

A photograph of a swampy landscape. In the foreground, there is a body of water covered in a thick layer of green duckweed. Several large, fallen tree trunks and branches are scattered in the water. In the background, there are tall, thin trees, some of which are covered in Spanish moss. The overall scene is misty and has a muted, earthy color palette.

18TH ANNUAL
TULANE
SUMMIT ON
ENVIRONMENTAL
LAW & POLICY

FEBRUARY 22&23, 2013 - TULANE LAW SCHOOL - WEINMANN HALL - NEW ORLEANS, LOUISIANA

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18TH ANNUAL TULANE SUMMIT ON ENVIRONMENTAL LAW & POLICY

Dear all,

Welcome to Tulane's 18th Annual Summit on Environmental Law and Policy. The Summit is an opportunity for students, attorneys, academics, scientists, developers, government employees and others interested in the kaleidoscope of current environmental issues to come together and pool their experience and resources. We have tried our best to integrate differing points of view into the discussions and presentations detailed in this program. Several panels present controversies either currently in or heading toward litigation; others grapple with issues that escape easy answers and generate significant challenges to lawyers and policy-makers.

Among the issues treated you will find mountaintop mining in Appalachia, uranium extraction along the rim of the Grand Canyon, natural gas fracking, the effects of sea level rise on our home state, the emerging lessons of Hurricane Sandy, and the fate of the Mississippi Gopher Frog and the Louisiana Black Bear, among many others. Both Friday and Saturday are capped by evening keynote addresses—Friday, environmental leader Kieran Suckling and science writer Emma Marris will grapple with the role of nature in the “anthropocene” (the age of humans). Saturday, environmental entrepreneur, rock climbing pioneer, and founder of Patagonia Yvon Chouinard will discuss the roles of sustainability and environmental activism in a corporate setting.

We invite you to ask questions, learn from the diverse group convened for these panels, and join us for food, drink, and good conversation during the breaks. We are delighted to have you share these few days with us as we, together, investigate the issues ahead.

With thanks for your support,

Brett Korte, 2013 Summit Coordinator

Laura Cottingham, President, Energy and Environmental Law Society

FRIDAY, FEBRUARY 22ND

FRIDAY 8:00AM

ETHICS AND PROFESSIONALISM: RECENT DEVELOPMENTS

WEINMANN HALL, ROOM 257

SPONSORED BY: LAKE PONTCHARTRAIN BASIN FOUNDATION

The ethical and professional codes that bind attorneys are integral to the practice. Navigating and complying with them bring challenges in the life of almost every lawyer. This panel looks at new developments in the field. 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; William Ross, Attorney at Stanley Reuter, Ross, Thornton & Alford, LLC.

FRIDAY 10:00AM

BAYOU CORNE: THE MYSTERIOUS SINKHOLE

WEINMANN HALL, ROOM 110

What is the Bayou Corne Sinkhole? On May 31, 2012, Assumption Parish officials were notified of bubbling areas in the bayou. On August 3, a sinkhole developed overnight, accompanied by strong odors and the release of gases from underground. Mandatory evacuations of the residents in the community were ordered in response to the emergency. These residents are still unable to return home while the sinkhole continues to grow, currently 3 miles wide. Texas Brine Company, LLC is blamed by many officials for the collapse of caverns in the Napoleonville Salt Dome, creating the growing sinkhole.

Wilma Subra, President of Subra Company, Technical Advisor for Louisiana Environmental Action Network; Stephen Horton, University of Memphis, Center for Earthquake Research and Information; Daniel E. Becnel, Jr., Attorney at Becnel Law Firm, L.L.C..

FRIDAY 10:00AM

LOUISIANA, BLUE CARBON, AND CARBON MARKETS

WEINMANN HALL, ROOM 151

SPONSORED BY: TULANE UNIVERSITY GSSA

Wetland restoration is crucial for Louisiana's coastline, but funding for these projects have been limited. It has been difficult to find commercially viable incentives for wetland restoration—until now. The American Carbon Registry (ACR) recently approved a methodology that quantifies sequestered blue carbon, which is the carbon stored in coastal wetlands, seagrass, and mangroves through the natural process of photosynthesis. Our panelists will explore the pros and cons of the methodology used for wetland restoration, blue carbon projects, and their existing and future roles in both the voluntary market and the California Air Resources Board's emerging cap and trade program.

Sarah Mack, Founder and CEO of Tierra Resources, LLC; Brent Dorsey, Director of Corporate Environmental Programs, Entergy Services, Inc.; Eugene Turner, LSU Distinguished Research Master and Shell Endowed Chair in Oceanography/Wetlands; Marisa C. Escudero, Senior Research Fellow at Tulane Institute on Water Resources Law & Policy (Moderator).

FRIDAY 11:30AM

FRACKING: CAN THE STATES GET A HANDLE?

WEINMANN HALL, ROOM 110

SPONSORED BY: TULANE UNIVERSITY GSSA AND THE FEDERAL BAR ASSOCIATION

Panelists from New York, Louisiana and Pennsylvania compare their states' respective experiences with, and legal controls on, the recent boom in use of the "unconventional gas extraction method" hydraulic fracturing.

Katherine Nadeau, Environmental Advocates of New York; Richard Metcalf, Louisiana Mid-Continent Oil and Gas Association; Scott Perry, Pennsylvania Department of Environmental Protection; Kenneth Gelburd, Federal Bar Association Section on the Environment, Energy and Natural Resources (Moderator).

FRIDAY 11:30AM

IT AIN'T EASY BEING GREEN: SLAPP SUITS, STANDING, AND OTHER BARRIERS TO LITIGATION

WEINMANN HALL, ROOM 151

The barriers to successfully trying an environmental citizen suit are many, and rising. This panel will discuss the barriers, old and new, and share experiences and strategies.

Jim Hecker, Environmental Enforcement Project Director at Public Justice; Jay Tutchtou, Staff Attorney at WildEarth Guardians; Adam Babich, Director of the Tulane Environmental Law Clinic (Moderator).

FRIDAY 1:00PM

LUNCH: ENVIRONMENTAL & CIVIC EMPLOYMENT

WEINMANN HALL, MULTI-PURPOSE ROOM

Presented by the Tulane Law Career Development Office & the Tulane Office of Environmental Affairs.

FRIDAY 2:30PM

COAL TERMINALS

WEINMANN HALL, ROOM 110

SPONSORED BY: SIERRA CLUB

In Plaquemines Parish, tensions are high about the proposed coal export facility by RAM Terminals, LLC. South Louisiana already accounts for over a fifth of the nation's coal exports and is gearing up for the Panama Canal's expansion in 2014. However, coal export terminals pose significant human and environmental health risks. This panel will discuss the history of coal export terminals, the risks associated, and the tension between the RAM Terminal and coastal restoration efforts.

Brianna Fairbanks, Associate Attorney at Sierra Club; Pastor Joseph Brooks, Christian Ministers Missionary Baptist Association of Plaquemines; Jessica Yamall Loarie, Associate Attorney at Sierra Club (Moderator); Government Representative TBA.

FRIDAY 2:30PM

THE DUSKY GOPHER FROG

WEINMANN HALL, ROOM 257

The dusky gopher frog once ranged from Louisiana's lower coastal plain to the Mobile delta in Alabama. Despite the fact that it has not been seen in Louisiana since 1967, and landowners affected by the designation assert that the three habitat elements needed for it do not exist on their land, the U.S. Fish & Wildlife Service has designated over 1,500 acres of land in St. Tammany Parish as critical habitat for the federally endangered species. The panelists will discuss the designation and the implication of doing so on property rights.

Cynthia Sarthou, Executive Director at Gulf Restoration Network; Edward B. Poitevent, II, Manager and Member of P&F Lumber Company (2000), L.L.C.; Robert Wiygul, Attorney at Waltzer & Wiygul (Moderator).

FRIDAY, FEBRUARY 22ND

FRIDAY 2:30PM

PEBBLE MINE

WEINMANN HALL, ROOM 357

The Pebble Mine project in Southwestern Alaska is poised to become one of the major environmental policy debates in this decade. On one hand, Pebble is the largest known undeveloped copper ore body in the world; on the other, the pits and tailing ponds are to be located near the headwaters of the world's largest wild salmon run. Our panelists represent both sides of the issue and will discuss their perspectives on the benefits and risks involved in the proposed mining project.

John Shively, CEO at Pebble Limited Partnership; Nancy Wainwright of Trustees of Alaska; Luke Danielson, Law Offices of Luke J. Danielson, P.C. (Moderator).

FRIDAY 4:00PM

HURRICANE SANDY: AFTERMATH, CLIMATE CHANGE, AND ADAPTABILITY

WEINMANN HALL, ROOM 110

Hurricane Sandy was a wake-up call to the Atlantic Seaboard, similar to that of Katrina a few years before. Both New York and New Jersey have floated proposals for buyouts to reduce future losses. The question of adaptability has come of age.

Jeffrey Tittel, Director of the New Jersey Chapter of the Sierra Club; Edward Thomas, President of the Natural Hazard Mitigation Association; Rob Verchick, Professor of Law at Loyola University New Orleans and Adjunct Professor at the Tulane Disaster Resilience Leadership Academy; Karen C. Sokol, Assistant Professor of Law at Loyola University New Orleans. (Moderator).

FRIDAY 4:00PM

LIVING WITH WATER: COMPREHENSIVE WATER MANAGEMENT FOR GREATER NEW ORLEANS

WEINMANN HALL, ROOM 257

Living with water, as opposed to against, is a new concept for South Louisiana, but not for other parts of the world. Plans are forming that could help shape the future of New Orleans.

David Waggoner, Principal of Waggoner & Ball Architects; Marcia St. Martin, Executive Director of the Sewerage & Water Board of New Orleans; William Gilchrist, Director of Place Based Planning for the City of New Orleans; Jeff Thomas, Principal of Thomas Strategies, LLC (Moderator).

FRIDAY 5:30PM

KEYNOTE PLENARY: THE ANTHROPOCENE - THE AGE OF HUMANS

WEINMANN HALL, ROOM 110

The reach of humans over nature has become so dominant that we are now in "the Anthropocene." How to respond to this dominance is the issue and the subject of this discussion from two different points of view.

Emma Marris, author of *Rambunctious Garden*; Kieran Suckling, Executive Director of the Center for Biological Diversity

FRIDAY 7:00PM

RECEPTION

WEINMANN HALL, ROOM 151

SPONSORED BY: THE NATURE CONSERVANCY

SATURDAY, FEBRUARY 23RD

SATURDAY 10:00AM

WATER FOR SALE: AN ARTICLE OF COMMERCE?

WEINMANN HALL, ROOM 110

As pressures on water resources intensify, government regulation and interstate compacts are coming under more scrutiny. This panel features counsel for both sides in a current Supreme Court case disputing the Red River Compact (Tarrant Regional Water District v. Herrmann) and will discuss the challenges of allocating and commodifying our most basic natural resource.

Dean Couch, Former General Counsel to the Oklahoma Water Resources Board; Kevin Patrick, Water Law; Chris Dalbom, Senior Research Fellow at Tulane Institute on Water Resources Law & Policy (Moderator).

SATURDAY 10:00AM

THE LOUISIANA SCENIC RIVER SYSTEM: LITTLE KNOWN JEWELS IN THE CROWN

WEINMANN HALL, ROOM 251

The Louisiana Scenic Rivers Act established the unique Louisiana Natural and Scenic Rivers System. The scenic river system contains 63 rivers and 3,300 river miles. Each system river is unique, diverse and free flowing. The Act requires that the system rivers are Managed by the LDWF in accordance with the La Const. Art. IX, Section 1. The Act requires that each river "shall" be Managed to preserve its ecological, aesthetic, and recreational resources. The panel will offer a sampling of the scenic river system.

Byron Almquist, Owner, Canoe and Trail Adventures.; Keith Cascio, Scenic Rivers Coordinator, LDWF; Richard Exnicios, Attorney for the Delta Chapter of the Sierra Club; Matthew Allan, President of the Little Tchefuncte River Association; Barry Kohl, Ph.D., President of the Louisiana Audubon Council; Hugh Penn, Attorney for the Delta Chapter of the Sierra Club (Moderator).

SATURDAY 10:00AM

ENERGY EFFICIENCY: THE COMING TREND

WEINMANN HALL, ROOM 257

The Louisiana Public Service Commission recently approved the first step towards a statewide energy efficiency program, designed to lower consumption and save money for homeowners and businesses. The panel will discuss the implementation of this program, the benefits, and the limitations.

Keith Wood, Manager of Regulatory Affairs at Entergy Services, Inc.; Casey Roberts, Executive Director of the Alliance for Affordable Energy; Melanie Verzwylt, Attorney at the Louisiana Public Service Commission; Amy Stein, Professor at Tulane Law (Moderator).

SATURDAY, FEBRUARY 23RD

SATURDAY 11:30AM

MOUNTAINTOP MINING: WHAT ARE MOUNTAINS FOR?

WEINMANN HALL, ROOM 110

SPONSORED BY: TULANE UNIVERSITY GSSA

This panel will look at the Southern Appalachian coal mining practice commonly referred to as mountaintop removal coal mining. The process will be examined, and its costs and benefits, from differing points of view. Additionally, the legal issues surrounding mountain top removal mining, including those surrounding the Stream Buffer Zone Rule, will be considered.

Kevin Thompson, Attorney at Thompson Barney; Patrick McGinley, Professor at West Virginia University College of Law; Representative, Coal Industry Representative [TBA]; Jim Hecker, Environmental Enforcement Project Director at Public Justice; Amy Stein (Moderator).

SATURDAY 11:30AM

GENETICALLY MODIFIED ORGANISMS: COMING TO A STORE NEAR YOU

WEINMANN HALL, ROOM 251

Few topics divide people quite so strongly as does the topic of genetically engineered foods. Proponents laud their ability and their potential to improve shelf life, improve nutrition, increase pest and herbicide resistance, and produce useful by-products and biofuels, while critics claim that not enough research and regulation is done to ensure human health and to protect the environment from risks like loss of biodiversity and affecting of non-target organisms. Mandatory labeling laws have been proposed to allow the consumer to choose, including California's Proposition 37, which was recently defeated on a voter ballot.

Dave Murphy, CEO and Founder of Food Democracy Now!; Drew L. Kershen, Earl Sneed Centennial Professor of Law, University of Oklahoma College of Law; Miles Hogan, Environmental Law Fellow at U.C. Davis School of Law's California Environmental Law and Policy Center (Moderator).

SATURDAY 11:30AM

LESSONS OF THE BP DEEPWATER HORIZON: HAVE WE LEARNED ANYTHING, AND IS IT ENOUGH?

WEINMANN HALL, ROOM 257

SPONSORED BY: LOUISIANA SEA GRANT AND TULANE MARITIME LAW SOCIETY

This panel will discuss the lessons taught by the spill, whether these lessons have been learned and by whom, and the result of both on the future of environmental protection and energy development.

Robert Wiygul, Attorney at Waltzer & Wiygul; Eric N. Smith, Information Management Associate Director at the Tulane University Energy Institute; Bob Deans, Associate Director of Communications at the Natural Resources Defense Council; Mark Davis, Director of the Tulane Institute on Water Resources Law & Policy (Moderator).

SATURDAY 1:00PM

LUNCH: STUMP THE CHUMPS

WEINMANN HALL, ROOM 110

SPONSORED BY: GULF RESTORATION NETWORK



SATURDAY 2:00PM

URANIUM MINING AND THE GRAND CANYON: WHERE PUBLIC AND PRIVATE RIGHTS COLLIDE

WEINMANN HALL, ROOM 110

One of the most hotly contested disputes in mining today is the potential resumption of uranium mining in the Grand Canyon watershed just outside the National Park boundary. This panel will review the run-up to the Secretary of the Interior's recent decision to withdraw over 1 million acres from potential mining, and litigation regarding whether this withdrawal is lawful.

Roger Flynn, Director of the Western Mining Action Project and Adjunct Professor at the University of Colorado School of Law; Neil Levine, Staff Attorney at the Grand Canyon Trust; David DePippo, Attorney at Gallagher & Kennedy; Dave Gowdey, Director of the Office of International Students & Scholars at Tulane (Moderator).

SATURDAY 2:00PM

AN INTERNATIONAL LOOK AT INFORMAL HOUSING AND ITS EFFECT ON THE ENVIRONMENT

WEINMANN HALL, ROOM 251

SPONSORED BY: GEORGIA STATE UNIVERSITY

The speakers will address the sustainability in social and environmental terms of low-income housing, whether through formal projects, or informal settlements, looking at examples in Brazil, India, the U.S. and elsewhere. How do they affect sustainability, economics, and the environment in these countries? What might new legal solutions look like?

Edesio Fernandes, Coordinator of the International Research Group of Law and Urban Space; Casius Pealer, Principal at Oystertree Consulting, L3C, Adjunct Professor in Sustainable Real Estate Development at Tulane School of Architecture; Colin Crawford, Executive Director of Tulane's Payson Center for International Development (Moderator).

SATURDAY 2:00PM

SEA LEVEL RISE AND SOUTHEAST LOUISIANA: ARE WE NOW LIVING THE FUTURE?

WEINMANN HALL, ROOM 257

SPONSORED BY: AMERICA'S WETLAND FOUNDATION

It is now beyond denial: South Louisiana is sinking, rapidly, and the Gulf is rising. Now what?

Windell Curole, General Manager at South Lafourche Levee District; Tim Osborn, NOAA; Dr. Robert Muir-Wood, Risk Management Solutions Inc.; Mark Davis, Director of the Tulane Institute on Water Resources Law & Policy (Moderator).



SATURDAY 3:30PM

GREEN ECONOMICS, CONSUMERISM, AND CONSERVATION

WEINMANN HALL, ROOM 110

Expanding world population and its insatiable consumption are straining natural resources and the environment at large. This panel will discuss the global demand on natural resources, whether technology can offset the depletion of natural resources, and the role of markets and governments in avoiding disaster.

Jonathan Harris, Director of the Theory and Education Program of the Global Development and Environmental Institute at Tufts University; Daniel D'Amico, Assistant Professor of Economics; Harry Vorhoff, Tulane Law School, J.D. Candidate 2013 and Summit Speaker Chair (Moderator).

SATURDAY, FEBRUARY 23RD

SATURDAY 3:30PM

DEAD ZONE: DESERT IN THE GULF

WEINMANN HALL, ROOM 251

SPONSORED BY: TULANE UNIVERSITY GSSA

The Louisiana dead zone has become America's poster child for dying estuaries, the country's largest challenge in water pollution control. This panel will discuss pending lawsuits attempting to force the U.S. government to curb fertilizer run-off in farmland throughout the Mississippi River basin, and to require the EPA to set base guidelines for water quality and wastewater treatment. Other upriver mitigation efforts, such as wetland restoration, will also be examined. Panelists will also compare the Gulf Dead Zone with the Chesapeake Bay Dead Zone for a useful contrast.

Bruce Morrison and Brook Spear, Great Rivers Environmental Law Center; Matt Rota, Gulf Restoration Network; Brett Korte, Tulane Law School, J.D. Candidate 2014 and Summit Chair (Moderator).

SATURDAY 3:30PM

THE LOUISIANA BLACK BEAR: NO MORE PROTECTION NEEDED?

WEINMANN HALL, ROOM 257

The Louisiana black bear was first brought into the national spotlight by the well-publicized display of sportsmanship by Teddy Roosevelt. Currently listed as threatened under the Endangered Species Act, the Louisiana black bear is again making the news as some proclaim it has recovered sufficiently to be delisted, and even hunted. The panelists will discuss the bear's status, the importance of critical habitat, and their Endangered Species Act experiences.

Paul Davidson, Executive Director of the Black Bear Conservation Coalition; Jay Tutchton, Staff Attorney at WildEarth Guardians; Delcianna Winders, Counsel for People for the Ethical Treatment of Animals and Adjunct Lecturer in Law at Tulane University (Moderator).

SATURDAY 5:30PM

KEYNOTE ADDRESS PRESENTED BY YVON CHOUINARD: CORPORATE RESPONSIBILITY, PATAGONIA STYLE

WEINMANN HALL, ROOM 110

Mr. Chouinard is the founder of the outdoor clothing and gear company Patagonia. The company is committed to being an outstanding workplace and an important resource for environmental activism. The company commits a percentage of profits to environmental activism, and strives to use environmentally friendly fabrics such as organic cotton. The company's corporate responsibility and environmental initiatives put it on the forefront of the environmental movement. Mr. Chouinard has published three books, most recently *The Responsible Company: What We've Learned from Patagonia's First 40 Years*.

SATURDAY 7:00PM

RECEPTION

WEINMANN HALL, ROOM 151

SPONSORED BY: THE WINDSOR COURT HOTEL

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