



17th Annual  
Tulane Law School  
Summit on Environmental  
Law & Policy



# FROM LOCAL to GLOBAL

March 2-3, 2012



The Issues Connecting Us All  
[summit.law.tulane.edu](http://summit.law.tulane.edu)



**Special thanks to the members of the Tulane Environmental Law Society and the Loyola Law Society who made the 2012 Summit possible:**

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**Chris Dalbom**, *Speaker Chair*

**Shannon Derksen**, *Speaker Chair*

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The Tulane Environmental Law Society also gratefully acknowledges the assistance of the faculty and staff of Tulane Law School and the support of the New Orleans business and legal communities.

# FROM LOCAL TO GLOBAL

## Welcome to the 17th Annual Tulane Law School Summit on Environmental Law and Policy.

Environmental law is ever-evolving to create new protections and additional remedies for societies and the natural resources that sustain them.

Today, decisions impacting the environment cannot be viewed in isolation. In the recent past, science has contributed significantly to public understanding of human impacts on the natural world, impressing upon us the reality of an environmental butterfly effect whereby "the flap of a butterfly's wings in Brazil may set off a tornado in Texas." This year's theme, "From Local to Global: The Issues Connecting Us All" highlights the environmental challenges facing communities on local, national and international scales. The panels presented explore the law's role in managing environmental issues that transcend confinement to a single community or a single continent.





# 2012 SUMMIT PROGRAM

Friday 3-2-12

## Friday 8:00am

### PROFESSIONALISM & ETHICS

Weinmann Hall, Rm 151

The ethical and professional codes that bind attorneys are integral to the practice. Navigating and complying with these codes will bring challenges in the life of almost every lawyer. This panel will look at the duties attorneys must balance, including those to their clients and to the courts. It will also examine the obligations attendant in attorneys' professional relationships with one another.

**Dane Ciolino**, Alvin R. Christovich Distinguished Professor of Law, Loyola Law School, New Orleans, LA; **Alan Childress**, Conrad Meyer III Professor of Civil Procedure, Tulane University Law School, New Orleans, LA; **Katherine Maris Mattes**, Professor of the Practice and Interim Director, Criminal Litigation Clinic, Tulane University Law School, New Orleans, LA



## Friday 10:00am

### THE BP BLOWOUT AND THE PENDING PROSECUTION: WAS IT A CRIME?

Weinmann Hall, Rm 157

200 million gallons of oil, eleven rig workers dead: when is a disaster of this magnitude a criminal act, and who, at what corporate level, is responsible? Legal action in New Orleans will soon probe these questions. Our panelists, with much experience in environmental crimes, will provide their views on their answer and will address your questions as well.

**David Uhlmann**, former chief of environmental crimes, Department of Justice; **Shaun Clarke**, defense counsel for BP Officer in the Deepwater Horizon case



### THE SABINE RIVER CONTROVERSY: WHO CAN SELL OUR WATER?

Weinmann Hall, Rm 151

The Sabine River bordering West Louisiana and Eastern Texas is one of the most stressed ecosystems along the Gulf. Heavily industrialized at its lower end, dammed and diverted on its upper reaches, its waters are now proposed for sale to Texas, over the opposition of Native Americans and other local citizens. Panelists involved in the controversy present will present their diverse views.

**Paul Ringo**, Sabine Riverkeeper; **James Pratt**, Executive Director, Sabine River Authority; **Ryan Seidemann**, Louisiana Assistant Attorney General, Section Chief, Lands and Natural Resources



## Friday 11:30am

### HYDRO-FRACKING: A TALE OF TWO STATES

Weinmann Hall, Rm 151

The fracking of underground shales to produce natural gas has become the latest rage in America's quest for energy. The issue presents several unknowns, primarily involving water supply and potential contamination of aquifers we depend on for many uses, including drinking water systems. It has also moved into areas where landowners, uninformed of these risks, are now paying a price in pollution. Panelists hail from the state with the longest fracking history to date, Pennsylvania, and north Louisiana, where the practice has begun to boom.

**Elizabeth Nolan**, Bureau of Regulatory Counsel of the Pennsylvania Department of Environmental Protection; **Kassi Fitzgerald**, Stonewall Area Property Owner and Citizen Activist; **Kenneth Gelburd**, Federal Bar, Environment, Energy and Natural Resources Section, Pennsylvania, Dept. of Environmental Protection

# 2012 SUMMIT PROGRAM

Friday 3-2-12

## Friday 11:30am

### **A TALE OF TWO WOLVES: REINTRODUCTION, RECOVERY AND THE FUTURE OF AMERICA'S WILD SYMBOL**

Weinmann Hall, Rm TBA

The reintroduction of the endangered Gray Wolf has been one of the most contested running controversies in the American West. Local opposition continues to stall recovery of the Mexican Wolf even to minimum viable populations. Meanwhile, the Gray Wolf debate has moved from base recovery to management and the resumption of hunting, presenting a new focus of history, emotions, politics and law. Our panelists will present their storied experience with wolf recovery efforts.

**Dale Goble, Professor of Law, University of Idaho College of Law; Ed Bangs, former Fish and Wildlife Service Biologist; David White, Professor of Biology, Loyola University**

## Friday 1:00pm

### **LUNCH**

Weinmann Hall, Multi-Purpose Room



## Friday 2:00pm

### **OCEAN POLLUTION: WHAT CAN BE DONE AND BY WHOM?**

Weinmann Hall, Rm 151

Plastics, dumping and land-based pollution are some of the most unnecessary and difficult to control problems facing our oceans today. An environment largely beyond national borders, and well beyond the view of most people, even communicating the problem is a challenge; addressing it is yet another. Our panelists are actively engaged in these efforts, and will examine ways to regulate this international problem.

**Lisa Boyle, Attorney at Law, Legislative Policy Director, Plastic Pollution Coalition; Mary Beth Sutton, Executive Director, Caribbean Student Environmental Alliance; Dr. Thomas W. Sherry, Professor of Ecology and Evolutionary Biology, Tulane University**

### **WILL OIL AND GAS PAY? "LEGACY" LITIGATION TO RESTORE OIL AND GAS DAMAGE TO THE LAND**

Weinmann Hall, Rm 110

Over the past thirty years, lawsuits brought by private landowners have sought to recover damages for impacts to their properties and subsurface waters. Opposition to these suits resulted in legislation restricting the lawsuits and channeling their proceeds, but the actions continue, with significant site-specific impacts and impacts on industry practices as well. A panel of attorneys and scientists currently involved in these cases will present their views and answer related questions.

**Glad Jones, Attorney for Grand Bois Citizens' Committee, Jones, Swanson, Huddell, & Garrison, LLC; Sherwood Gagliano, Ph.D., President, Coastal Environments, Inc.; Loulan J. Pitre, Gordon Arata McCollam Duplantis & Eagan LLC.; Damon Kirin, Attorney, Diliberto & Kirin, LLC, Adjunct Professor, Tulane University Law School**

## Friday 3:30pm

### **IMPACTS OF THE BP BLOWOUT: THE UNKNOWN CONSEQUENCES AND LIABILITIES**

Weinmann Hall, Rm 151

One of the most difficult aspects of the BP disaster has been identifying and measuring impacts on the great range of Gulf Coast species, humans, and coastal towns that rely on coastal waters. What have we learned from studying the Exxon Valdez and what more can we expect to know in the future? Panelists will examine these problems with an eye towards future regulation and potential for liability and recovery.

**Andrew Whitehead, Ph.D., Assistant Professor, Department of Biological Sciences, LSU; Clint Guidry, President, Louisiana Shrimp Association; Patricia Williams, PhD, DABT, Associate Professor, Coordinator of Toxicology Research Laboratories, Pontchartrain Institute for Environmental Sciences, University of New Orleans; Damon Kirin, Attorney at Law, Diliberto & Kirin, LLC, Adjunct Professor, Tulane University Law School**

# 2012 SUMMIT PROGRAM Friday 3-2-12

## Friday 3:30pm

### **AN UNTENABLE RELATIONSHIP: COAL ASH AND COAL COMMUNITIES**

Weinmann Hall, Rm 110

Coal burned for electricity in the U.S. creates more than 100 million tons of coal ash a year. Much of this waste is precariously stored in waste ponds or landfills, with spills from a TVA impoundment in 2008 and recently another into Lake Michigan. Despite containing toxic levels of lead, mercury & arsenic, the federal government does not regulate coal ash disposal as a hazardous waste. Panelists will discuss the significance of this issue for the states, EPA and coal-fired power plants.

**Robin Greenwald, Weitz & Luxemborg, Plaintiffs' counsel for the community in the 2008 TVA spill; Lisa Evans, Senior Administrative Counsel, Earth Justice; Robert Verchick, Gauthier-St. Martin Eminent Scholar and Chair in Environmental Law, Loyola School of Law**

### **CURRENT TRENDS IN ANIMAL LAW: THE ENDANGERED SPECIES ACT AND GLOBAL CLIMATE CHANGE; AND FEDERAL BIG CAT REGULATION**

Weinmann Hall, Rm 202

Panelists will cover topics related to the use of the Endangered Species Act to address threats to species affected by climate change as well as the case for regulating captive big cats at the federal level.

**Erin Tobin, Staff Attorney for Earthjustice; Paul Todd, Program Manager for International Fund for Animal Welfare**

## Friday 5:00pm

### **PLENARY PANEL: STUMP THE CHUMPS!**

Weinmann Hall, Rm 110

Your opportunity to quiz all panelists on all topics, whether covered at the summit or not. This panel is always lively!



## Friday 6:30pm

### **RECEPTION**

Weinmann Hall, Multi-Purpose Room

## Friday 7:30pm



**"TOXIC SOUP" MOVIE SCREENING**  
presented by Loyola Environmental Law Society  
Weinmann Hall, Rm 110

Director Rory Delaney joins us to witness the politics of pollution as giant corporations manipulate the system to delay environmental reform, endangering the lives of people all over the world while increasing profits. "Toxic Soup" shares the stories of everyday folks fighting to keep their blood, water, and air safe from pollution. The documentary features cameos by Bill Clinton, Jim Carrey, Jenny McCarthy and Morgan Spurlock, among others. As seen on Free Speech TV and Explora TV.

Official Selection of the 2011 Culture Unplugged Film Festival and the 2010 Atlanta Film Festival, New Jersey Film Festival, Twin Cities Film Festival, Louisville International Festival of Film, KahBang Film Festival, American Conservation Film Festival and West Virginia Filmmakers Festival.



# 2012 SUMMIT PROGRAM

 Saturday 3-3-12

## Saturday 10:00am

### THE MASSEY COAL LITIGATION: COAL SLURRY CONTAMINATION IN RAWL

Weinmann Hall, Rm 151

The Upper Big Branch mine disaster claimed the lives of 29 miners and, in the end, humbled Massey Energy and its controversial CEO Don Blankenship. Daring to confront the company known in the coalfields for its "no-holds-barred" litigation tactics, Kevin Thompson and several other attorneys sued Massey for contaminating the well water of 700+ residents of a rural West Virginia community with billions of gallons of improperly disposed toxic coal slurry. After 7 years of litigation, the case was settled days before trial last summer, but only after a judge was recused and the case assigned by the WV Supreme Court to a Mass Litigation Panel.

**Kevin Thompson, Plaintiff's Attorney in Rawl case; Dr. Stephen King, Toxicologist, Manager of Toxicology, Inc.;**  
**Stephen Wussow, Senior Research Analyst, Thompson, Barney Law**

### TAKING DOWN THE CLAIBORNE ELEVATED EXPRESSWAY

Weinmann Hall, Rm 110

In the late '60s, the nation's efforts to connect the major cities of the country brought federally funded highways to and through New Orleans. At the time, the Chamber of Commerce proposed major expressways through the French Quarter and along Claiborne Avenue through Treme. Activists were able to kill the French Quarter highway, but the neighboring Treme district was less successful and an elevated highway sacrificed 70% of existing residents and businesses along its route. Today, with expensive renovations coming due for the expressway, the community movement to remove it altogether is gaining steam. Panelists include local advocates and historic preservation lawyers and will take a forward look at the potential of this movement.

**Vaughn Fauria, CEO, Newcorp; Bill Borah, Attorney at Law, President, SmartGrowth for Louisiana; John Tate, Professor, Tulane Architecture School**



## Saturday 11:30am

### PROJECT XL: SAVING OR SAVAGING NORTH AMERICA?

Weinmann Hall, Rm 110

The TransCanada pipeline proposal from Alberta to the gulf of Mexico is one of the hottest environmental and political issues in both countries. The landscape impacts in Canada are huge, as is the effect of tar sands excavation on native Athabasca people. Protests in the U.S. by environmentalists and the state of Nebraska have stalled the project for the moment, but the Congress has required the president to decide the matter within a few months, virtually the eve of this summit. Law makers have come down on both sides of this issue; panelists include participants in the issue from several points of view.

**Paul Elliot, Chief Lobbyist for Keystone XL Oil Sands Pipeline (invited); Kenny Bruno, US Coordinator of Tar Sands Campaign, Corporate Ethics International; Amy Stein, Professor of Law, Tulane Law School**

### WOMEN IN THE ENVIRONMENTAL MOVEMENT\*

Weinmann Hall, Rm 151

Women have played a unique lead role in the environmental movement. Scientists such as Rachel Carson pioneered the science and the communication of the environmental problem. Citizen housewives woke up to Love Canal, the Valley of the Drums and other issues, and woke up the nation in turn. Louisiana women in particular have played this lead role as scientists, mothers and community activists, always pushing the law to catch up. Panelists will discuss their own roles here, and their views on how Louisiana could be doing better.

**Peggy Frankland, Environmental Activist and Author "Do Not Tear Up My Earth: Documenting Women's voices in Louisiana's Grassroots Environmental Movement, 1970-1990.";** **Dr. Wilma Subra, President, Subra Company;** **Marylee M. Orr, Executive Director, Louisiana Environmental Action Network/Lower Mississippi Riverkeeper;** **Stephanie Anthony, Director of Louisiana Democracy Project; Lisa Jordan, Supervising Attorney, Tulane Environmental Law Clinic**

\* This panel is dedicated to the late Mildred Fossier, who was the first female director of a City of New Orleans governmental department, an outspoken defender of the Carrollton Oaks, a protector of the Mississippi River, and a leader in establishing the Bayou Sauvage National Wildlife Refuge.



# 2012 SUMMIT PROGRAM Saturday 3-3-12

## Saturday 1:00pm

### LUNCH

Weinmann Hall, Multi-Purpose Room

## Saturday 2:00pm

### BIG TUNA: CAN WE MANAGE OUR APPETITES?

Weinmann Hall, Rm 151

The Bluefin Tuna is the king swimmer of the seas, traveling at speeds up to 60 mph and breeding in every ocean. It is also the most sought after fish of the sea, bringing individuals prices of \$80,000 and more in foreign markets. The size of the catch has risen steadily over the years, raising questions not only of sustained yield but also sheer survival.



**Maurus F. Claverie, Jr. JD, Tulane Law Class of '61, AC TO US ICCAT Delegation, USF ICCAT Committee, LA Nature Conservancy Board; Joseph Powers, Professor of Oceanography and Coastal Sciences, LSU and International Commission on the Conservation of Atlantic Tuna; Lee Crockett, Director, Federal Fisheries Policy Pew Environment Group; Kimberly Davis, Deputy Director, Fisheries Program, World Wildlife Fund; Michael Pappas, Professor of Law, Forrester Fellow, Tulane University Law School**

### A NEW FORUM FOR ENVIRONMENTAL JUSTICE: THE INTER AMERICAN COMMISSION FOR HUMANRIGHTS, Weinmann Hall, Rm 110

The Inter-American Commission on Human Rights has begun to hear cases fusing human and environmental rights from citizens from across the Americas. Panelists representing both hemispheres include litigators from the Mossville, Louisiana "cancer alley" case as well as the Mandé Norte Colombian mining case.

**Nathalie Walker, Attorney for the Mossville Community, Advocates for Environmental Humans Rights; Alejandra Vicente, Attorney, Center for Justice and International Law; Carmen Gonzalez, Professor of Law, Seattle University School of Law**

### POST-KATRINA CONFLICT AND CHANGE: LSU/VA HOSPITALS, ECONOMIC PROGRESS OR CIVIC DISASTER Weinmann Hall, Rm 202

The decision on whether and how to rebuild Charity and the Veterans Affairs Hospitals in New Orleans post-Katrina raised many complex issues and challenges. Local experts and citizen advocates will examine failures in the public process, alternatives that were available, fiscal responsibility, the impacts to the environment, community, historic neighborhoods, social justice, and healthcare - and the lessons learned going forward.

**Sandra Stokes, Director at Large, Foundation for Historical Louisiana; Mary Howell, Plaintiffs' Civil Rights Attorney; Bill Borah, Land Use Attorney, President, SmartGrowth for Louisiana; Jacques Morial, Public Policy Specialist**

## Saturday 3:30pm

### ENVIRONMENTAL JUSTICE FROM ABROAD: FOREIGN CLAIMS IN U.S. COURTS

Weinmann Hall, Rm 110

In an increasingly global society, environmental litigation can spread into courts across national and international jurisdictions. Litigants in environmental cases are pushing the limits of the Alien Tort Claims Act, Forum Non-Conveniens Doctrine, discovery practices, efforts to enforce or block foreign judgments, and international tribunals. These efforts push the boundaries of, and may soon redefine, international judicial comity.

**Brent Walton, Attorney, Hagens, Berman, Sobol, Shapiro LLP, and Plaintiff's Counsel, Sarei v. Rio Tinto; Machel Hall, Attorney, Tulane University Law School**



# 2012 SUMMIT PROGRAM Saturday 3-3-12

## Saturday 3:30pm

### PANAMA CANAL EXPANSION: IMPACTS FOR THE REGION

Weinmann Hall, Rm 151

The enlargement of the Panama Canal will allow a new generation of larger ships to pass through. The impacts of this are significant and diverse – from the economic boon to Panama to the loss of habitat for the highly biodiverse region. Panelists will weigh the pros and cons and discuss those impacts.

**Dr. Len Bahr, Founding Editor, LACoastPost.com, Former Advisor to Louisiana Governor's Office; Michael Butterworth, Attorney at Law, Phelps Dunbar LLP; Paul Kemp, Vice President, Audubon Society**

### LAW AND THE ENVIRONMENTAL MOVEMENT IN CHINA

Weinmann Hall, Rm 202

In recent years, China has been working to develop, implement, and enforce a solid environmental law framework. Lawmakers, leaders and officials face great challenges in defining roles and responsibility and executing the laws in both the urban and rural areas of the country. Panelists will address the ongoing efforts in China as well as collaboration between the U.S. and China.

**Dr. Deng Haifeng, Assistant Professor and Secretary General of the Center for Environment, Natural Resources, and Energy Law, Tsinghua University, Beijing; Zachary Friedman, International Project Manager, Center for Climate Strategies**

## Saturday 5:00pm

### KEYNOTE ADDRESS PRESENTED BY CHARLES MANN

Weinmann Hall, Rm 110

A distinguished writer and journalist, Charles Mann's most recent book, *1493*, shows the "ecological convulsion" that took place after Columbus arrived in North America. It is a sequel to his pre-Columbian history, *1491*, which won the U.S. National Academy of Sciences' Keck Award for best book of the year. Mann has covered the intersection of science, technology, and commerce for national and international newspapers and magazines as a correspondent for *The Atlantic Monthly*, *Science*, *Wired*, *BioScience*, *The Boston Globe*, *Fortune*, *Geo* (Germany), *The New York Times*, *Panorama* (Italy), *Paris-Match* (France), *Quark* (Japan), *Smithsonian*, *Der Stern* (Germany), *Technology Review*, *Vanity Fair*, and *The Washington Post*. A three-time National Magazine Award finalist, he has received writing awards from the American Bar Association, the American Institute of Physics, the Alfred P. Sloan Foundation, the Margaret Sanger Foundation and the Lannan Foundation.



## Saturday 6:30pm

### CLOSING RECEPTION

Weinmann Hall, Multi-Purpose Room

## Sunday 8:30am

### FIELD TRIPS

#### OPTION A: TOUR OF THE TURTLE COVE WETLANDS with Professor Robert Moreau

Professor Moreau will guide a pontoon boat tour of the Turtle Cove Wetlands to observe wetland ecosystems and environmental issues confronting the Gulf.

#### OPTION B: TOUR OF THE LOWER NINTH WARD

Darryl Malek-Wiley of the Sierra Club will give a tour of green building projects and wetlands restoration projects currently being implemented in the Lower Ninth. Sierra Club recently recognized the efforts of the Lower Ninth Center for Sustainable Engagement & Development in securing a sustainable recovery of the neighborhood's cultural, civic and natural resources.







# 2012 SUMMIT SPONSORS

The Tulane Environmental Law Society gratefully acknowledges all of the generous sponsors of the **17th Annual Tulane Environmental Law Summit on Law and Policy**:



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