in recognition of his outstanding teaching of a seminar on Natural Resources Law. The award, which carries a \$600 cash prize, is made possible through the generosity of the law firm of Gordon, Feinblatt, Rothman, Hoffberger & Hollander, LLC, in honor of the late Charles Taylor.

Walker received the award at a dinner where he spoke to environmental law students about career paths in environmental law. A veteran of more than two decades of service at EPA, Walker discussed how the many changes that have occurred over time in the agency’s leadership have affected the professionals who work there. A highly charismatic teacher, Walker supplements his day job at EPA by performing with the Washington National Opera. The Environmental Law Program is extremely grateful to Mike Walker for all the help and inspiration he has provided to students by serving as a teacher and mentor throughout the years.

A FALL BETWEEN THE CRACKS: LOCAL COMMUNITIES, ENVIRONMENTAL PROTECTION, AND THE ZONING PROCESS

by Rena Steinzor*

A Tale of Two Towns

This is the tale of two Maryland towns confronted with a dilemma that is playing out with growing frequency in communities across the country: how can people preserve quality of life when environmental regulators punt difficult decisions to local zoning officials?

In the lovely town of Havre de Grace overlooking the Susquehanna River, a quarry seeks permission to dramatically expand its rock-crushing operations, moving them much closer to the suburban community of River Hills and the Meadowvale Elementary School. Residential neighborhoods in this rapidly developing bedroom suburb already suffer from dust, truck fumes, and frequent blasting at the quarry. They fear that if a Harford County hearing examiner approves the Arundel Corporation's application for a zoning modification, which would allow the company to move an additional eight million cubic yards of mine waste and extract the rock underneath, these conditions will become intolerable, sending property values through the floor and exposing residents to respiratory diseases.

A few dozen miles away, in the countryside around Odenton, developers seek to use a 500-acre property as the site of a landfill that would take construction debris from throughout the eastern United States. The new "rubble fill" would produce truck traffic of about 600 loads per day along the small roads that run through this rural landscape. The landfill will drastically increased traffic and virtually swallow Wilsontown, an historic African American community that was a station on the Underground Railroad during the Civil War. It would be the seventh dump located in this small area, with this number including two sites on the Superfund National Priorities List. In a particularly bizarre twist, the developers have announced they will try and bring in a Native American tribe located in Oklahoma to take title to the land, thereby winning blanket exemptions from federal and state environmental laws.

Legendary House of Representatives Speaker Tip O'Neill used to say that "all politics is local." Among other goals, environmental laws are designed to change that framework, elevating decisions to a level of government – federal or state – that is technically qualified to protect public health and the environment without regard to the uninformed vagaries of local land use decisions. Increasingly, though, local zoning boards are having raging

controversies like the River Hills and Wilsontown cases dumped in their laps as environmental regulatory agencies such as the Maryland Department of the Environment (MDE) either dive for cover or adopt tunnel vision, systematically refusing to consider the impact of such industrial activities on local communities.



Historic Church in Wilsontown

Yawning Gaps in the Law

The conditions precedent for both situations are glaring weakness in the underlying laws. In the River Hills case, the state statute covering surface mining operations serves not as an environmental law, but as a legal launch pad for the rapid expansion of mines throughout Maryland. The statute not only fails to require MDE to undertake an independent consideration of environmental and public health impacts when it considers a mining application, it drastically curtails the public's right to challenge MDE decisions in court. Rumor has it that MDE officials have never turned down a mining company application, and it is easy to see why this surprising track record is the case. When given the opportunity to punt such political hot potatoes to the local level, MDE has the law on its side.

At the moment, Environmental Law Clinic students Cortney Madea, Lauren Axley, Karlene Fischer, and



Student Attorneys Michele Stanfield, Lev Guter and Jonathan Nwagbaraocha with Buz Meyer, President of the Forks of the Patuxent Improvement Assn.

Amber Tysor are serving as co-counsel to the River Hills community association in a lengthy hearing before Harford County hearing examiner Robert Kahoe. Because the community has very limited resources, it has taken all the creativity and technical expertise the team can muster to combat an endless parade of experts and a battery of three law firms hired by the mining company. In the end, Hearing Examiner Kahoe will be forced to wade through highly technical and complicated data to determine the health and nuisance problems that will be caused by the site, a task for which he has scant training and even less support. Meanwhile, the community, comprised of middle class people who have been fighting this war of attrition for many years, must win a battle of endurance with the company that can easily pay to outlast them on this tilted playing field.

As for the Wilsontown case, once again, state law is a case study in myopia. Approval of supposedly benign rubble fills involves a multi-phase process that does not consider the cumulative health burden already imposed on the community, much less the destruction of priceless cultural and historical resources. Worse, each phase involves consideration of complex plans and studies, primarily prepared by the company, although the community has managed to obtain the services of Richard Klein, a technical expert who has a commendable track record of helping communities mount challenges in the difficult arena of assessing environmental risk. Only at the tail end of the process, after all the arduous technical studies have been complete, does MDE get around to considering the views of the community, at a point where such information is unlikely to deter approval of the project.

Like River Hills, many of the residents have been struggling with the Halle company for well over a decade,

fighting to preserve a way of life that is rapidly vanishing from the American landscape. Community leaders have lived in the area for several generations, and their ancestors are buried in an historic graveyard with tombstones dating back to the 19th century. Applying for historical status is just one of the paths they hope to traverse to block a decision to approve the rubble fill. They are also considering alleging that approval of the facility would violate Title VI of the Civil Rights Act, a law that prohibits the federal government from giving grants to a state that discriminates on the basis of race in the implementation of environmental permitting programs. Clinic law students Lev Guter, Ulka Patel, Jonathan Nwagbaraocha, and Michelle Stanfield are engaged in a demographic analysis and legal research that will allow the community to raise this claim.

Until American law finds a way to integrate environmental concerns with local land use controls at a level where decision-makers can fully digest the complex issues at stake in such disputes, communities like these will continue to be buffeted by long battles that threaten to wear them out whether or not they should have won.

**Professor Rena Steinzor is Director of the University of Maryland Environmental Law Clinic.*

PROFESSOR RENA STEINZOR TEACHES CLASS IN ROME



Senior government officials from a wide range of developing countries in Africa and Eastern Europe participated in a two-week seminar on regulation in Rome, sponsored by the International Development Law Organization. Professor Steinzor was recruited by the American International Senior Lawyers Project to teach a one-day class on market-based regulatory mechanism. Professor Steinzor's daughter Hannah, age 12, who took the photograph, accompanied her mother.

PURSUING GLOBAL COLLABORATION, MARYLAND LAUNCHES INTERNATIONAL EXCHANGES WITH CHILE AND CHINA



German environmental scholars Eckard Rehbinder, Rolf Springer and Hemult Weidner with Professor Percival at Climate Change Conference in Salzburg, Austria.

The globalization of environmental concerns has been one of the most dramatic developments affecting environmental law in recent years. In light of the growing importance of international and comparative law in the environmental law field, the University of Maryland Environmental Law Program has joined environmental law professors from around the world in pursuing several initiatives to promote global collaboration in environmental research and education. These initiatives are rapidly producing results including the initiation of new faculty and student exchange programs that will strengthen Maryland's ability to prepare the next generation of environmental lawyers for the global challenges that will confront them.

In September 2004 Professor Percival and Professor Miranda Schreurs participated in a symposium on global climate change in Salzburg, Austria. The symposium brought together the multidisciplinary international team of scholars who are participating in the Tamaki Foundation's long-range research project on Comparative Environmental Justice in the United States, Japan, and China.

In October 2004, Percival traveled to Nairobi, Kenya to participate in the second annual meeting of the Academy of Environmental Law, a global consortium of environmental law professors established by the Environmental Law Commission of the International Union for the Conservation of Nature (IUCN). The Academy, established through the leadership of Pace University environmental law Professor Nicholas Robinson, was launched in October 2003. It seeks to foster global collaboration among environmental law professors on both research and educational projects. Nearly 100 law professors from law schools in 35 countries were present

at the meeting, including 40 environmental law professors from 20 African nations. In two days of meetings following the second annual Colloquium of the IUCN Academy of Environmental Law, they discussed a number of potential collaborative initiatives, including joint comparative law research projects and video-conferencing linkups of environmental law classes and symposia.



Professor Percival at IUCN Academy of Environmental Law meeting in Nairobi.

A highlight of the meeting occurred when the news arrived that Kenyan environmentalist Wangari Maathai had been awarded the Nobel Peace Prize. Maathai had been the opening speaker at the Colloquium just days before the Peace Prize was announced. Professor Percival filmed an interview with Professor Bibobra Bello Orubebe from Delta State University Law School in Nigeria, who discussed the environmental problems confronting his country and his involvement with the late environmental activist Ken Siro-Wiwa, who had been executed by the Nigerian government. The interview



IUCN Academy of Environmental Law meeting at University of Nairobi.



Iranian environmentalists Farrokh and Mariam Mostofi with Professor Percival and Bruce Rich, director of international programs for Environmental Defense, in Bangkok.

was shown to Professor Percival's Environmental Law class upon his return from Nairobi.

In November 2004 Percival attended the IUCN World Conservation Congress in Bangkok, an event held every four years that brings together several thousand environmentalists from virtually every country in the world. At the Congress, Percival participated in meetings to prepare for the launch of the World Conservation Learning Network (WCLN), an initiative of the IUCN Commission on Environmental Education. The WCLN seeks to facilitate multi-disciplinary cooperation among environmental educators from many different disciplines.



IUCN World Conservation Congress in Bangkok.

In December 2004 Professor Percival delivered a keynote address on "Environmental Conflict Resolution" at the University of Chile's annual environmental law conference in Santiago, Chile. The conference featured presentations from a distinguished group of legal scholars, government officials, representatives of environmental groups, and private lawyers from Chile, Mexico, Costa Rica, Argentina, and the United States. The paper Percival presented at the conference was translated into Spanish and it has been included in an edited volume published by Lexis-Nexis for the University of Chile Center of Environmental Law.

Maryland has been working with the University of Chile since 2002 when Maryland's Environmental Law Program assisted with the establishment of South America's first environmental law clinic at the University of Chile. To celebrate the success of this project, the clinical professors associated with it held a dinner in Professor Percival's honor when he was in Santiago in December. The University of Chile's Environmental Law Clinic now has students working on a variety of environmental cases. These projects include the representation of community groups who live near landfills and rendering facilities and a study of the low level of fines provided for environmental violations under Chilean law.

As part of their continued collaboration, the University of Maryland School of Law and the University of Chile School of Law have agreed to establish a program that will permit law students from each institution to attend classes and to receive credit for courses taken at the other institution without payment of additional tuition. Beginning in August 2005, it is anticipated that three Maryland environmental law students will be studying at the University of Chile as part of the inaugural group of students in this exchange.

In March 2005 Percival visited China at the invitation of Dan Guttman, a J.W. Fulbright scholar who is teaching environmental law at Shanghai Jiao Tong Law School using Percival's *Environmental Regulation* casebook. Percival's trip involved visits to law schools in Shanghai, Beijing, and Nanjing. At Shanghai Jiao Tong University Law School Percival participated in a class before presenting an evening public lecture on "The Influence of Non-governmental Organizations on the Development of Environmental Law." The lecture was attended by an overflow audience of more than 100 students and professors.



Professor Percival with Wang Canfa, director of the Center for Legal Assistance to Pollution Victims, in Beijing.



Professor Percival with law students from Shanghai Jiao Tong University in Shanghai.

While in Shanghai, Professor Percival also met with Zee Zee Zhong, director of the Shanghai office of Jane Goodall's "Roots and Shoots" organization. This group has developed an environmental curriculum for the elementary schools to help increase environmental consciousness among the youth of China.



Chinese environmental law students working at the Center for Legal Assistance to Pollution Victims, in Beijing.

After spending four days in Shanghai, Professor Percival flew to Beijing where he visited the campus of Tsinghua University and met with professors from the university's law school and school of public management. He also participated in a meeting with representatives of the Chinese government's National People's Congress in a Chinese government guest house near Tiananmen Square. At this meeting, members of the NPC's committee on environment and natural resources and diplomats from the U.S. Embassy asked Percival to advise them on a project to establish priorities for translating U.S. environmental law materials from English into Chinese.

Following this meeting, Percival toured the offices of the Chinese State Environmental Protection Agency (SEPA) – the Chinese EPA — with Jia Feng, the deputy director of SEPA's Center for Environmental Education & Communications. They toured Feng's film and recording studios and exchanged DVDs of films that had been made by Maryland law students and SEPA's Center for Environmental Education.



Audience for Professor Percival's lecture at Shanghai Jiao Tong University School of Law.

The highlight of Professor Percival's trip to Beijing was a meeting with Wang Canfa, China's top public interest environmental lawyer who runs an organization called the Center for Legal Assistance to Pollution Victims (CLAPV). Canfa, who also is a professor at the China University of Political Science and Law, introduced Percival to students in his environmental law clinic and spoke about how the group fields phone calls from all over China from citizens complaining about environmental problems. At this meeting, Percival and Canfa compared notes concerning possible avenues for



Professor Percival touring the studios of the Chinese State Environmental Protection Agency's Center for Environmental Education and Communications.



Professor Percival with Professor Jun Bi, deputy dean of the School of Environment at the University of Nanjing in Nanjing.

collaboration between Maryland's Environmental Law Clinic and CLAPV. Canfa's group has handled some of the most significant public interest environmental law cases in China and they have prepared descriptions of them, which are available in both Chinese and English, on the group's website at www.clapv.org.

From Beijing Percival flew to Nanjing where he delivered a public lecture on "Environmental Law in the Twenty-First Century" at the School of Environment at the University of Nanjing. The lecture was organized by Professor Jun Bi, the deputy dean of the School of Environment and the executive director of the Center for Environmental Management and Policy at Nanjing University. The lecture was followed by a remarkably candid discussion with Chinese students of environmental and political problems in the People's Republic of China and the United States.



Jia Feng, deputy director of the Chinese EPA's Center for Environmental Education & Communications.

During his visit to China, Professor Percival was consistently impressed with the high level of public concern for environmental problems. China's rapid industrial growth has produced enormous pollution problems that are posing fundamental threats to public health in many areas of the country. While the Chinese government has placed much greater emphasis on environmental protection measures in recent years, the public remains openly skeptical of the efficacy of such measures particularly given the difficulty faced by local environmental protection boards in controlling pollution from state-owned enterprises.

Maryland's efforts to collaborate with Chinese environmental law professors are already off to a promising start. The first stage in what is hoped will be a long-term collaboration with Chinese environmental law professors will occur during the 2005-2006 academic year when Professor Hu Jing will be a visiting scholar at the University of Maryland School of Law. Professor Hu Jing is the vice director of the Research Institute of Environmental Law at China University of Political Science and Law and the director of the research and communications office of the Center for Legal Assistance to Pollution Victims. This visit should help launch opportunities for Maryland students to provide help to CLAPV in its important work improving environmental conditions in China.

Affiliate Professor Miranda Schreurs also has been working in China. In January, she co-led a joint graduate/undergraduate course on Women, Environment, and Development in China and Vietnam. The three-week course started in Yunnan, China, a biologically rich region where numerous conservation groups are working with local populations to preserve endangered species while promoting sustainable development. The group then flew to Hanoi before traveling by train, bus, and plane to reach Saigon, visiting environmental, health, and development groups and university programs along the way.

Professor Schreurs also is working on a World Bank-funded project to examine how Japan's legislative and programmatic approaches to pollution control (e.g., tax incentives for pollution control and voluntary agreements) can provide lessons to developing countries in Asia in dealing with severe pollution. The findings of this project, which has brought together scholars from Japan, China, and the United States, are being published in: Hideo Imura and Miranda Schreurs, eds., *Environmental Policy in Japan* (Cheltenham, UK and Northampton, MA, USA: Edward Elgar, 2005).

CHAD/CAMEROON PIPELINE JURISTS VISIT ENVIRONMENTAL LAW PROGRAM



(left to right) Hon. Daniel Mounom Mbong, Hon. Andre Belombe, Hon. Jerome Guentang Ndiomo, and Hon. Christine Ngo Mandeng.

On February 2, 2005, a group of jurists from Cameroon visited the University of Maryland Environmental Law Program as part of an "Environmental Litigation Study Tour" arranged by the Environmental Law Institute's Africa Program. ELI sponsored the visit as part of its efforts to improve understanding of environmental law and the importance of an independent judiciary to implementation of the controversial Chad/Cameroon Pipeline Project. The project involves the construction of a 1,070 km pipeline to transport oil from the Doba basin of Chad to Kribi on the Atlantic coast of Cameroon.

The distinguished visitors from Cameroon included Daniel Mounom Mbong, President of the Court of Appeal of the South Province, Ebolowa; Andre Belombe, Prosecutor General of the Centre Province, Yaounde; Jerome Guentang Ndiomo, jurist with the Pipeline Steering and Monitoring Committee; and Christine Ngo Mandeng, jurist with the Pipeline Steering and Monitoring Committee. While at the law school, the visitors from Cameroon toured Maryland's Environmental Law Clinic and the Environmental Law Program offices. They then spoke to students at a luncheon arranged in their honor.

"Financial Institutions, Corporate Stewardship, and Sustainable Development: Drivers for the Evolution of U.S. Environmental Laws and Practice"

2005 National Spring Conference on the Environment

Friday, June 10, 2005

Sponsored by:

ABA Standing Committee on Environmental Law

Hosted by:

**University of Maryland School of Law
Environmental Law Program**

For more information on the Conference, please visit the ABA website for additional details and to register on-line: <http://www.abanet.org/publicserv/environmental>.

Environmental Students Participate in Beach Cleanup, Tree Planting and Canoe Trip



Students enjoy a day canoeing off Sycamore Island on the Potomac River.



Students participate in tree planting at Carroll Creek in Frederick, MD, sponsored by the Chesapeake Bay Foundation.



Students participate in a beach cleanup at Fort McHenry for National Public Lands Day, sponsored by the National Aquarium in Baltimore.

A View from the Top of Mount St. Helens

by Lou D'Angelo*

On May 18, 1980, at 8:32 a.m., just a short distance from beautiful Oregon farmland and a few miles from the quiet Washington towns of Cougar and Toutle, Mount St. Helens came to life. A blast that was estimated to be over 500 times greater than the bomb dropped on Hiroshima, Japan, during WWII sent an enormous column of ash from the eruption nearly 80,000 feet (some 15 miles) into the early morning sky. Ash and debris from the blast buried parts of Washington, Idaho and Montana under a layer of volcanic material. Day was turned into night by the ash blocking out the sun for hours. The blast killed 60 people and devastated the once forest-covered green landscape to the north. Amazingly enough, the vegetation and forest on the south side of the volcano was essentially untouched.

Recently Mt. St. Helens has been in the news, and seems to be rumbling back to life. While the eruptions haven't been as dramatic as the 1980 eruption, it is a reminder of the tremendous forces of nature that exist in our midst. When the volcano is not so active, mountain climbers and hikers can use the south approach as the primary climbing route to the summit of Mount St. Helens. On June 3, 2000 my climbing partner and I used the southern slopes to climb to the top of Mount St. Helens. My climbing partner was my 10-year-old daughter, Julia. We were both excited to be on the climb. I am an experienced climber and had done this trek and other climbs in the Cascade Range several times, but it was her first. She was awed by the beauty of the Cascade Mountains, confident in her ability and excited to be climbing on one of these huge mountains. The natural beauty of the area, even in the aftermath of a devastating event like the catastrophic eruption of a young and volatile volcano, was spectacular.

In 1980, the environmental and economic impact of the blast on the residents and the area was like having a bomb dropped on their life. While this is really an article about my climb, it is also a short story on the power of a particular natural event and the impact it has had on the local environment.

A Brief History of Mount St. Helens

Mount St. Helens is located in southwestern Washington, about 50 miles northeast of Portland Oregon. The closest town is Cougar, Washington. Mount St. Helens was named for British diplomat Alleyne Fitzherbert (1753-1839), whose title was Baron St. Helens. The Baron was the British Ambassador to Spain. Commander George Vancouver named the mountain while he was surveying the northern Pacific coast from 1792 to 1794. Prior to that



Lou with his daughter Julia at the summit of Mount St. Helens.

the local residents had various names for the volcano, including Loowit (keeper of the fire).

Prior to the 1980 eruption, Mount St. Helens was known as "the Mount Fuji of America." The symmetrical beauty of her snow-capped peak was often compared with that of the famous Japanese volcano. The arched cone top of Mount St. Helens, a mountain peak that was viewed with awe by many writers and visitors, is gone. Mount St. Helens is not one of the highest peaks in the Cascade Range. Her pre-eruption summit height of 9,677 feet placed her fifth among mountain peaks in the state of Washington. She now stands at 8,364 feet at the summit.

Mount St. Helens was recognized as a volcano at least as early as 1835. In the last 500+ years, it is known to have produced 4 major explosive eruptions. Mount St. Helens remains an active and potentially dangerous volcano. Following the major eruption, on May 18, 1980, there were 5 smaller explosive eruptions over a period of 5 months. Thereafter, a series of 16 dome-building eruptions (through October 1986) created a lava dome in the crater. The volcano continues to rebuild itself into a mountain, and the recent eruptions are evidence that the process, while a lengthy one, is awesome. During the month of our climb there were 42 seismic events recorded by the US Geologic Service. There was plenty of steam coming from the lava dome the day we saw it.

The Blast

After nearly two months of warning, as only a mountain that is about to explode can warn, the lovely lady of the Cascades, Mount St. Helens, began a major explosive eruption. The two months of intense pre-eruption activity included more than 10,000 earthquakes and hundreds of small steam-blast explosions. During this time

scientists and residents watched the obvious outward growth of the volcano's entire north flank. The mountain stretched itself by more than 80 meters into what was to become known simply as "the bulge." A magnitude 5.1 earthquake struck beneath the volcano at 8:32 a.m. on May 18, setting in motion the devastating eruption. The eruption on May 18, 1980 lasted approximately 9 hours.

Within seconds of the earthquake that signaled the massive eruption of Mount St. Helens, the volcano's bulging north flank slid away (the largest landslide in recorded history), triggering a destructive and lethal lateral blast of hot gas, steam, and rock debris. The lateral blast swept across the landscape as fast as 650 miles per hour. Temperatures in the hot gasses of this initial blast reached as high as 300 degrees centigrade. These extreme temperatures caused snow and ice on the volcano to melt.

The melting ice and snow created flood-like torrents of water and rock debris that swept down river valleys leading from the volcano. The lateral blast, which lasted only the first few minutes of the eruption, devastated more than 150 square miles of forest (enough trees to build over 300,000 two bedroom homes) and recreation area, killed countless animals, and left many people missing or dead.

Within minutes of the vertical blast, a massive plume of ash shot 15 miles into the sky, where the wind carried hundreds of tons of ash across 57,000 square kilometers of the Western United States and trace amounts around the world. The blast was seen from miles away and heard from as far away as parts of Vancouver, British Columbia in Canada. The May 1980 eruption of Mount St. Helens removed 1,300 feet of the volcano's summit. After the big eruption, the northern side of Mount St. Helens was compared with the surface of the moon in both appearance and lifelessness. It was gray and desolate, a vast devastated wasteland devoid of plant and animal life.

The May 18, 1980, eruption was the most destructive in the history of the United States. Autopsies indicated that most of Mount St. Helens' victims died by asphyxiation from inhaling hot volcanic ash, and some by thermal and other injuries.

The Environmental and Economic Impact

The major contributors to the environmental and economic hardships that followed the eruption of Mount St. Helens were caused by two basic factors – the initial explosive blast, and the ash that fell after the blast. Many tens of thousands of acres of prime forest,

as well as recreational facilities, bridges, roads, and trails, were destroyed or heavily damaged by the eruption. More than 185 miles of highways and roads and 15 miles of railways were destroyed or extensively damaged. After the eruption the ash fell (more than 500 million tons of it), and every affected community had to find a way to deal with it.

More than 4 billion board feet of timber were damaged or destroyed by the lateral blast. Approximately 25 percent of the destroyed timber was salvaged. Hundreds of loggers were involved in the timber-salvage operations, and, during peak summer months, more than 600 truckloads of salvaged timber were retrieved each day. Downwind of the volcano many agricultural crops, such as wheat, potatoes, and alfalfa, were destroyed. Many crops did survive, particularly where the ash covering was thin.

The volcanic ash was washed into storm drains and sewer systems, a result of clean-up efforts. Local rivers and streams were the primary recipients of the ash. Many of the rivers and streams lead to the Columbia River. The Columbia accumulated so much volcanic ash that it had to be dredged to allow ships to pass. The need to remove ash quickly from transportation routes and civil works dictated the selection of some disposal sites. Cities resorted to using old quarries and existing sanitary landfills.

Ash still covers much of the surrounding area and is very heavy in the blast zone. Several industrious persons began collecting the ash, and today, souvenir "ash" trays, bud vases and mugs made from Mount St. Helens ash can be purchased at gift shops near the mountain. Capitalism and adapting to change grew these cottage industries.

Wildlife in the Mount St. Helens area was also severely affected. The Washington State Department of Game estimated that nearly 7,000 big game animals (deer, elk, and bear), all of the birds and most of the small mammals perished in the area directly affected by the eruption. Reportedly, some small burrowing animals such as frogs and salamanders, managed to survive because they were below ground level or water surface when the disaster struck. The Washington Department of Fisheries estimated that 12 million Chinook and Coho salmon fingerlings were killed when hatcheries were destroyed; these might have developed into about 360,000 adult salmon. Another estimated 40,000 young salmon were lost when they were forced to swim through the turbine blades of hydroelectric generators because the levels of the reservoirs along the Lewis River south of Mount St. Helens were kept low to accommodate possible mudflows and flooding.

Recovery rates for plant and animal life are very different on different parts of the volcano. Some of the areas probably had plants growing up through the ash only a few months after

the big eruption. On the other hand, there are places where today the plant life has still not recovered.

There was little effect on global climate by the Mount St. Helens 1980 eruption. There were two main reasons for this. The first is that the eruption plume was high enough to get into the stratosphere only for the first 1 hour of the eruption; for the rest of the day it was completely within the troposphere. Ash and gases in the troposphere don't hang around long enough to affect the climate because rain and snow wash them out. The second reason is that there was very little sulfur in the erupting material at Mount St. Helens. The major contribution to changing climate that is made by big eruptions is the production of sulfuric acid droplets (called aerosols). The volcanoes produce sulfur dioxide gas and it reacts with water in the atmosphere to produce the aerosols. If there is little sulfur erupted (such as at Mount St. Helens) there will be very few aerosols produced, and the climatic effects will be negligible.

The fine-grained, gritty ash caused substantial problems for automobile engines and other mechanical and electrical equipment. The ash contaminated oil systems, clogged air filters, and scratched moving surfaces. Fine ash caused short circuits in electrical transformers, which in turn caused power blackouts. The sewage-disposal systems of several municipalities were plagued by ash clogging and damage to pumps, filters, and other equipment. Fortunately, these same cities use deep wells and closed storage facilities, so their water supplies were only minimally affected.

Tourism is an important industry to the Pacific Northwest, and the public reaction to the May 18 eruption took its toll on tourism. The falling ash also added to the disruption of travel in and around the region. Tourism was reported down in the immediate Mount St. Helens-Gifford Pinchot National Forest area. Travel and tourism was also affected by the cancellation and postponement of conventions, meetings, and other social gatherings at cities and resorts throughout Washington and Oregon. Over a thousand commercial flights were cancelled in the days and weeks following the eruption. The tourism setback was temporary but economically troubling while it lasted. Today however, tourists (like me) come to Mount St. Helens, possibly because of its eruption. The U.S. Forest Service (USFS) and State of Washington have established several visitor centers and provide access for people to experience the volcano's awesome devastation by viewing and hiking the area around the volcano.

I never did find a report that claimed to detail the exact costs of the volcanic blast. Apparently the early estimates made in the wake of the eruption (ranging from \$2 – 3 billion) were high. The damage estimates reflected the

timber, highways, roads, other civil works, and agricultural losses. The International Trade Commission declared a loss estimate of \$1.1 billion in a study.

A hundred years from now, a new forest will be growing on the north slope of Mount St. Helens. Everything that lived on the mountain before May 18, 1980, will likely live there again.

Our Trek to the Top

Although Mount St. Helens is in Skamania County, the best access routes to the mountain run through Cowlitz County on the west. The community nearest the volcano is Cougar, Washington located in the Lewis River valley about 11 miles south-southwest of the peak. We stayed in Cougar the evening before our climb. That night we checked in with the ranger station to let the rangers know that I would be climbing with a 10 year old. We learned that while it is typical for young teen groups of scouts and explorers to attempt the climb, the rangers did not know of a 10 year old that had attempted, let alone made summit of the mountain. We knew it would be a challenging day.

I did some research on the climb. The Internet provided much of what I needed. It is described as a day climb. An intermediate climber in good physical shape can make the trip in 10 to 12 hours. The National Parks Ranger who I discussed the hike with told me that most people can do the round trip in 12 hours but they predicted it would be a real challenge for a dad and a 10-year-old daughter.

The biggest issue facing us was that a particularly heavy snow year made most of the access roads impassible even in June. Usually they are open by this time of year, but we had to find an alternate starting point. That put me at a disadvantage because I had planned to use a route that I had climbed before and was quite familiar with. Now I would be taking my daughter on a route I had never climbed. The topographical map showed a steep section near the summit that would be a challenge, but that was still hours away.

We hit the trail at 5:00 a.m. It was still dark, but the trail was easy to follow in the pre-dawn glow. The snow provided a stark contrast to the dark trees. We were still well within the tree line. It wouldn't be long before we would climb above the tree line and look back from where we had started and be treated to a spectacular view of the Lewis River valley.

We saw deer and elk in the first steps of our climb. During the climb Julia and I discussed the eruption and the animals that live on the mountain. I taught her some of the basics of mountaineering and respect for the elements. This is not an amusement park, and there are



Lou with his daughter after return from the climb.

no tramcars to the top. She was very serious about the whole adventure and endured hours of climbing without complaint.

We had to scramble over huge boulders that barred the route. We trekked up steep slopes of permanent snowfields, and on packed snow that was over eight feet deep. We had one close encounter with a “moat” around a large rock formation where I began to sink through the snow up to my waist. We did see one other climber that day; otherwise we had the mountain to ourselves. The other climber stayed with us for about two hours and he and I worked together on some steep ice and snow making the route a little easier to manage.

We were really enjoying ourselves, and working very hard. The hard work paid off. At 1:00pm, eight hours after we started, we reached the summit. It was a cold clear day, the kind of day where you can see for hundreds of miles in every direction. We pointed out the summit peaks of all the surrounding volcanoes. Mt. Rainier, Mt. Adams, Mt. Hood, and Mt. Jefferson were all visible from the summit. We took the obligatory summit photo and spent some time enjoying our accomplishment.

The weather cooperated wonderfully and it really couldn't have been better. The temperature was 40 degrees at the base of the mountain when we started and approximately 30 degrees at the summit. There was a strong summit wind swirling that made it seem much cooler. We stood at the summit and looked down into the volcano. We took time to look out over the vast expanse of the crater and the devastation to the north, and were amazed. It was Julia's first view of Mount St. Helens crater up close.

Peering over the rim of the volcano looking down, some 2,000 feet to the bottom of the crater, we saw the formation of a new mountain. It is called a lava dome. Mount St. Helen's lava dome began to grow in late July 1980. It is now approximately 1,000 feet above the crater,

and fills much of the crater floor. The lava dome still spews steam, and it was steaming the day we saw it. The steam escaping from the west side of the lava dome was a reminder as to who is really in charge of the mountain, and it is not the climbers. A small landslide in our vicinity cut short our summit time. I think it spooked me more than Julia. We decided it was time to head down off the mountain.

That trip to the top of the volcano with Julia continues to be one that we love to talk about. We took dozens of photos and look at them often. While I have gone on to continue climbing a different mountain each year, Julia has moved to competitive rock climbing and Mount St. Helens is her only mountaineering adventure. This summer, at the age of 14, she competed in the Junior National Indoor Bouldering Competition in Philadelphia.

Our trip down the mountain was a lot of fun. I taught Julia one of the most entertaining of all mountaineering experiences. Glissading. This is the ultimate sledding experience. Climbers will sit on plastic and slide down the side of glaciers and snowfields. It is a blast. Sometimes climbers can travel thousands of feet before stopping or changing direction. Since she was a first-timer, I kept Julia roped to me and guided her down the mountain. We were covering distances in a fraction of the time it had taken us to climb. She had no idea we were going to slide down the mountain. Although we were both tired from the eight-hour climb we were energized by the glissading and enjoyed it while it lasted. At 5:30pm we were back at the point where we had started over 12 hours before. It was a safe and successful climb. As far as we knew, Julia was the youngest kid to climb Mount St. Helens. I was proud of her.

When we cleaned up and went to Jack's restaurant for dinner, Jack knew we had attempted to summit that day and asked how we did. Word spread quickly that the kid in the far booth had made summit and Julia was an immediate celebrity. One climber bought her a T-shirt that she loves to wear that says, “I climbed Mt. St. Helens,” and Jack gave her a pin to commemorate the accomplishment. She liked the attention (so did I) but she didn't understand what the fuss was all about. She didn't know that more than 50% of the people that try to summit fail in their attempt. She was too busy enjoying her meal and talking about the day she just had with her dad. After 9 years of climbing, this climb with my daughter is still my favorite.

**Lou D'Angelo, '91, is a financial planner and lives in Wexford, PA.*

Living and Teaching in New Zealand

Jaclyn Ford*



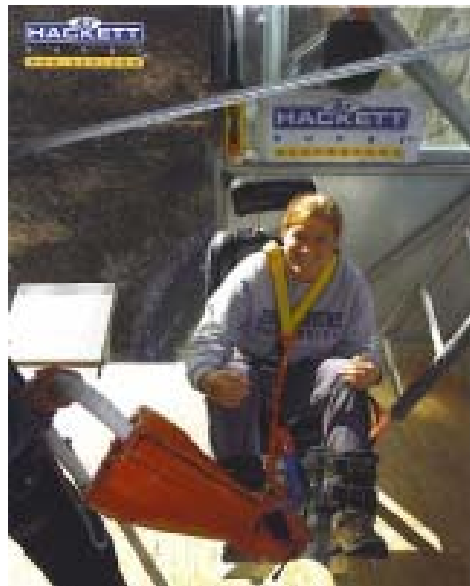
Jaclyn in McLaren Falls Park on the Wairoa River right outside Tauranga, New Zealand.

A sixteen hour flight across the Pacific Ocean tends to bring clarity to one's life. If you've ever experienced the lethargy a flight of this magnitude brings, you'll understand that feeling of complete surrender. And this return trip was no exception. So, as I sat on that return flight, I realized I had changed while I was in that enchanting country. My life there was so wonderful, invigorating, encouraging, and satisfying, that the thought of returning to my "real" life was just plain depressing. Yet, my life has been anything but normal. I've had the privilege of visiting over 55 countries, a majority of which I've visited 3 or 4 times each. I've also had the honor of living, studying and working in five different countries. But never had I seen the unparalleled beauty of New Zealand.

I had just taken the bar exam when two days later I was on a plane to paradise. Some of my friends called me lucky, others thought I was crazy, and others thought I'd never return when I mentioned I'd be teaching environmental field studies in New Zealand. I became adjunct faculty of UC Santa Barbara, and while in New Zealand, I was known as "Professor Ford." I had about 25 U.S. & Canadian college students in my class, and it was my responsibility to teach them environmental science and related field studies. We worked on taking water quality samples and indicator species surveys. We planted thousands of native trees, and helped mitigate the destruction from invasive plant species. In addition, I coordinated with the local Maori tribe to work on watershed assessments and educational trails on their land. In return, we had a social and cultural exchange with the Paparoa Marae.

The people of New Zealand are incredibly nice, they welcome new ideas and expressive thought more than any other country I've visited. Not to mention, the people really care about their environment. It isn't just a slogan, or a campaign promise – the people deeply respect their country and have effective legislation to back up their social mores. (See <http://www.mfe.govt.nz/laws/> for a sampling of their environmental laws, if there's any doubt).

Of course, the incredible beauty of New Zealand doesn't prevent it from being the self-proclaimed "adrenaline capitol of the world." While I was there, my students and I went on several eco-tours on both the North and South Islands. We went black-water rafting (where you half walk, half float in an inner-tube down flooded caves, looking at the amazing glow-worms), hiking, horse-back riding (on real celebrity "Lord of the Rings" horses), skydiving from 15,000 feet(!), white-water rafting class V rapids, sea kayaking, glacier climbing, jet-boating, and (believe it or not) bungee jumping from 440 feet(!) (you reach the end of the bungee at speeds in excess of 80 mph). Needless to say, somewhere in between glacier climbing, skydiving from 15,000 feet and bungee jumping – my students and I got a better understanding of ourselves, our fears, and what we, as individuals, can do if we just set our minds to it. Both our time working on preserving the environment, and our



Jaclyn preparing for the 440 foot Nevis Highwire Bungee Jump outside of Queenstown.



Deep Park Heights outside of Queenstown, location of the film "Lord of the Rings: The Two Towers" - watch out for Wargs!

time on the eco-tours gave us an appreciation of the land and the people – a true respect for the world around us.

I now face the challenge of translating my time and experience in New Zealand to my life in the United States - my life as an attorney and scientist in the federal government. How do you go from being completely at peace with nature and yourself to struggling everyday to maintain sanity in a society that doesn't seem to care about what you believe in? Not a day goes by where I don't contemplate fleeing the country and living in a part of the world that thinks and acts like me. But, how would that solve the problems we face as a global society? My experience in New Zealand made me realize that even though my beliefs may face strong opposition here in the U.S., I am not alone in the world. There are people who care about our role as stewards of the planet. There are people who don't just talk the talk, but actually live the life of caring for their land, water and air. And that is a very comforting thought.

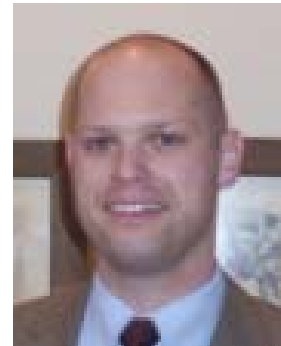
I feel strongly that the U.S. can lead the world in solving the environmental problems we face as a global community. This country is indeed a beautiful and magnificent place filled with people, animals, and places that give me hope and inspiration - and I intend to help keep it that way.

One of my students in New Zealand was a "Lord of the Rings" fanatic – visiting all the location spots of the films and constantly telling us little tid-bits about the books or movies. He was nineteen and majoring in journalism. When I asked him on our final day together how this journey had changed his life, he quoted two lines from the "Fellowship of the Ring": he said, "Perhaps

Galadriel said it best, 'Even the smallest person can change the course of the future'... or maybe Gandalf, 'All we have to decide is what to do with the time that is given to us.' Helping the environment takes everyone. But even if we don't have everyone on-board, every single last person can do so much. A little everyday goes a long way. And only you can decide how you want to spend your time and energy. I choose to spend it wisely: helping the environment." That is what drives me everyday – the knowledge that people are out there like him – doing their part. And that I helped, in a little way, make the world a bit smaller by teaching those students in New Zealand to break down their borders and see the truly magnificent world around them.

**Jaclyn Ford, '04, is an attorney with the Department of Interior, Fish, Wildlife, and Botany Group, working primarily on Endangered Species Act issues.*

Student Describes How to Restore Iraq's Environment



Third year law student Russ Bowman will have his article, "Global Cornerstones for Environmental Recovery in Iraq," published in the April issue of the *New York University Environmental Law Journal*. The article outlines an ambitious plan for restoring Iraq's devastated environment.

Following graduation, Russ, an active duty officer in the U.S. Coast Guard, will attend the Naval Justice School in Newport, R.I., to become a Judge Advocate. He is scheduled to report for duty at the Coast Guard's First District Legal Office in Boston, Massachusetts, this fall. Russ is married to the former Sarah Wicklein - a 1999 graduate of Maryland Law. They have a 2-year-old daughter, Sadie, and a newborn son, Cooper Russell.

Annual Environmental Law Winetasting

In November the Environmental Law Program continued its long tradition of sponsoring an annual winetasting for environmental law students and alumni of the program. The tradition originated with Professor Percival's former practice of pulling the names of students from a jar of wine corks to call on them in Environmental Law. Each year the event seems to attract a larger and more enthusiastic crowd. This year nearly 100 bottles of wine were available for tasting and more than 225 guests were in attendance.



Guests sample wine supplied by Professor Robert Percival, Director of the Environmental Law Program. Approximately 100 bottles of wine were available for tasting.



Dean Karen Rothenberg and Professor Bob Percival



Approximately 225 guests attended the winetasting.

Law students Corianne Iacovelli, Darah McCray, Eric Sherbine with his wife Cindy, and Alicia Wilson.



Law students Natalie Havlina, Erin Holbrook, Erica Zilioli with guest Josh Wnuk.

Tom Lavelle, '92, Melissa Hearne, '00, and law student Robin Clark sample the wine.



Karyn Bergmann, '03, with her guest, Barry Marsh.





Mary Kelley, '04, Paul Sorisio, '04, Alison Prost '04, with Harper Baer, Katherine Baer, '04 and her husband Mike.



Dan Smith, '02 with his wife Danielle and daughter, Natalie.

Meagan Newman, '03, Jennifer DiSanza, '02, Shana Jones, '03, and Kristin Klick, '03, with her baby and husband, Rob.



Maryland Environmental Law Society (MELS) Speaker's Series



Professor Joanna Goger and William Hartwig, Assistant Director of the U.S. Fish and Wildlife Service and Chief of the National Wildlife Refuge System.

Mr. Hartwig speaks to students in Professor Goger's Biodiversity seminar about the role the National Wildlife Refuge System plays in the protection of biodiversity in the United States.



Professor Valerie Stanley, students Candice Howard, Chelsey Moscati, and Megan Moeller, and NRDC attorney Melanie Shepherdson.

Professor Valerie Stanley who teaches Animal Law and NRDC attorney Melanie Shepherdson, '00, speak with students about animal waste problems and treatment of animals.

THE DATA GAPS DILEMMA: WHY TOXIC IGNORANCE THREATENS PUBLIC HEALTH

**THE 2005 WARD, KERSHAW ENVIRONMENTAL SYMPOSIUM
HELD IN CONJUNCTION WITH
THE CENTER FOR PROGRESSIVE REGULATION (CPR)**



Friday, May 6, 2005

**to be held at
American Association for the
Advancement of Science Building
1200 New York Avenue, N.W.
Washington, DC 20005**

**For additional information contact:
Laura Mrozek - 410-706-8157
lmrozek@law.umaryland.edu**

"The Data Gaps Dilemma"

The Ward, Kershaw and the Center for Progressive Regulation's (CPR) Data Gaps Symposium will explore the types of data gaps that hinder regulatory efforts to protect public health and the environment, analyze what creates and exacerbates these data gaps, and then work to construct solutions for closing such gaps. Using flaws in EPA's Integrated Risk Information System (IRIS) as context, we will compare toxics testing requirements in programs at the state, national and international levels to understand options for information generation. Next we will examine what limits IRIS from fulfilling its potential compared to other testing programs. We will spend much of the afternoon discussing an affirmative agenda to accomplish the goal of closing or filling data gaps. The symposium is jointly sponsored by CPR and the Ward, Kershaw Environmental Law Symposium fund.

CPR's previous research in this area revealed astonishing gaps in the toxics knowledge base. For instance, using IRIS as context, CPR discovered that over one-fifth of the Clean Air Act's Hazardous Air Pollutants (HAPs) were missing from IRIS, and for those HAPs that were included, assessments were on average over ten years old. Similar gaps were found when comparing IRIS to pollutants regulated under other environmental statutes. Further analysis of EPA's research budget and planning process provided insight into some of the factors that contribute to data gaps on the ground level including declining federal research dollars and a labyrinthine priority-setting and planning process that highlights the lack of coordination within and between federal agencies.

Based on this initial work, CPR is expanding the scope of our inquiry to more broadly address the dearth of information on many toxic chemicals, what creates and exacerbates these data gaps, and how best to close such gaps. We will have an introductory talk and one panel in the morning focusing on types of data gaps and information generation from a variety of testing and registration programs. In the afternoon we will present and discuss factors that exacerbate data gaps at the federal level. The conference is intended to encourage participation from our invited audience, and much of the afternoon is dedicated to a discussion of strategies for solutions to the data gaps dilemma.

SCHEDULE

REGISTRATION AND CONTINENTAL BREAKFAST **8:00 a.m.**

INTRODUCTION AND WELCOME

Rena Steinzor, CPR/University of Maryland School of Law **9:00 a.m.**

OVERVIEW: WHAT ARE DATA GAPS AND TYPES OF DATA GAPS

John Applegate, CPR/Indiana University School of Law
Carl Cranor, CPR/University of California, Riverside **9:15 a.m.**

PANEL 1 - DATA GAPS AND PROGRAM TESTING REQUIREMENTS

9:45 a.m. - 11:30 a.m.

Moderator: David Adelman, CPR/University of Arizona School of Law

Presentation: Matt Shudtz, University of Maryland School of Law

- This panel will summarize data gaps from IRIS and then present and compare toxic testing requirements from California, National Toxicology Program, High Volume Testing Program, REACH, IARC, and explain how information generated from these sources is used, or not used, in IRIS.
- Participants: **Melanie Marty, California Office of Environmental Health Hazard Assessment (invited); Richard Denison, Environmental Defense; James Huff, National Institute of Environmental Health Sciences (invited); John Applegate, CPR/Indiana University School of Law; Dr. Katherine Squibb, CPR/University of Maryland School of Toxicology.**

WORKING LUNCHEON - 11:30 - 12:00 NOON

PANEL 2 – WHAT EXACERBATES THE DATA GAPS PROBLEM

12:00 - 1:45 p.m.

Moderator: Anita Nager, Beldon Fund

Presentations: Katherine Baer, CPR, and
Simone Baribeau, Center for Science and the Public Interest

- This panel will identify and explain some of the factors that preclude solving the data gap problem by focusing on problems with IRIS. Such problems include: poor planning, low federal research budgets, legislative structure/legal incentives, and industry capture.
- Participants: **John Bucher, National Toxicology Program; Mary Lyndon, CPR/St. John's University School of Law; Erik Olson, NRDC; Rena Steinzor, CPR/University of Maryland School of Law.**

continued on next page

BREAK - 1:45 P.M. - 2:00 P.M.

PANEL 3 – POTENTIAL SOLUTIONS FOR NARROWING DATA GAPS

Moderator: Tom McGarity, CPR/University of Texas School of Law

2:00 - 4:00 p.m.

- This panel will present ideas for improving data gaps and lead the group into an open discussion of how to prioritize and operationalize these ideas. Topics could include: emerging testing protocols, testing that should be considered by EPA, highlighting/reducing industry influence, how chemicals should be prioritized, and how to create a campaign to narrow data gaps.
- Participants: **Linda Greer, NRDC; David Adelman, CPR/University of Arizona School of Law; Carl Cranor, CPR/UC Riverside; David Michaels, George Washington Medical School; Michael Waalkes, National Toxicology Program (invited).**

**REGISTRATION FORM
RESERVATIONS REQUIRED**

Registration Fee - \$20.00

(Continental Breakfast and Luncheon included)

Alumni of the Environmental Law Program - no charge

May pay at door - must call or email to reserve space

Please complete and return to:

Laura Mrozek

University of Maryland School of Law

500 W. Baltimore Street, Baltimore, MD 21201 - (410) 706-8157

fax - (410) 706-2184

email: lmrozek@law.umaryland.edu

Name _____

Address _____

City/State _____

Daytime Telephone Number _____

email address _____

**Funds for the 2005 Ward, Kershaw Environmental Law Symposium are
administered by the University of Maryland Foundation, Inc.**

Directions:

Parking is limited. We suggest the following transportation:

AAAS Building is located at 1200 New York Avenue, N.W. Take red line to Metro Center and exit at 12th & G Streets. Turn right when you reach street level onto 12th Street and walk one block. The AAAS Building is at the corner of 12th & H & New York Avenue.