

ENVIRONMENTAL LAW AT MARYLAND

*University of Maryland
Francis King Carey School of Law
Fall 2012—No. 34*



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MARYLAND'S ENVIRONMENTAL LAW CLINIC WINS ABA AWARD FOR DISTINGUISHED ACHIEVEMENT IN ENVIRONMENTAL LAW AND POLICY

On August 5, 2012 the American Bar Association (ABA) presented the University of Maryland Carey School of Law Environmental Law Clinic with the 2012 Award for Distinguished Achievement in Environmental Law and Policy during the ABA Annual Meeting in Chicago. The Award is given to a U.S. bar association, law school clinical program, non-profit institution, non-profit legal services program, law firm, or government program that provides representation, education or advocacy on environmental matters that directly result in significant improvements in the substance, process or understanding of environmental law or policy.

The Clinic, led by Director Jane F. Barrett, is the largest provider of pro bono environmental legal representation in Maryland and works to improve and enforce environmental laws and regulations in the Chesapeake Bay region. "It is always a pleasure to have your students' work recognized by colleagues," said Professor Barrett. "But it is particularly gratifying to receive a unanimous vote of approval from a group as distinguished as the ABA. I am thrilled that our students and faculty have received this well-earned recognition." The Clinic's clients currently include: The Waterkeeper Alliance, Potomac Riverkeeper, Inc., the Chester River Association, the Baltimore Harbor Waterkeeper, Environmental Integrity Project, Defenders of Wildlife, Chesapeake Climate Action Network, the Cedar Heights Civic Association and the town of Cheverly.

In providing the award, the ABA recognized the Clinic's "zealous championing of the state's air, waterways and species and its tireless efforts to advance environmental interests in the legislature, the courts and with administrative agencies while maintaining high standards and dedication to training a new generation of environmental lawyers and



The Environmental Law Clinic on the Chesapeake Bay.

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battling political challenges.” This recognition includes the Clinic’s efforts representing the Waterkeeper Alliance, Inc. in its suit against Perdue Farms and one of its local poultry growers for alleged violations of the Clean Water Act in the face of political pressure from the Maryland legislature and Governor Martin O’Malley. See, Fall 2010 Environmental Law Newsletter, No. 30 at 1. <http://digitalcommons.law.umaryland.edu/elmd/30/>.

“We are delighted that the ABA has recognized the superlative work of our students, Jane Barrett and the faculty of our Environmental Law Program,” Maryland Carey Law Dean Phoebe Haddon said. “The Clinic has chosen difficult, ambitious cases with the potential to set national precedents. Everyone involved has worked tirelessly to make their case, often in the face of intense opposition.”

The ABA also recognized the Clinic’s representation of the Cedar Heights Civic Association and the town of Cheverly’s attempt to block further industrial development across the street from a historic African-American community. The Clinic challenged the zoning board special exception to build a concrete batching plant at the local zoning board, trial court, and Maryland Court of Special Appeals. See, Spring 2011 Environmental Law Newsletter, No. 31 at 5. <http://digitalcommons.law.umaryland.edu/elmd/31/>. The Clinic has also helped advance and pass Maryland legislation that expands standing requirements to challenge environmental permits and critical area designations and has recently provided numerous comments to the Maryland Department of the Environment (MDE) regarding its proposed General Construction Stormwater Permit. Many of the comments were adopted by MDE this year. See, Spring



The Environmental Law Clinic with its clients from the Cedar Heights Civic Association and the town of Cheverly after their argument before the Court of Special Appeals.

2012 Environmental Law Newsletter, No. 33 at 15. <http://digitalcommons.law.umaryland.edu/elmd/33/>.

The Clinic has another busy year ahead with the Perdue trial underway in the United States District Court for the District of Maryland. The trial is expected to take three weeks. In addition, Clinic students will be arguing a case before the Maryland Court of Special Appeals in November 2012 addressing the right to information under the Maryland Public Information Act. See, Fall 2011 Newsletter, No. 32 at 8. <http://digitalcommons.law.umaryland.edu/elmd/32/>.



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of MARYLAND
FRANCIS KING CAREY
SCHOOL OF LAW

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ENVIRONMENTAL LAW PROGRAM HOSTS IUCN ENVIRONMENTAL LAW ACADEMY 10TH ANNUAL COLLOQUIUM

From June 30 to July 5, 2012, approximately 250 environmental law scholars, students, and professionals from over 30 countries on six continents attended The International Union for Conservation of Nature (IUCN) Academy of Environmental Law's 10th Annual Colloquium at the University of Maryland Carey School of Law. The theme of the Colloquium was "Global Environmental Law at a Crossroads." The Colloquium provides a unique opportunity for environmental experts to monitor developments in environmental law and policy around the planet and to contribute to the spread of environmental law governance ideas throughout the world.

Maryland's Environmental Law Program is one of the founding members of the Academy and has been a leading voice in global environmental law through the work of Professor Robert V. Percival. This year's colloquium focused on the current state and future direction of global environmental law in the wake of the "Rio + 20" earth summit. The topic was broad and designed to elicit a wide, varied selection of presentations touching all aspects of environmental law. More than 150 presentations were given by scholars from around the world. To see the entire program, including videos of the presentations, visit our archives at: <http://digitalcommons.law.umaryland.edu/gelc/2012/>.

The colloquium began with two workshops June 30th and July 1st. The first workshop focused on valuing ecosystem services with presentations analyzing different experiences and models of placing economic value on ecosystem preservation efforts and whether monetizing such work will increase environmental preservation. The second workshop focused on environmental law clinics, the challenges they face, and potential models for a future network of global environmental law clinics. The workshop was led by University of Maryland's Prof. Jane F. Barrett and Prof. Robert Kuehn of Washington University in St. Louis School of Law. Prof. Kuehn presented

a comprehensive history of political pressure to curb the activities of environmental law clinics. Prof. Barrett, Director of Maryland's Environmental Law Clinic, then outlined recent political pressure in Maryland in response to the clinic's lawsuit against Perdue Farms Inc. for improper management of chicken waste.



Amy Fraenkel, Regional Director of the United Nations Environment Program



Justice Antonio Herman Benjamin, High Court of Brazil

On Monday July 2nd the opening plenary session of the Colloquium focused on what happened at Rio+20 and the future direction of environmental law in its wake. Brazilian High Court Justice Antonio Benjamin noted that the Rio+20 conference did result in the adoption of a consensus document that includes many positive features. He was even more enthusiastic about the product of a separate conference of judges and attorneys general - the World Congress on Justice, Governance and Law for Environmental Sustainability, held immediately prior to Rio+20, that reaffirmed the role of law in promoting sustainability. Jacob Scherr, a Maryland law school alum and director of global legal strategy and advocacy at the NRDC, noted that there were hundreds of voluntary commitments made at Rio, including pledges by major retailers to green their supply chains to prevent deforestation. EPA General Counsel Scott Fulton, UNEP Regional Director Amy Fraenkel, and Pace Professor Nick Robinson, agreed that there had been a shift away from emphasis on multilateral environmental treaties and toward more diverse approaches that involve

NGOs, businesses, and governments in local and regional initiatives.

Following a tour and dinner on Monday evening at the National Aquarium Baltimore over-looking the Inner Harbor, the Colloquium heard a keynote address on "Global Environmental Law at a Crossroads" from Professor Edith Brown Weiss of Georgetown. Dean Phoebe Haddon introduced Prof. Weiss, whose presentation focused on our evolving understanding of the "anthropocene" epoch and

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IUCN Colloquium

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the vast scale of human impact on the planet. She noted that the field of global law and its response to the anthropocene epoch has become “kaleidoscopic” because of the growth of mixed public/private, local and regional initiatives.

Tuesday morning’s plenary session focused on environmental enforcement. The speakers included Professor Elizabeth Kirk from the University of Dundee, Nova Southeastern University Professor Joel Mintz, George Washington Professor Lee Paddock, Boalt Visiting Professor Alex Wang, and Steve Wolfson from EPA’s International Environmental Law Practice Group. They focused on how to help regulatory agencies respond to change, lessons from past enforcement experience, compliance incentives, and enforcement policies in China and the U.S.

On Tuesday evening the Colloquium hosted an International Film Festival. Five student films from Brazil, China, and the United States were shown. They included topics such as littering in Brazil, recycling in Sao Paulo, the ban on free distribution of plastic bags in China, and the importance of maintaining sustainable stocks of menhaden. “Celebrating Svitlana,” a film made in tribute to the late Svitlana Kravchenko, last year’s recipient of the senior scholarship prize at the Academy Colloquium who died suddenly earlier this year, also was shown. Following the films, nearly 200 Colloquium participants gathered for an international wine tasting that featured more than 75 wines from around the world. Maryland’s student choral group “Legally Sound” performed at the wine tasting, which inspired many of the participants spontaneously to perform their national songs.

Wednesday morning’s plenary session focused on access

to information and public participation. It was a tribute to the work of Svitlana Kravchenko and participants included her husband, Professor John Bonine of Oregon, Professor Jan Jans of the University of Gronigen, and Professor Tseming Yang, who has just joined the Santa Clara law faculty.

The colloquium was organized around seven breakout sessions addressing: Environmental Governance, Theoretical Foundations of Environmental Law, Biodiversity and Land Use, Environmental Enforcement, Sustainable Development, Climate Change, and Multidisciplinary Approaches to Environmental Law. Each of these subjects had numerous panel presentations from a variety of perspectives and experiences. A closing plenary moderated by Professor Jamie Benidickson from the University of Ottawa summarized themes from the various Colloquium sessions followed by a Baltimore Harbor cruise on July 4th to enjoy the fireworks display.

The Colloquium ended on Thursday with a morning field trip to the Patuxent National Wildlife Research Refuge on the site of a former World War I munitions testing range. This was followed by a trip to the World Bank on Thursday afternoon for a special post-Colloquium program on Environmental Justice, access to information, and public participation. Assistant Attorney General Ignacia Moreno gave the keynote address. Prof. Percival participated in a panel discussion following presentations by Professor John Bonine and Justice Antonio Benjamin.



Attendees at the 10th Annual Colloquium of the IUCN Academy of Environmental Law in Westminster Hall.

TOO BIG TO JAIL: WARD KERSHAW SYMPOSIUM FOCUSES ON RECENT ENVIRONMENTAL AND ECONOMIC CATASTROPHES AND THE LACK OF ACCOUNTABILITY

The 2012 Ward Kershaw Symposium, held on September 20-21, focused on the recent BP oil spill, Massey mine disaster, and the 2008 economic crisis, addressing one over-arching question: why aren't existing regulations (or "the law") better enforced? The Symposium, jointly sponsored by the University of Maryland Law Review, the Center for Progressive Reform (led by Prof. Rena Steinzor, President), the Center for Health and Homeland Security (led by Prof. Michael Greenberger, Director), and the Environmental Law Program, brought together prominent government regulators and scholars to discuss the root cause of these disasters, the roadblocks to regulatory enforcement, and what can be done about them. The theme of the Symposium was unique in that it combined issues affecting health and the environment with issues concerning the health and safety of our financial industry. The result was outstanding: scholars and regulators broke out of their traditional fields to learn from one another, draw parallels across disparate regulatory failures, and discuss possible solutions and the opportunity for future coalitions to institute regulatory reform.

Causes of Catastrophe – The Financial Crisis Example

Congress has enacted a wide array of laws to protect our health, environment, and economy as a whole. Congress has also delegated responsibility to carry out these laws to expert agencies who, in turn, have adopted regulations to give effect to these protective laws. Yet recent events – the financial meltdown, the BP oil spill, the Massey Upper Big Branch mine disaster – have vividly and painfully demonstrated the shortcomings of our statutory and regulatory safeguards.

Given the difficulty of passing, let alone implementing, new laws and regulations combined with a reluctance or even refusal to fund implementation and enforcement, the Symposium focused on how to better enforce (or slightly modify) existing laws. University of Maryland Carey School of Law Dean Phoebe Haddon began the Symposium by noting that, regardless of political views, virtually everyone agrees that regulations must be fair, efficient, and effective. Keynote speaker Brooksley Born, former Chair of the Commodities Futures Trading Commission (CFTC) and

appointed member of the Financial Crisis Inquiry Commission (FCIC), then addressed the audience on the causes of the financial crisis.



Brooksley Born delivers the keynote address.

Ms. Born's address summarized the findings of the FCIC as to the causes of the 2008 financial meltdown. Ms. Born explained how a culture of de-regulation permeated the financial service industry for decades. After decades of de-regulation and failure to adopt new regulations, the government was ill-equipped to handle new, complex financial services, investment vehicles and institutions such as derivatives and mega investment banks. Put simply, the decrease in regulations and increase in the type and complexity of investments led to regulatory gaps in the case of derivatives, decreased lending standards, and unfettered financial institutions. The widespread

adoption of Allen Greenspan's "market self-regulation," which drove de-regulation, led to a lack of oversight and an unwillingness to enforce existing rules. All of these factors turned a housing bubble burst into a huge, systemic crisis.

Ms. Born stressed that the failure to enforce existing mortgage lending standards, a failure to regulate mortgage securitization, de-regulation of over-the-counter derivatives combined with state pre-emption, and a failure to supervise investment banks created by the repeal of the Glass-Steagall Act all combined to create the environment in which the crisis took root. In sum, over the last 30 years, regulations were repealed or not even adopted, exemptions expanded, remaining laws and regulations were not enforced, and states were pre-empted from doing anything.

The parallels to the BP oil spill and Massey mine disaster are striking. As Professor Steinzor and the Center for Progressive Reform have previously noted, the BP oil disaster was caused, in part, by "hollow government" where regulations fail to set sufficient standards and those that are set cannot be reliably enforced because of a lack of government funding. For example, the Bureau of Ocean Energy Management, Regulation and Enforcement (formerly the Minerals Management Service), tasked with inspecting over 4,000 oil and gas facilities in the Gulf, only has 60 inspectors. Similarly, the close connection between regulators and industry in the financial sector is mirrored in the oil and gas industry. In an era of de-regulation, the government failed to address the increased risks of both derivatives and

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Ward Kershaw

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deep sea oil drilling.

Steps Toward Solutions – Minimizing Risks Through Increased Enforcement

The first panel, moderated by Prof. Rena Steinzor, focused on the lack of enforcement of existing laws. The panel included experts in both the environmental and financial fields and their presentations highlighted common threads running through both. Thomas McGarity, Professor at the University of Texas, highlighted how an exemption in the Clean Air Act (new source standards do not apply to routine maintenance) led to decades of failure in enforcing stringent emission standards for the power industry. Robert Weissman, President of Public Citizen, focused his presentation on the current anti-regulatory climate on Capitol Hill, which cuts across both the financial (opposition to adopting and implementing regulations under Dodd-Frank) and environmental (rolling back EPA regulations on the fossil fuel industry) fields. Mr. Weissman concluded that the stalking horse for anti-regulation efforts is the expansion of cost-benefit analyses as a hurdle that all future regulatory efforts must overcome before they go into effect.

Michael Greenberger, Professor at the University of Maryland Carey School of Law, picked up where Mr. Weissman left off, noting the importance of forming coalitions to block the expansion of cost-benefit analyses and other anti-regulatory efforts that leave our environment and financial system exposed to catastrophic risk. Prof. Greenberger concluded by noting that a fundamental problem with adopting new regulations is the failure of regulation advocates (most notably the Obama administration) to explain to the public what caused these crises and, therefore, the public does not understand what needs to be fixed or whether the proposed reforms, such as the Dodd-Frank Act, are the right tool to fix the problem.

The second panel, moderated by Prof. Greenberger, focused on the 2008 financial crisis and why, despite spending trillions to rescue the financial system, so few prosecutions have occurred. William Black, Professor of Economics and Law at the University of Missouri – Kansas City School of Law, began by highlighting that inadequate resources, particularly the lack of criminal investigators with requisite skills, have led to fewer criminal referrals in the wake of the 2008 financial meltdown. Prof. Black noted that, to date, there have only been a handful of criminal referrals, none coming from the Securities and Exchange Commission (SEC) and only three from the Federal Deposit Insurance Commission (FDIC). In comparison, there were 30,000 criminal referrals after the Savings and Loan Scandal in the late 1980's.

Lynn Stout, Professor at Cornell Law School, placed the



(From l to r:) Prof. Thomas McGarity, Prof. Rena Steinzor, Robert Weissman, and Prof. Michael Greenberger.

financial crisis in an historical context, asserting that much of the behavior that led to the crisis was legal. Essentially, companies such as AIG were legally operating as bookies and covered too many bad derivative bets. Prof. Stout advocated that our regulatory structure should mimic nature by including system redundancy (the “two kidneys” approach) to protect against catastrophic events and failures; simplifying regulations rather than trying to predict and proscribe future conduct (simplicity adapts and survives in nature); and adding -- rather than removing -- protective barriers (like a host's multiple defenses to infection). Prof. Stout concluded that over the past 30 years we have chosen efficiency over protection, leaving our financial system more prone to collapse.

Wallace Tuberville, Senior Fellow, DEMOS and former finance executive at Goldman Sachs, addressed the growing importance of jurisdiction in financial market regulation. He noted that extra-territorial effects of computer trading in financial markets has received scant attention – specifically, how or whether our current and future laws can reach events beyond our borders. Meyer “Mike” Eisenberg, former SEC Deputy General Counsel and Senior Lecturer at Columbia University School of Law, then addressed the importance of developing new regulations under the Dodd-Frank financial reform bill and the likely response from the financial industry. Last but not least, Arthur Wilmarth, Professor at George Washington University Law School, commented on the current political climate and how Wall Street has become “untouchable,” noting that its political contributions and influence on Capitol Hill have increased dramatically in the wake of the Supreme Court's Citizens

United decision. As Prof. Wilmarth noted, the \$8 billion Wall Street has invested in Capitol Hill lobbying since the financial crisis has yielded the best return out of any of their investments.

The third and final panel, moderated by Prof. Jane F. Barrett, Director of University of Maryland's Environmental Law Clinic, focused on the lack of individual accountability and prosecutions in environmental, health and safety crimes, even when such crimes cause the deaths of many people as in the case of the BP oil spill and Massey Upper Big Branch mine disasters. David Uhlmann, Professor at University of Michigan Law School, began by arguing that there has at least been some individual accountability: from 2005 to 2010, 777 defendants and 550 individuals have been prosecuted under federal pollution prevention laws. Other panelists pressed Prof. Uhlmann to provide more details about the individuals prosecuted – were they sole proprietors or upper level managers in large corporations? Did individuals receive jail time? If so, how much?

Brian Wolfman, Visiting Professor and Co-Director of the Institute for Public Representation at Georgetown University Law Center, focused on the foundational problem that students are not taught about the importance of the regulatory system in school. It therefore comes as no surprise, he argued, that there is such little counterweight to attacks on regulations as overly-burdensome “job killers.” Victor Flatt, Professor at University of North Carolina School of Law, addressed another large, fundamental problem in enforcing environmental laws: the proponents of environmental laws are often far removed from the harmful impact of pollutants. In other words, problems happen to “other” people, which leads to apathy. Essentially, Prof. Flatt noted that society today has become disaggregated into “us and them,” or, in the case of environmental regulation opponents, “us vs. them.” This mindset is very different than the more community-oriented ethos that gave rise to environmentalism.

According to W. Warren Hamel, Partner and Co-Chair of Venable LLP's SEC practice group and former Chief of Environmental Crimes and Enforcement Unit at the U.S. Attorney's Office in Maryland, two important events of the last decade have made prosecuting environmental crimes less likely as a practical matter. First, 9/11 diverted government resources away from prosecuting environmental crimes, shifting them to Homeland Security. Second, the elimination of mandatory federal sentencing guidelines has led to a decrease in prison time for environmental crimes and caused prosecutors to focus their efforts elsewhere. Ben Friedman, Deputy General Counsel for National Oceanic and Atmospheric Administration (NOAA), expanded on Mr. Hamel's presentation, highlighting the effect of decreased resources on NOAA's prosecution efforts. In addition, Mr. Friedman noted that continued political attacks on regulatory agencies have demoralized his enforcement personnel and outdated laws have made civil administrative fines more desirable than a criminal slap on the wrist.

The panel concluded by proposing changes to increase enforcement and minimize the risk of future catastrophic events. Though the panel was addressing environmental enforcement, the ideas presented are equally applicable to the financial world and include:

- Changing the Administrative Procedures Act to force agency action.
- Increasing funding so that existing laws and regulations can be effectively enforced.
- Expanding and enforcing the time limits in the Freedom of Information Act so that citizens can become more involved in enforcement.
- Increasing non-governmental civil enforcement.
- Updating laws and regulations that are out-of-date and increasing criminal penalties.
- Increasing public education on the causes of catastrophes and the importance of regulations, starting in grade school.



A group of judges from the Intermediate People's Courts of Nanjing Province, China visit the law school on Sept 4, 2012 to learn about environmental law.

EXPERIENTIAL LEARNING

PROTECTING BIG SKY COUNTRY

By Emily Ver Ploeg 3L

Four months ago, I found myself on a plane peering out my window and watching the bluffs of Billings, Montana get closer and closer as we descended. I was arriving in this new city to spend ten weeks with the Department of the Interior (DOI), Office of the Solicitor in the Billings field office. As a law clerk, I assisted the attorneys as they provided advice and legal representation to local offices of the subsidiary bureaus and agencies within the DOI. This broad client base creates a diverse workload for the Solicitor's Office, and the projects I worked on throughout the summer reflected that diversity. My projects included drafting a memorandum for the Bureau of Reclamation which provided legal guidance concerning its ability to regulate access to privately owned minerals beneath Reclamation lands. I prepared interrogatories for an employment discrimination suit and wrote a litigation report to assist the Department of Justice in another suit. I also attended a forum for tribal leaders at the Bureau of Land Management (BLM) regarding the BLM's proposal to regulate hydraulic fracturing on Indian Reservations.

Because I am particularly interested in the land management aspect of environmental law, it was exciting to spend my summer working for the largest landowner in the country. While in Billings, I witnessed the not-so-obvious complexities of managing public land. The land agencies within the Department, tasked with managing our country's water, national parks, national forests, Indian reservations, and all other categories of public land, must strike a balance between human and environmental interests. I discovered that public land management involves a sensitive network of cultural practices, environmental conservation, local livelihoods and economic realities. The agencies frequently cannot appease all interests, and one of the Office of the Solicitor's roles is to defend lawsuits challenging their decisions.

Another significant role of the Solicitor's Office is to provide general legal advice to the agencies. For the Billings office, a lot of time and energy is devoted to Bureau of Reclamation, Bureau of Indian Affairs, and Bureau of Land Management (BLM) issues. For example, early in the summer, I wrote a memorandum advising BLM on its authority to allow public access to a piece of its land, across



Emily Ver Ploeg 3L at Glacier Lake in southern Montana

private land. I also attended meetings at BLM regarding the incorporation of sage grouse management into Regional Management Plans. The status and protection of sage grouse is an important issue because, if it is designated as an endangered species which the Fish and Wildlife Service is considering, this designation will drastically change the management of private and public lands where sage grouse live. In an effort to avoid the designation, BLM is altering its Regional Management Plans to increase protection of sage grouse habitat. The Solicitor's Office is involved in the alterations to ensure that the agency decisions are not arbitrary and capricious, overly burdensome, or flawed in some other way that might encourage lawsuits.

My summer was rewarding because of the variety of projects I was assigned, the helpful and interesting people with whom I worked, and the opportunity to live in another part of the country so different from Baltimore. I would like to thank the Maryland Public Interest Law Project (MPILP) for their generous support of my work this summer and encourage students to take advantage of the opportunity the MPILP grants and Maryland Environmental Law Society's Barbri Environmental Law summer grants provide to enable students to work in public interest law.

WORKING ON “THE HILL” FOR THE EPA

By Michael Kellermann 3L

This summer I worked at the U.S. Environmental Protection Agency (EPA) in the Office of Congressional and Intergovernmental Relations (OCIR). Originally, I was slated to work in the Office of Enforcement and Compliance Assurance, but was asked to assist OCIR. It was a rewarding experience, and it only reinforced my desire to pursue a career in the federal government after graduation.

I was assigned to working with the Water, Pesticides, and Toxics team in OCIR. My job was to assist the team in acting as a liaison between Congress and EPA. Part of the job was responding to individual requests from Congressional offices. A Congressional staff member would request clarification on an issue, and it was the team’s job to connect them to the right agency person to best answer the question. Sometimes this would be as simple as an email or a phone call, but for more in-depth inquiries, we would set up a face to face briefing, or, if a Congressman or Senator was interested in getting more information on an issue, we worked to provide more detailed briefings.

Another aspect of the job was keeping the Agency informed of legislation on Capitol Hill. A large part of my time involved tracking the Farm Bill. The Farm Bill combined both farming subsidies and food stamps. The bill needed to be reauthorized this year, otherwise the subsidies would expire. When the bill was brought to the Senate floor for debate, I was tasked with reading through the bill, finding provisions affecting EPA, and summarizing the relevant provisions. When the House took up the bill for mark-up, I had to track more changes. This was one of my favorite projects - though tedious, scouring the House version for new provisions buried in the bill and bringing those to light was rewarding.

The team also worked to prepare staff for the many hearings on Capitol Hill. When congressional committees call, we have to answer. A specific series of hearings I worked on concerned flame-retardants. Recent news coverage highlighted the dangers of flame retardants and the difficulty states have addressing those dangers. EPA officials were called to testify in two different hearings regarding the regulation of flame retardants under the Toxic Substances Control Act (TSCA). These hearings set the stage for a

Senate Environment and Public Works Committee markup on Senator Lautenberg’s Safe Chemicals Act of 2011. I had not anticipated working on consumer protection matters, but I enjoyed learning the overlap consumer protection could have with environmental law.

I also worked on Chesapeake Bay total maximum daily load (TMDL) litigation. The American Farm Bureau brought a lawsuit against EPA regarding the Chesapeake Bay TMDL. I analyzed the briefs from both sides, read the intervenors’ briefs, and wrote a memorandum summarizing the important points. One of the members of the team contacted the Office of General Counsel for EPA, and found out that they did not have a similar memo. My memo was subsequently sent to the General Counsel’s Office and would be used to give Agency workers a background on the litigation.

Though I was not officially working with OECA, Mike Walker, an adjunct professor at Maryland and coordinator of OECA’s law clerk program, graciously invited me to attend his training sessions. Twice a week, we had practicing attorneys come in and speak to the law clerks about different environmental topics. These sessions ranged from environmental justice issues to specific statutes, such as the Clean Air Act and Clean Water Act. It was great to hear practicing attorneys give their perspectives and personal experiences on the various subjects I studied. These sessions helped me gain a better understanding of how the EPA and the statutes it administers work.

Prior to law school, I was a junior level staff member in a Congressional office, and I always wanted to return to Capitol Hill. Since entering law school, the idea of being a more “traditional” lawyer has become more appealing. This experience allowed me to combine both environmental policy work and more traditional legal work.

What impressed me the most was the dedication of EPA employees. Every person I came across regularly worked late, stayed connected to the office during vacation, and made sure they were available to answer questions. I can’t say this was completely unexpected, but I felt very comfortable working alongside others who were dedicated to making a difference for the environment.



Michael Kellermann 3L

ENVIRONMENTAL TORT LITIGATION ON A NATIONAL SCALE

By Tom Blonkowski 2L

This Summer I worked at the U.S. Department of Justice, Civil Division, Environmental Tort Litigation Section (DOJ). I applied for a position at DOJ for two reasons. First, I am interested in environmental litigation and wanted to obtain experience working in this field. Second, over winter break I participated in Assignment Appalachia with the Maryland Environmental Law Society, where students work with a small firm on environmental tort litigation. I enjoyed this experience and wanted to work more in-depth with the complex issues associated with environmental tort cases.



Tom Blonkowski 2L

At DOJ, I worked on a variety of cases and issues and experienced working as an attorney for the U.S. government. The environmental tort cases DOJ handles usually include a large number of plaintiffs—typically multi-district litigation—and complicated fact patterns requiring numerous depositions. For example, *In Re: FEMA Trailer Formaldehyde Products* (E.D. La.) involved hundreds of plaintiffs suing FEMA for alleged injuries resulting from their exposure to formaldehyde contained in trailers distributed to persons displaced by Hurricane Katrina.

These tort cases and others like them arise under the Federal Torts Claims Act (FTCA) and provide unique jurisdictional issues. The Act waives the federal government's sovereign immunity from suit, but there are numerous exceptions that prevent a plaintiff from using the Act to sue a Federal agency. These exemptions add a unique aspect to environmental tort work at DOJ because, prior to

delving into the traditional aspects of a tort case (i.e., duty, breach of duty, causation, and injury), a prospective plaintiff must establish jurisdiction under the FTCA. This provided a unique legal issue to analyze: whether one of the exceptions of the Act preclude the plaintiff's claim. In addition, all claims brought under the FTCA are governed by substantive state law. Therefore, much of my research involved federal procedural law as well as multiple state's substantive laws governing torts.

During my time at DOJ, I worked on skills I hope to use in my career as a litigator. I drafted several court filings, worked on preparing witnesses for depositions, and

observed attorneys preparing for oral arguments. I continued to develop my writing and researching skills, drafting numerous legal memoranda. Finally, I learned the importance of evaluating the precedential impact of an unfavorable judgment. I found this experience invaluable because it greatly expanded my understanding of the issues an attorney must consider in evaluating a particular case—the larger issues and concerns that can affect hundreds of cases are often more important than the particular issues of the case at hand.

Working with several experienced attorneys on a variety of issues in tort litigation developed both real-world skills I will need when I graduate and taught me the complexity of concerns an attorney must consider for each case, every day. I would like to thank the Maryland Environmental Law Society's Barbri Environmental Law Summer Grant for their generous support.

MARYLAND HOSTS ABA CONFERENCE ON THE ENVIRONMENT, JOB GROWTH, AND THE ECONOMY

By John Seery 2L and Mallory Montgomery 2L

On June 1, 2012 the School of Law hosted the American Bar Association's (ABA) 40th National Spring Conference on the Environment, "Reframing the Conversation: Examining the Tension between Environmental Regulation, Job Growth and the Economy." The conference provided interesting perspectives concerning the debate over the economic impact of environmental regulation in the United States. The ABA did an outstanding job of bringing together diverse views on a variety of environmental topics, effectively highlighting the major

differences between regulators and industry on the correct balance of environmental regulation and economic growth, regulating water and air quality, and hydrofracking.

The conference's first panel, "Is the Relationship Between U.S. Environmental, Energy and Job Growth Policies Changing, or Is It Just the Usual Game of Politics on Overdrive?" was moderated by William A. Anderson, II (Partner, Williams Mullen), and featured Gary S. Guzy (Deputy Director and General Counsel, Council on Environmental Quality, The White House), and Jeffrey S.

Holmstead (Partner, Bracewell & Giuliani LLP), debating whether recent allegations that environmental regulations during the Obama presidency have caused job losses have any statistical backing or are just unsupported politically-driven statements. In a spirited debate that set the tone for the rest of the conference Guzy argued that the false choice between the environment or the economy is wrong because regulation spurs innovation which leads to economic development. Holmstead argued that the current administration's approach to environmental regulation, while achieving some environmental benefits, is not done in a cost-conscience manner and is hurting the economy.

“Fishable Swimmable National Policy?

The Future of the Chesapeake Bay and Clean Water Act Quality Regulations,” moderated by Cynthia A. Drew (Principal, Drew Dispute Resolution LLC), and featuring Christopher A. Day (Senior Assistant Regional Counsel, U.S. Environmental Protection Agency), Roy A. Hoagland (Principal, HOPE Impacts LLC), Lisa M. Ochsenhirt (Attorney, AquaLaw PLC), and David Chung (Counsel, Crowell & Moring), examined the history of the Chesapeake Bay and the current struggle between the EPA, state governments and private industry in implementing the Total Maximum Daily Load in the Chesapeake, primarily centering on the Watershed Implementation Plan (WIP). Representatives from the EPA and non-profits noted that the voluntary implementation approach has not protected the Bay and traditional cost-benefit analysis is not applicable to unique natural habitats (like the Chesapeake Bay) because of their societal and cultural value. Agricultural representatives argued that the EPA has overstepped its authority by taking over the WIPs from the States.

Scott C. Fulton (General Counsel, EPA) delivered the conference's keynote address on Environmental Regulation and Economic Growth. Fulton echoed the sentiment that environmental regulations and the economy work in a complimentary fashion. As an example of the mutually beneficial relationship between environmental regulation and the economy, he noted that regulations to improve the Chesapeake have led to the improved health of the Bay and helped dependent industries, such as crabbers, restaurants, and hotels. Fulton contends that while regulation may only have a small economic impact, it produces large public health benefits. Fulton asserted that if America is to thrive, the country must make long-term investments in its natural resources, health, and infrastructure by crafting effective, and carefully designed environmental regulations.

“Focusing on What Really Should Be Debated: The Cases of Boiler MACT, Utility MACT and CSPAR,” moderated by Stephen J. Humes (Partner, Holland & Knight

LLP) and featuring Eric B. Svenson, Jr. (Vice President, Policy and Environment, Health & Safety, PSEG Services Corporation), John D. Walke (Clean Air Director, Natural Resources Defense Council), William L. Wehrum (Partner, Hunton & Williams LLP), and Andrew R. Wheeler (Principal, FaegreBD Consulting), examined the above mentioned EPA regulations designed to curb hazardous air pollutants (HAPs). The panel debated the economic impact of these regulations and whether the EPA has acted lawfully in is-



Scott Fulton, EPA General Counsel, addressed regulation and economic growth.

suating these regulations. Svenson asserted that these regulations were overdue and will not shock the economy. Walke noted that the EPA is simply doing its job and enforcing the law to prevent HAPs from harming public health. On the other side of the debate, Wehrum and Wheeler argued that the EPA has overstepped its bounds with some of the MACT regulations by unlawfully shifting the federal-state balance in air toxics regulation and that these regulations are hurting the economy by increasing energy costs.

James W. Harbell (Partner, Strikeman Elliot LLP) moderated “Hydrofracking and Pipeline Development: What Place Does Natural Gas Have in America's Energy Future?” that featured Mark S. Brownstein (Chief Counsel, Energy Program, Environmental Defense Fund), Kevin Cunningham (Vice President and General Counsel, Cabot Oil & Gas Corporation), John P. Imse (Principal, ENVIRON International Corporation), and Kenneth S. Komoroski (Partner-in-Charge, Pittsburgh-Southpointe, Fulbright & Jaworski LLP) and examined the expanding natural gas industry. Panelists agreed that natural gas development can positively impact the economy and the environment, but differed in their opinions of the government's role in regulating the industry. Cunningham cautioned that overzealous regulatory agencies have done more harm than good by interfering in natural gas development, while Brownstein argued that strong regulation, coupled with a strong enforcement mechanism and responsible corporate decision-making are needed to ensure that hydrofracking does not negatively impact the environment and public health. Komoroski had a more balanced view - that while regulation is critical, it should be focused and create certainty in the market.

The conference closed with “Putting it All in Context” moderated by Steve G. McKinney (Partner, Balch & Bingham LLP), and featuring Mary Neumayr (Senior Energy Counsel, Committee on Energy and Commerce, U.S. House of Representatives), and Angela Bonarrigo, (Director, DC Office, Ceres). The panel recapped the issues brought up during the conference and discussed how both Congress and the private sector are dealing with them.

ALUMNI NEWS

SHANA JONES '03 NAMED DIRECTOR OF VIRGINIA COASTAL POLICY CLINIC AT WILLIAM & MARY

When Shana Jones went to interview at William & Mary Law School, she thought she was interviewing for a legal writing instructor position. She was, but then mentioned her interest in environmental law clinic work and the interviewers quickly shifted gears, encouraging Shana to work on an environmental law clinic proposal. A whirlwind of meetings, calls, research and proposal development ensued, ending with the Virginia Coastal Policy Clinic which is due to open its doors in January 2013.

The Virginia Coastal Policy Clinic will focus on issues related to the Chesapeake Bay, mitigating or adapting to sea level rise, coastal management and wetlands. The Clinic will partner with the Virginia Institute of Marine Science to advise state and local policymakers on marine science and government policies that affect the state's marine, coastal and wetland resources. Shana will have a myriad of duties in developing the Coastal Policy Clinic – from training and supervising student lawyers to developing strategic relationships and retaining clients to fund raising. Above all, Shana will be setting the future course for the Clinic.

Shana is thrilled at the prospect of starting an environmental law clinic from scratch and believes the opportunity to work closely with the Virginia Institute of Marine Science will benefit both the state and William and Mary students. The state's citizens and law makers will benefit from public policy advice and learning about Virginia's pressing coastal resource needs. For example, the city of Norfolk is one of the lowest-lying cities in the country, re-



Shana Jones '03

quiring the state to prepare for an expected two to four inch per decade sea level rise and address worsening storm surges and flooding. William and Mary clinic students will benefit from working closely with scientists on real world problems. The interdisciplinary experience will, in turn, better prepare students for practicing environmental law.

Shana graduated from the University of Maryland School of Law in 2003. While in law school, Shana found the Environmental Law Clinic invaluable in her career development and particularly valuable for her new position: "I learned a great deal from Professor Steinzor on how to support and communicate policy positions. Getting to develop policy in

practice through meeting with stakeholders who are often suspicious or even hostile to your efforts and working with state legislators of all political stripes was a fantastic experience." Shana is grateful to both Professor Steinzor and Professor Percival for continuing to provide such tremendous support and advice throughout her career as she moves into a clinical instructor role. After graduation, Shana clerked for the Honorable Lynn Battaglia on the Maryland Court of Appeals and then clerked for the Honorable Robert Doumar in the U.S. District Court for the Eastern District of Virginia. Shana then worked in the Norfolk office for McGuire Woods in their litigation division before moving into the policy realm as Policy Analyst and then Executive Director for the Center for Progressive Reform.

We look forward to the work Shana and her students will do for Virginia and the Chesapeake Bay community.

21ST ANNUAL ENVIRONMENTAL LAW WINE TASTING "WINE: NATURE'S THANKS FOR PRESERVING THE EARTH"

Enjoy fine wines and light refreshments with your fellow alumni, faculty, students and friends of the Environmental Law Program.

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ANDREW “DREW” BROUGHT ‘02 BECOMES PARTNER AT SPENCER FANE BRITT & BROWNE

Drew Brought recently was promoted to Partner at Spencer Fane Britt & Browne, LLP, a law firm with six offices in Missouri, Kansas, Nebraska and Colorado. Drew works out of their Kansas City office in their Environmental Practice Group.

Drew has a broad environmental practice, working with a variety of manufacturing and industrial companies, including aircraft, agricultural equipment, battery, chemical, petroleum, power generation, and telecommunications companies. Drew represents these companies regionally and nationwide on a range of matters that encompass permitting disputes, compliance and enforcement actions, environmental litigation, corporate acquisitions, and real estate transactions. Drew is national counsel for a client that has a portfolio of legacy manufacturing sites where cleanup and Superfund liability issues frequently arise. Drew also has extensive experience with civil and criminal enforcement matters associated with environmental laws as well as handling white collar corporate investigations including securities fraud and health care fraud matters.

Drew arrived at his practice in Kansas City, where EPA’s Region VII office is located, by a circuitous route that took him through Virginia, Maryland and Texas before landing in Kansas City where his wife, Kristen, was born and raised. Drew received his Bachelor’s degree magna cum laude in Environmental Resource Management in 1997 from Virginia Tech. His interest in environmental matters led him to the University of Maryland’s Environmental Law Program where he obtained his concentration in envi-



Andrew Brought '02

ronmental law. During law school, Drew clerked for EPA’s Office of Enforcement and Compliance Assurance and the U.S. Department of Justice’s Environment and Natural Resources Division in the Wildlife section. He graduated Order of the Coif, Order of the Barristers, and was a recipient of the Ward, Kershaw and Minton Clinical Advocacy Prize for his work with the law school’s Environmental Law Clinic. He found Maryland’s Environmental Law Program helpful in his professional development “because the program is rooted in practical problem-solving and incorporates a variety of viewpoints and disciplines in training environmental lawyers.” Further, Drew notes that “the Environmental Law Program has a tremendous reputation and

incredible networking and referral opportunities.” Drew said that he owes a good deal of gratitude to Professors Perivical, Steinzor, Solow, and Laura Mrozek, among others.

After law school, Drew clerked for the Honorable J. Frederick Sharer on the Maryland Court of Special Appeals before moving on to practice law at Baker Botts in their Houston office handling environmental compliance and litigation matters, primarily with the oil and gas industry. In 2006, Drew moved to Kansas City with his wife and joined Spencer Fane Britt & Browne. They have a 5-year old son named Alex and a 2-year old daughter named Rowan (and a 7-year old rescue dog named Brooks).

The Environmental Law Program extends its congratulations to Drew and his family for this well-deserved promotion.

Former Environmental Law Clinic Staff Attorney Christine “Tina” Meyers is now the Baltimore Harbor Waterkeeper at Blue Water Baltimore. Tina regularly patrols the Baltimore Harbor and its tributaries, assessing pollution sources and taking water samples. In addition to her field work, Tina also advocates on behalf of the public’s right to clean water through litigation, comments on proposed permits and regulations, and the legislative process. Tina is currently advocating for more stringent storm water, trash, and sewage permits and involved in an enforcement lawsuit against the former Bethlehem Steel/RG Steel plant regarding Baltimore Harbor hazardous waste contamination.



ENVIRONMENTAL LAW PROGRAM ADDS THREE NEW ADJUNCT PROFESSORS FOR 2012-13

The Environmental Law Program welcomes three new Adjunct Professors for the 2012-13 school year, two of which are returning alums from the Program: Aaron Marr Page, Joshua Goldberg '06, and Karyn Marsh '03. These professors bring a wealth of real-world experience in courses designed to develop important practice skills. Josh, Aaron, and Karyn continue the Environmental Law Program's tradition of blending academic rigor with practical problem-solving in training tomorrow's environmental law leaders.

During the Fall semester, **Aaron Marr Page** is teaching a seminar on international litigation of human rights and environmental issues. Since 2004, Aaron has worked with affected Ecuadorian communities in environmental litigation against Chevron Corporation – litigation that led to one of the largest awards ever in an environmental pollution case. Aaron is Managing Attorney at Forum Nobis PLLC, an international human rights and environmental litigation boutique based in Washington, D.C. He works directly with affected individuals and communities and with NGO partners, providing a range of legal counsel, consulting, and communications services to clients across the United States as well as in Chile, Ecuador, El Salvador, India, Indonesia, and other countries. Previously, Aaron practiced with Cleary Gottlieb Steen & Hamilton LLP, where he specialized in investment treaty arbitration and human rights litigation. He has also worked for the South African Human Rights Commission in Cape Town, South Africa, and has lectured on human rights and international law at the Universidad San Francisco de Quito and The American University in Cairo. Aaron received his law degree from the University of Michigan Law School, where, among other activities, he organized and hosted the University's seminal 2004 symposium on Indigenous Peoples in International Fora.

In the Spring semester, **Joshua Goldberg '06** will be co-teaching a seminar on energy development and finance with current Adjunct Professor Robert Means who teaches



Aaron Marr Page



Joshua Goldberg '06



Karyn B. Marsh '03

the law school's energy policy and climate change seminar. Josh Goldberg is one of the three founders of Astrum Solar, Inc., one of the nation's largest residential solar installers. Astrum was recently named the second-fastest growing private company in America on the 2012 Inc. 500 list. Josh currently serves as vice president of policy and business development. He also acts as Astrum's general counsel and manages its Solar Renewable Energy Credit trading business. Prior to co-founding Astrum Solar, Josh was an attorney at Ballard Spahr, LLP where he focused on mergers and acquisitions and venture capital transactions. He also co-founded a private equity fund dedicated to real estate investment and management, and has served as a policy advisor to federal and state elected officials. Josh was recently appointed by the Governor of Maryland to the Advisory Board of the Maryland Strategic Energy Investment Fund.

Also in the Spring semester, **Karyn B. Marsh '03** will be teaching an environmental law seminar focused on business transactions. This course will examine the application of federal environmental laws such as CERCLA and RCRA to a variety of business transactions, from asset and stock sales to credit transactions to SEC disclosures. The course will involve study of case law as applied to transactions coupled with practical exercises in negotiation and drafting environmental provisions in various transactional documents. Karyn is an attorney for Gibson, Dunn & Crutcher in Washington D.C. where she focuses her practice on negotiating and drafting environmental provisions for various types of agreements, credit arrangements, and leases, and advises corporate clients on regulatory compliance, including environmental SEC disclosures. Prior to law school, Karyn obtained a B.S. in Geosciences from Penn State University and an MBA from Villanova University. She utilized these degrees for consulting and engineering firms as a Geologist working on a number of environmental projects, including assessing, investigating and managing RCRA and CERCLA Superfund sites prior to her legal career.

FACULTY ACTIVITIES

ROBERT V. PERCIVAL

PUBLICATIONS

Environmental Law: Statutory and Case Supplement 2012-2013 (Aspen Law and Business 2012).

“CERCLA in a Global Context,” 41 *SOUTHWESTERN UNIV. L. REV.* 727 (2012) (with Katherine H. Cooper and Matthew Gravens).

“Setting the Bar for ‘Injury’ in Environmental Exposure Cases: How Low Can It Go?,” 42 *ENVIRONMENTAL LAW REPORTER* 10785 (Sept. 2012) (with John C. Cruden, Carla Burke & John Guttman).

“Can He Legally Do That? Does the President Have Directive Authority Over Agency Regulatory Decisions?” 37 *ADMIN. L. & REGULATORY L. NEWS* 4 (Spring 2012).

“International Responsibility and Liability for Environmental Harm,” in *Routledge Handbook of International Environmental Law 681* (Shawkat Alam, Jahid Hossain Bhuiyan, Tareq M.R. Chowdhury & Erika J Techera, eds. 2012).

PRESENTATIONS

“The Electronic Casebook and the Digital Classroom,” University of Houston School of Law, Houston, Texas, September 18, 2012.

“Of Coal, Climate and Carp: Reconsidering the Common Law of Interstate Nuisance,” Legal Theory Workshop, University of Maryland Francis King Carey School of Law, Baltimore, Maryland, September 6, 2012.

“Introduction to Environmental Law,” Nanjing Intermediate People’s Court Delegation, Maryland China Initiative, University of Maryland Francis King Carey School of Law, Baltimore, Maryland, September 4, 2012.

“A History of Air Pollution Control Efforts,” Shanghai Academy of Environmental Sciences, Shanghai, China, August 13, 2012.

“Overriding the Experts: Executive Rejection of Administrative Expertise,” American Bar Association 2012 Annual Meeting, Hyatt Regency Hotel, Chicago, Illinois, August 3, 2012.

“The Kiobel Reargument,” Hot Topics in Environmental Law, Vermont Law School, South Royalton, Vermont, July 31, 2012.

“Introduction to Environmental Law for Members of the Chinese Judiciary,” Training Program on Environmental Law and Environmental Adjudication, U.S.-China Partnership for Environmental Law, Vermont Law School, South Royalton, Vermont, July 24, 2012.

“Environmental Justice, Access to Information and Public Participation,” The World Bank, Washington, D.C., July 5, 2012.

“‘It Gets Late Early Here’: What We Learned at the Colloquium,” Closing Plenary Session of the Tenth Colloquium of the IUCN Academy of Environmental Law, University of Maryland Francis King Carey School of Law, Baltimore, Maryland, July 4, 2012.

Testimony before the Subcommittee on Technology, Information Policy, Intergovernmental Relations, and Procurement Reform of the House Committee on Oversight and Government Reform at a Hearing on “Mandate Madness: When Sue and Settle Just Isn’t Enough,” Rayburn House Office Building, Washington, D.C., June 28, 2012.

“Introduction to U.S. Environmental Law,” Presentation to Delegation of Judges from Jiangsu Province, Maryland China Initiative, Univ. of Maryland Francis King Carey School of Law, Baltimore, Maryland, June 27, 2012.

“Comparative Environmental Law: Past, Present and Future,” Rio+20 Colloquium on Environmental Law and Justice, Supreme Court of Rio de Janeiro, Rio de Janeiro, Brazil, June 16, 2012.

“Introduction to Global Environmental Law,” Workshop on Constitutional Environmental Rights, Widener University School of Law, Wilmington, Delaware, May 31, 2012.

“The Supreme Court and the U.S. Constitution,” Presentation to Visiting Delegation of Chinese Professionals, Peking University National School of Development Beijing International MBA Program/University of Maryland School of Public Policy Executive Masters of Public Management Program, University of Maryland School of Public Policy, College Park, Maryland, May 22, 2012.

“The Problem of Causation in Environmental Torts,” Program on “Setting the Bar for ‘Injury’ in Environmental Exposure Cases: How Low Can It Go?,” Environmental Law Institute, Washington, D.C., May 16, 2012.

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Faculty Activities

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"Teaching Environmental Law," Presentation to Visiting Delegation of Russian Law Professors, Open World Leadership Center Program, World Trade Center Institute, University of Maryland Francis King Carey School of Law, Baltimore, Maryland, May 8, 2012.

"Toward Transnational Norms of Corporate Accountability for Environmental Harm," Workshop on "Global Capital, Global Rights," Simon Fraser University, Vancouver, British Columbia, Canada, May 4, 2012.

"The Constitution at a Crossroads: How the Political Battle over U.S. Healthcare Reform May Affect the Rule of Law in America," Shandong University, Jinan, China, April 28, 2012.

"Principles of Environmental Law," Shandong University School of Law, Jinan, China, April 23-April 27, 2012.

"The Challenge of Global Climate Change," Critical Issues in Global Health, University of Maryland School of Nursing, Baltimore, Maryland, April 18, 2012.

"Strategies for Promoting Green Energy Technology," Green Technology Law & Policy Symposium, Georgetown University International Environmental Law Review, Georgetown University Law Center, Washington, D.C., April 13, 2012.

"Ocean Governance and the Law of the Sea," Environmental Studies Program, Goucher College, Baltimore, Maryland, April 3, 2012.

"Comparative Oil Spill Liability," Seminar on Comparative Environmental Challenges and Governance in China and the U.S., Johns Hopkins University and Nanjing University, Baltimore, Maryland (by videoconference with class in Nanjing, China), March 29, 2012.

"Twenty-Five Years of Environmental Law," 25th Annual Conference of the National Association of Environmental Law Societies, University of Michigan School of Law, Ann Arbor, Michigan, March 23, 2012.

"Oil Spill Liability After the BP Oil Spill," All China Environment Federation, Beijing, China, March 12, 2012.

SELECTED MEDIA APPEARANCES

Felicity Barringer, De-Hazing the Lazy Days of Summer, *The New York Times – Green: A Blog About Energy and the Environment*, July 12, 2012.

Karen Sloan, Health Care Reform Arguments Offer Real-World Lessons for Law Students, *National Law Journal*, March 26, 2012.

Constitutionality of Health Care Reform, Fox-5 News at 10, WTTG-TV, Washington, D.C., March 25, 2012 (live interview with Audrey Barnes).

Matthew Cowley and Daniel Gilbert, "Brazil Charges Chevron," *Wall Street Journal*, March 21, 2012

RENA I. STEINZOR

PUBLICATIONS

"The Case for Abolishing Centralized White House Regulatory Review," *MICH. J. OF ENVTL. & ADMIN. L.* (2012)

"Evaluating Rules and How We Measure Their Effects," *29 ENVTL. F.* 36 (2012) (with Michael Patoka)

"The Truth About Regulation," *5 HARV. L. & POL'Y REV.* 323 (2011)

"Too Big to Obey: Why BP Should Be Debarred," *36 WILLIAM & MARY ENVTL. L. & POL'Y REV.* 81(2011) (with Anne Havemann)

WHITE PAPERS

Agricultural Secrecy: Going Dark Down on the Farm: How Legalized Secrecy Gives Agribusiness a Federally Funded Free Ride (September 1, 2012) (with Yee Huang)

Fairness in the Bay: Environmental Justice and Nutrient Trading (August 2012) (with Robert R. M. Verchick, Nicholas W. Vidargas, & Yee Huang)

Manure in the Bay: A Report on Industrial Animal Agriculture in Maryland and Pennsylvania (June 2012) (with Yee Huang)

Water Quality Trading in the Chesapeake Bay (May 2012) (with Nicholas W. Vidargas, Shana Campbell Jones, & Yee Huang)

Opportunity Wasted: The Obama Administration's Failure to Adopt Needed Regulatory Safeguards in a Timely Way is Costing Lives and Money, CPR Issue Alert 1204 (March 2012) (with James Goodwin)

Protecting the Public from BPA: An Action Plan for Federal Agencies. CPR White Paper 1202 (January 2012) (with Noah Sachs, Thomas O. McGarity, Aimee Simpson and Matthew Shutz)

Back to Basics: An Agenda for the Maryland General Assembly to Protect the Environment (October 2011) (with Yee Huang)

Behind Closed Doors at the White House: How Politics Trumps Protection of Public Health, Worker Safety, and the Environment, CPR White Paper 1111 (November 2011) (with James Goodwin and Michael Patoka)

Back to Basics: An Agenda for the Maryland General Assembly to Protect the Environment, CPR White Paper 1110 (October 2011) (with Yee Huang)

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The New York Times, Powerful Shaper of U.S. Rules Quits, With Critics in Wake, August 3, 2012.

In These Times, When Safety Becomes Voluntary: Workplace Self-Policing Program Under Scrutiny, July 10, 2012.

The Charleston Gazette, Dust Reforms Stalled by Years of Inaction, July 7, 2012.

FairWarning, Obama Election-Year Pullbacks on Safety, Environment Dismay Advocates, May 22, 2012.

The Pump Handle, Largest Hispanic civil rights group provoked by Obama USDA's disregard for poultry plant workers, May 15, 2012.

Bureau of National Affairs, White House Continues Efforts to Review, Reduce Regulations, May 14, 2012.

Defense Environment Alert, New Obama Order Requires Agencies to Assess Rules' Cumulative Effects (May 14, 2012) quoting Rena Steinzor; also ran in Superfund Report Water Policy Report and Inside OSHA.

Regulatory Focus, a news blog of the Regulatory Affairs Professionals Society, New Executive Order Directs Agencies to Identify and Reduce 'Regulatory Burdens', May 10, 2012.

Bloomberg Businessweek, Obama Says Rule Rollbacks Will Save \$6 Billion in 5 Years, May 10, 2012.

GreenWire, Regulations: Air rule heads to scrapheap as Obama touts effort to eliminate 'unnecessary burdens', May 10, 2012.

The Hill's E2 Blog, Overnight Energy: Svinicki nomination to move forward in Senate, May 10, 2012. (quoting and linking to Rena Steinzor's CPRBlog)

GreenWire, Chesapeake Bay: Cap and trade for water

pollution – 'trendy, hip, glitzy' and controversial, May 8, 2012.

Washington Post, EPA e-mails on anti-pollution rules reveal agency's frustration with White House, May 3, 2012.

E&E News PM, EPA: Internal emails show agency officials venting over Obama's letter to Boehner, May 3, 2012.

The Hill's E2 Blog, Emails show EPA frustrations over White House letter to Boehner, May 3, 2012.

Washington Post, Food safety rules in limbo, May 2, 2012.

In These Times, A Tale of Two Rules: Washington Bureaucracy and the Politics of Workplace Safety, May 1, 2012.

The Pump Handle, The Pander Games: Obama Administration Sells Out Kids Doing Dangerous Agricultural Work, Breaks Pledge to Ensure Welfare of Youngest Workers, April 27, 2012. (cross-posting Rena Steinzor's CPRBlog)

The Pump Handle, USDA gives us 30 more days to tell it why 175 birds-per-minute line speeds will take a toll on poultry workers, April 26, 2012.

GreenWire, Regulations: Rulemaking 'bottleneck' is agency that enviros love to hate, April 10, 2012.

E&E Daily, Regulations: Advocacy groups claim OIRA guidance panders to GOP, March 21, 2012. (quoting Rena Steinzor and James Goodwin's CPRBlog)

Bloomberg, Obama Punt on Cameras Robs GOP of Issue, March 2, 2012. (quoting Rena Steinzor and linking to the 12 delayed rules White Paper, published April 2011)

Huffington Post, The Economist Recycles Old Right-Wing Ideas to Gut Public Protections (February 21, 2012) cross-posting the CPRBlog written by Rena Steinzor; also cross-posted on Grist (February 18, 2012) and quoted in Media Matters for America's The Economist Botches the Economics of Regulation By Recycling Discredited Proposals (February 24, 2012).

Huffington Post, Bureaucracy Bashing, Obama-Style, February 9, 2012.

iWatch News, 'Chemicals of concern' list stuck at OMB, February 9, 2012.

The New Republic, Meet the Obama Administration's Office for Antagonizing Environmental Activists (January

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Faculty Activities

cont'd from p. 17

3, 2012) quoting Rena Steinzor and Sidney Shapiro; also reposted on NPR (January 12, 2012).

Inside OSHA, As Key OSHA Rules Await Clearance, OIRA Faces Competing Calls For Reform, January 10, 2012.

The Hill's E2 Blog, Greens say 'good riddance' to Daley, January 9, 2012.

National Journal's Influence Alley, New Year's Moves, January 3, 2012.

E&E, Advocacy: Center for Progressive Reform hires new executive director, January 3, 2012.

The Hill's E2 Blog, Liberal reg reform group snags new director from Center from American Progress, January 3, 2012.

Inside EPA's Outlook 2012 (a special report on the environmental legislative, regulatory and litigation outlook for 2012), As EPA Rules Take Center Stage, OIRA Faces Competing Calls For Reform (January 3, 2012)

Risk Policy Report, As EPA Rules Take Center Stage, OIRA Faces Competing Calls for Reform (January 3, 2012) quoting Rena Steinzor; also appeared in Water Policy Report, Inside OSHA and Superfund Report.

Toronto Star, Best to cut emissions at local level, December 10, 2011.

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GreenWire, Gulf Spill: BP accuses Halliburton of destroying Deepwater Horizon evidence, December 6, 2011.

Democracy Now! Report: Obama Has Weakened More Lobbyist-Opposed Health, Public Safety Regulations than Bush, November 30, 2011).

True North, Obama's green fades to black, November 30, 2011.

Corporate Counsel, Too Many Lobbyists in White House Regulation Pipeline? November 29, 2011.

Treehugger, Obama administration Just as Bad on Environment as Bush, Says New Report, November 29, 2011.

Bloomberg News, Obama weakened regulations at greater rate than Bush, study says, November 29, 2011.

The Baltimore Sun, State trying to cope with backlog of pollution violation cases (November 29, 2011).

The Guardian of London's Environment Blog, Report highlights Obama's broken environmental promises, November 28, 2011.

Newsmax, Report: 'Raw' Politics Guides White House Meddling, November 28, 2011.

The Hill, Study shows more regulations changed under Obama than under President Bush, November 28, 2011.

The Nation, The GOP's Deregulation Obsession, October 31, 2011.

The Hill, Obama's push against regulations pleases no one, September 23, 2011.

GreenWire, EPA: Greens see politics trumping science as agency delays chemical assessment, September 16, 2011.

In These Times, In Anti-Government Politics, "Time-Out" on Regulation versus Shortened Lives, September 16, 2011.

E&E Daily, CHEMICALS: White House office a year past due in reviewing EPA proposal, September 13, 2011.

Huffington Post, Three-Quarters of Americans Say That Businesses Are Over-Regulated, September 12, 2011.

Law.com, Business Regulations Provide Key Context for Obama's Jobs Speech, September 8, 2011.

The Hill, White House could take bigger role in vetting costly regulations ahead of 2012, September 7, 2011.

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NPR: All Things Considered, Obama Office Alters More Federal Rules Than Bush, November 28, 2011.

YPR, The Profit Motive as a Renewable Natural Resource, October 5, 2011.

NPR: All Things Considered, In Jobs Debate, GOP Targets 'Regulatory Burdens', September 1, 2011.

Fairness and Accuracy in Reporting: CounterSpin, Faiza Patel on NYPD surveillance, Rena Steinzor on regulatory reforms, August 26, 2011. (syndicated on 130 stations)

NPR: The Diane Rehm Show, Manufacturing and Regulations, August 27, 2012.

PRESENTATIONS

Guest Speaker, "The Case Against White House Man-

agement of Science,” Johns Hopkins School of Public Health, May 7, 2012.

Guest Speaker, “The Age of Greed and the Sabotage of Regulation,” The Asymmetry of Administrative Law Symposium, Wake Forest University School of Law (March 30, 2012)

Panelist, “Compliance and Enforcement Issues,” The Clean Water Act at 40: The J.B. & Maurice C. Shapiro Environmental Law Symposium, The George Washington University Law School (March 22-23, 2012)

Guest Speaker, 2012 GlobalChem Conference, Risk Assessment and Regulation, Baltimore, MD (March 5-7, 2012)

JANE F. BARRETT

AWARDS

University of Maryland Environmental Law Clinic awarded the 2012 Award for Distinguished Achievement in Environmental Law and Policy from the ABA Section of Environment, Energy, and Resources Task Force on Policy & Coordination

2012 Martindale-Hubbell® Bar Register of Preeminent Women Lawyers

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The Republic, Poultry pollution trial begins in Maryland, groups say trial could set precedent (October 10, 2012)

Capital Gazette, Lawsuit could change farming nationally (September 30, 2012)

The Christian Science Monitor, First BP oil spill arrest: Why put the squeeze on a mid-level engineer? (April 24,

2012)

The Guardian, Former BP engineer charged with destroying evidence in Gulf oil spill (April 24, 2012)

The Baltimore Sun, October trial set in Shore pollution suit over chicken waste (April 18, 2012)

Huff Post Business, Dying for Work (March 12, 2012)

Red Maryland Blog Post, Federal Judge Rebukes Waterkeepers and UM Environmental Law Clinic (March 4, 2012)

The Daily Record, Suit against farm advances, but judge has a lesson for students, (March 4, 2012)

The Baltimore Sun, Motions denied in chicken litter suit brought by law school (March 2, 2012)

The Daily Record, Serving the Community by serving nonprofits (February 26, 2012)

The Baltimore Sun, Maryland environmental law clinic focuses on enforcement (November 24, 2011)

Corporate Crime Reporter Need for a Federal Workplace Homicide Law (November 14, 2011)

USA Today, EPA’s tests of air outside schools find problems (June 13, 2011)

iWatch News By The Center for Public Integrity, Unusual delay on sanctions follows a decade of toxic emissions in minority neighborhood (May 4, 2011)



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