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CLINIC WIN CAPS “ANOTHER GOOD YEAR”

“Judge Tells Corps to Halt Lock Plan”

New Orleans Times Picayune, Sept 10, 2011

On September 9 the Corps of Engineers' Industrial Canal lock replacement project for New Orleans – a \$1.3 billion (and growing) project in search of a purpose – fell for a second time to NEPA, the Holy Cross Neighborhood Association and the Tulane Environmental Law Clinic. Five years ago, Judge Fallon of the federal Eastern District Court rejected the Corps' EIS for its failure to evaluate impacts from disposal of contaminated dredged spoil, heavily laced with more than 80 years of industrial toxins. In 2009, the Corps responded with a supplemental EIS and a decision to resume construction of the project, which the Corps designed to accommodate deep draft shipping via the Mississippi River Gulf Outlet (MRGO). MRGO is the connecting canal largely responsible for introducing Hurricane Katrina into the eastern part of the City. Since Katrina, MRGO has been de-authorized and blocked by a dike at its mouth. The Corps' supplemental EIS failed to account for this critical fact. As Judge Fallon wrote this time:

“On its face this seems to be the proverbial bridge to nowhere, namely constructing a deep-draft lock which will never be used by deep-draft traffic.”



Whitney Paine (student attorney), Dr. Barry Kohl (expert witness) and Pam Dashiell (client) on Inner Harbor lawsuit

As Clinic Director Professor Adam Babich was quoted as saying in the above article:

“You kind of hope that in this budget environment, the Corps thinks twice about pitching this project again.”

Continued on pg 4

The Alumni: Special Lives

A law school program is, ultimately, as good as what its students go on to do with it. While alumni notes in this and past environmental newsletters map the range of these activities, it is time to give at least a few of them the recognition due. In this issue, 12 profiles, selected virtually at random, give a bit more insight into lives committed to a wide spectrum of environmental practice. There are hundreds more we lack space to recognize in this way, but whom we will continue to feature in future issues. Indeed Tulane has 2,100 alums of its environmental program out there right now, in the ether, moving the conversation forward. Our hats off to you. **See pages 6 to 9 and 12 to 14.**

TELS

FALL 2011 CALENDAR

Sunday, September 11

Canoe Trip, Pearl River Swamp, Mississippi

Monday, September 12

First meeting, 4-5 p.m., MPR Patio

Tuesday, September 13

First meeting Spring Environmental Conference Planning Committee

Saturday, September 17

Lake Pontchartrain Beach Sweep, TELS / PILF

Sunday, September 25

9th Annual Environmental Dessert Competition

Sunday, October 2

Fall Canoe Trip, Wolf River, Mississippi

Friday, October 21

Nuclear Plant Tour, Waterford Reactor, Luling, Louisiana

Sunday, October 30

Environmental Law Careers Panel

November

Last Meeting of semester / Speaker Event



TELS Officers 2011-2012

L – R Upper Row: Corey (Anna) Klemmer, Katie Cordes, Shannon Derksen, Molly Callanan, Ben Fuchs, David Hynes, *Lower row:* Jenny Netherton, Heather Allen, Emily Russell, James Hou.

Environmental Law Society

President: Emily Russell
Vice President: Corey Klemmer
Treasurer: David Hynes
Logistics Chair: Catherine Cordes
Summit Chair: James Hou
Summit Speaker Chairs: Adam Bergfelder, Chris Dalbom, Shannon Derksen

ENVIRONMENTAL SUMMIT, MARCH 2012

TELS is pleased to announce the 13th Annual Tulane Environmental Summit here, March 2-3 2012, the weekend following Mardi Gras. As is customary, it will feature concurrent, CLE-accredited panels on a wide range of subjects ranging from water wars between Louisiana and Texas to the Massey coal litigation, keynote speakers on domestic and oceans policy, and a full, five-session track on such international and comparative issues as Alien Tort Claims Act litigation, bio-prospecting (or bio-piracy?), and the latest on climate change. Not to mention the food, music, and (7th annual) environmental theatrical experience. Questions about registration and logistics can be addressed to 2L Summit Chair James Hou, jhou@tulane.edu.



Dr. Brent Blackwelder,
Keynote Speaker,
“Environmental Security,”
March 2011



Dr. Doug Meffert, Panelist
“Run-of-the-River Hydropower,”
March 2011

The Payson Center: New Moot Court, Brazil, and Panama Programs Off and Running

The law school's Payson Center for International Development took big steps this past year in Latin America, launching the first annual Inter-American Moot Court on Sustainable Development in Rio de Janeiro; a Summer Law and Development program also in Rio; and an Intersession course on Latin American Law in Panama. All are new and largely due to the leadership of Professor Colin Crawford, the newly-appointed Robert C. Cudd Professor of Environmental Law and Director of the Payson Center.

Moot Court:

In its inaugural year, this competition attracted 19 teams from four countries. Professor Crawford reports that his Rio de Janeiro-based collaborator, Dr. Rômulo Sampaio, "one day observed to me that moot courts are almost always conducted in English, and that this creates a comparative disadvantage for non-native speakers, even when they speak good English. He also pointed out that the moot court competitions never happen in South America. We decided to change that. And we thought this would be a great opportunity to increase Moot Court opportunities in Latin America, where the practice is still not highly developed."

They put together a consortium of sponsoring schools: Tulane as the U.S.-based, English language seat and the law school at the Fundação Getulio Vargas, a prominent research and teaching institution in Rio de Janeiro ("FGV Direito-Rio), as the South American Portuguese-language seat. The University of the Andes, in Bogotá, Colombia, stepped in as the institutional representative for Spanish-speaking South America, and the Rafael Landívar University, in Guatemala City, agreed to participate as the Spanish-speaking Central American Sponsor. "The idea

is to rotate the competition over time," Crawford says. The first and second years, the competitions are being held in Rio de Janeiro; it is expected that the 2013 competition will be held in Colombia.

The Moot Court opened with a one-day seminar on Energy, the Environment and Human Rights. Tulane's Günther Handl, Eberhard Deutsch Professor of Public International Law, gave the opening keynote address, speaking on "Business and Human Rights in The Context of Rio+20"

The Moot Court problem, developed by Tulane student representatives Tom Sharp (TLS '11) and Ian Furman (TLS '11), dealt with the proposed location of a hydro-electric plant in the Amazon Basin, with effects on indigenous and other local populations. The 19 teams wrote and argued in their language of choice, so the rounds had people arguing in English, Spanish and Portuguese. Simultaneous translation was provided courtesy of the U.S. Consulate and FGV Direito-Rio. At the end of the day, ("incredibly"), a Brazilian team (U. of São Paulo), a U.S. team (Georgia State), and two Spanish-speaking teams (U. de Rosario in Bogotá and U. Rafael Landívar) made it to the semi-finals and the two Spanish-speaking teams battled it out for first place in the final round, with the Colombian team emerging victorious.

Sharp, who graduated last May, reflects "this was a terrific way to conclude my studies at Tulane. We did something we know will grow and gain respect over time. It was a feeling of accomplishment – and we made new friends in the bargain."

Summer Program:

The law school's newest summer program took 26 second- and third-year students to Rio de Janeiro last summer. While Tulane sent the largest contingent, the majority came from other law



Payson Center in Rio, Summer 2011

schools across the U.S. As Crawford explains, "Rio is an especially interesting place to study sustainable development right now. The physical setting is spectacular and the natural resources – water, Atlantic Rainforest, petroleum – are abundant but very much under threat. With the Brazilian economy booming, this is even more true, add the upcoming World Cup in 2014, and Olympic Games scheduled for 2016, which are having transformative effects on the city, for good and for ill. There could hardly be a better moment to explore what we mean by sustainable development, and to try and understand how law can help realize or impede our conception of the term."

Professor Crawford added: "As we were planning the program, the BP spill disaster was unfolding in the Gulf; the Brazilian press hardly covered it, even though the country was in the midst of awarding contracts for sea-bed drilling off Rio's coast. Brazil's President at the time, Lula da Silva, when asked, assured his countrymen that 'this would never happen in Brazil. We would never be as irresponsible as the Americans.' A program like the Rio summer program gives students the opportunity to interrogate claims like that, and to do so in light of existing legal tools and protections."

Continued on pg 5

The Clinic continued from pg. 1

A Good Year

It is difficult to pin down what makes a good year at the Environmental Law Clinic. In many ways, they are all good years: each brings a new group of student-attorneys and a fresh jolt of energy and enthusiasm. We began this last academic year half-reeling from 2009-10's combination of the Deepwater Horizon disaster, a legislative attempt to destroy the clinic, and the loss of Pam Dashiell—a TELC client and Lower Ninth Ward activist who could keep a positive vibe going without a hint of denial, despite years of battling the odds. But we ended the year with student-attorney arguments the day before graduation in the Industrial Canal case—a case, by the way, that was dear to Pam Dashiell's heart. So we will celebrate our victories, mourn our losses, and continue to marvel at the steady stream of talented student-attorneys who—if only for a couple of semesters—help ordinary Louisiana residents struggle to preserve this state's unique legacy.

The 2010-11 academic year handed us a remarkable clinic—hard-working and committed. When I tried to thank two student attorneys for an effort and accumulation of hours worked that seemed above and beyond any reasonable expectation for a three-credit class, they corrected me: It was their case, and it was for them to thank me for helping. This kind of attitude makes great lawyers.

We also brought home some significant victories. In late August 2011, a federal court in Mississippi entered a consent judgment to resolve a Clean Water Act citizen suit about destruction of wetlands near Bay St. Louis, Mississippi. The defendant agreed to donate a portion of the disturbed property to a land trust which will preserve the wetlands at issue for the long term—shielding at least some of the property at issue from the risk of an Army Corps “after-the-fact” permit down the road. In another settlement, a Louisiana company agreed to stop all discharges of process wastewater to the Mississippi River, opting to transport the waste to an off-site treatment facility. And in a Clean Air Act settlement, an oil refinery agreed to monitor ambient air in a Chalmette, Louisiana neighborhood, in addition to taking steps to reduce flaring of sulfur dioxide and other gasses.

Of course, we had setbacks along the way. But even when our student attorneys do not prevail on a particular case, they provide a public service. The mere fact that our client base has a realistic prospect of receiving legal help is a game-changer. Ordinary people become much more difficult to ignore when they have access to the court system.



Environmental Law Clinic Students, 2011-2012

Recent Clinic Docket Highlights

WETLANDS DESTRUCTION CASE SETTLED: On August 23, 2011, the U.S. District Court for the Southern District of Mississippi entered a consent judgment resolving a Clean Water Act citizen suit over destruction of wetlands and unpermitted stormwater discharges near Bay St. Louis, Mississippi.

CLEAN WATER ACT ENFORCEMENT CASE SETTLED: On April 15, 2011, the U.S. District Court for the Eastern District of Louisiana entered a consent judgment resolving a Clean Water Act enforcement case for some 1,600 violations. The judgment prohibits Sun Drilling Products Corporation from discharging process wastewater, instead requiring disposal of this effluent at a permitted treatment facility, and imposes enhanced stormwater control. Sun Drilling also agreed to make a donation to Woodlands Conservancy in Plaquemines Parish for its coastal forest restoration project.

OIL REFINERY CASE SETTLED: On March 18, 2011, the U.S. District Court for the Eastern District of Louisiana a settlement approval in *U.S. v. Murphy Oil*. The resulting consent decree includes Murphy's commitment to construct and operate an ambient air monitoring station adjacent to the Meraux Refinery.

OIL AND GAS EXPLORATION AND PRODUCTION WASTE DISPOSAL WELL PERMIT VACATED: On September 9, 2010, a Louisiana district court vacated and remanded a Department of Natural Resources, Office of Conservation permit for a Class II (E&P Waste) injection disposal well in Gueydan, Louisiana because the agency failed to perform the constitutionally required environmental analysis.

EPA OBJECTS TO LANDFILL AIR PERMIT: On May 27, 2010, EPA granted in part a petition for an objection to an LDEQ Clean Air Act permit for the Woodside Landfill in Livingston Parish. EPA ordered LDEQ to explain “why it is not necessary to continuously monitor the composition of the gas entering the flare” to ensure that the flare meets Clean Air Act standards. If current monitoring provisions are not enough to ensure compliance, LDEQ “must add monitoring requirements”.

SLAPP SUIT DISMISSED: On May 20, 2010, a Louisiana district court dismissed a SLAPP suit (“Strategic Lawsuit Against Public Participation”) against a community group and its members who criticized Petroplex International's plan to build a petroleum storage facility in St. James Parish. Petroplex voluntarily dismissed its suit after TELC's clients moved to strike the action under Louisiana's anti-SLAPP law.

Payson Center continued from pg. 3

Marcus Gatto, a second-year Tulane student, took the course jointly taught by Dr. Sampaio of the Fundação Getulio Vargas Law School and Professor Crawford on the Brazilian view of sustainable development. “In mock round-table discussions among the Brazilian government, industry representatives, and NGO’s, we drew upon classwork to propose accords on issues of land and natural use, emissions reductions, and fostering cleaner energy to meet the growing domestic demands that have accompanied Brazil’s economic boom.” Marcus stayed on for the remainder of the summer, helping Dr. Sampaio prepare for the U.N. Conference on Sustainable Development to be held in Rio de Janeiro in June 2012. “On a typical day, I might participate in a conference call with partner organizations in India, China, Denmark, and the U.N., read and summarize articles in various languages, or research conflict of laws provisions in the Brazilian Civil Code. It was amazing.”

During the second half of the program, the students studied Law and Metropolitan Growth. They collaborated with a team of lawyers from one of Brazil’s leading transactional firms to study the many dimensions of one of the most exciting and controversial land use initiatives in Latin America today assisting one of Rio’s oldest favelas, as its slums are called, in the effort of the residents to receive titles to the land where they lived. The issue is controversial because current title owners exist and can be identified; current residents (or their forbearers) simply moved onto the land. Moreover, the favela is often located on some of the most valuable real estate in Rio de Janeiro.

The program also made a concerted effort to get students out into the city and its environs, to appreciate the richness of environmental and development issues around Rio de Janeiro, home to nearly 10 million people, who all live in a portion of the Atlantic Rainforest – today only 7% of its original size. Says Crawford,

“I made sure that students had the chance to get into the rainforest, to understand that part of one of the world’s most bio-diverse environments is literally in the middle of the city.

Intersession Course

In January 2012, 26 Tulane Law Students will take advantage of the new Winter Intersession to accompany Professor Crawford to Panama, for a field course on Latin American Environmental Law & Policy. “Panama City is a wonderful laboratory,” says Crawford, “not only because it has some of the world’s highest indices of biodiversity, but also because the pressures from the city’s explosive growth are so intense. Panama’s famous Canal, now being expanded with the construction of a third lock, has become a major business generator.” The students begin the two-credit course during this Fall term; January will involve them in a series of on-the-ground lectures and field trips exploring water, sanitation, development and green space issues, partnering with Panamanian students from local schools. Returning in the Spring, they will present research papers on their findings.

9th Annual Environmental Dessert Contest: Winning Entries



Eat the Boom



Pelican in Distress



Fish Kill



Mississippi Gopher Frog, Endangered

THE ALUMNI: SPECIAL LIVES

Mike Veron, J.D 1974

The Litigator

*Vernon, Bice, Palmer & Wilson
Lake Charles, LA*



Mike Veron

Mike Veron is an example of that rare breed – possibly an endangered species – the happy lawyer. He is happy not because he is self-satisfied, though his stunning success in the landmark oilfield contamination case of *Corbello v. Iowa Production Co.* (2002-0826 (La. 2/25/03); 850 So. 2d 686) would give him reason to be. Veron simply loves the law, loves a good fight, and has chosen a path that provides plenty of both.

Veron was not necessarily fated to become a potent bee in the oil industry's bonnet. A self-described "classic underachiever" before law school, Veron graduated from Tulane as a member of the *Tulane Law Review* and Order of the Coif and settled into a practice that included defending oil companies. By the time his cousin Billy Corbello asked him for help getting Exxon to clean up their family's contaminated farm, Veron had made a name for himself defending refineries from personal injury claims for over a decade.

It was not just family loyalty that made him take the case; he also recognized the case's potential both to change Louisiana environmental law and, if Exxon proved unwilling to settle, to provoke a good fight. Veron chronicles the details in his first non-fiction book, *SHELL GAME*, published in 2007 by Lyons Press to good reviews. Suffice it to say that he faced more than a few challenges and unexpected twists on his way to the Louisiana Supreme Court.

The result there, in the words of our

colleague Professor John Lovett, TLS '95, "shook the Louisiana legal community like few others in recent memory." John A. Lovett, *Doctrines of Waste in A Landscape of Waste*, 72 *Mo. L. Rev.* 1209, 1236 (2007). The court upheld a damage award in excess of \$30 million for damage to soil and groundwater from drilling and a processing facility. The court refused to limit the award based on the property's value – just over \$100,000 – noting that such a restriction would allow the oil companies to pollute freely, confident that they would never have to pay the full costs of cleanup.

Veron's success, which encompassed not only the fact and size of the award but also the court's recognition of his "tremendous effort, skill, and knowledge," was nonetheless a qualified one. The state legislature soon caught wind of the decision and, at the instigation of the oil and gas industry, has since passed several bills in recent years aimed at curbing

A self-described "classic underachiever" before law school, Veron graduated from Tulane as a member of the Tulane Law Review and Order of the Coif and settled into a practice that included defending oil companies.

lawsuits inspired by the Corbello precedent. Still, "legacy suits," so called because they address the legacy of industry contamination, continue. Where they do, expect to see Mike Veron. His continuing efforts in the courts and legislature are captured in an upcoming *Tulane Environmental Law Journal* article, see *infra*.

Mary Nagle, J.D. 2009

Lawyer-Playwright

Quinn Emanuel, New York, NY



Mary Nagle

I grew up listening to my grandmother tell the story of the Trail of Tears. Growing up in Southwest City, Missouri, she wanted to be anything but an Indian, but she was proud of her grandfather, John Ridge, who took the Cherokee Nation's case to the Supreme Court.

In 1832, with Georgia seizing Cherokee land (and life) at an alarming rate, Ridge—one of the first Indian attorneys in the country—petitioned the Court and obtained an unprecedented holding: an Indian nation was "a distinct community, occupying its own territory," obliging Georgia to respect its right to its lands. Following the decision, Ridge and other Cherokee leaders visited President Jackson to inquire whether he would enforce it. The President famously replied: "John Marshall has made his decision; let him enforce it." In 1838, he ordered the removal of the Cherokee to Oklahoma. More than 4,000 died.

A few years later, in college, I read about the work that the Tulane Environmental Law Clinic was doing for

This is a story that lawyers should know about...so I wrote a play about it.

communities who wanted just that; the right to exist on their own soil—free of toxic air and pollution – and I wanted to be part of that fight. I soared through law school, loving it, although environmental courses were the closest I came to studying Native Americans since



Jennifer Bear Eagle, Ogala Sioux Attorney, Omaha, Nebraska & Louis Headman, Southern Ponca Tribe Elder reading Nagle play.

some environment cases dealt with native rights to water, clean air and coastlines. While we studied *Brown v. Board* in Constitutional Law, there was no decision of what happened to the Indians.

After graduating from Tulane, I went on to clerk for the federal District Court of Nebraska—and fell in love with it too. People asked what I could possibly love about a state full of corn and lacking in tall glass buildings. What won me was the story of the trial of Chief Standing Bear.

In 1879, a full seventy-five years before *Brown v. Board*, a Ponca chief stood up in this same federal court and made an appeal for equality under the law. Chief Standing Bear extended his arm and said:

This hand is not the color of yours, but if I pierce it, I shall feel pain. If you pierce your hand, you also feel pain. The blood that will flow from mine will be of the same color as yours. I am a man. The same God made us both.

Standing Bear had filed a writ of habeas corpus, challenging his imprisonment for leaving the reservation. In response, the government argued in that the habeas statute only permitted “persons” to sue out the writ—and Standing Bear, an Indian, was not a person. On

May 12, 1879, Judge Dundy held that all Indians in the United States were persons under the law. The backstory captures the best of the human condition: the journalist who publicized the Chief’s plight, the Union Pacific attorney who represented him for free, and the United States General who openly questioned the morality of the federal government’s Indian removal policy. This is a story that lawyers should know about...so I decided to write a play about it.

On October 7 and 8, 2011, the Northern Ponca Tribe of Nebraska, Creighton University Law School, Metropolitan Community College, and the Great Plains Theatre Conference will present a two day festival in Washington D.C.—at the National Museum of the American Indian. During the festival, we will present a documentary produced by NET Television, *Chief Standing Bear’s Footsteps*; Joe Starita will read from his book, *Chief Standing Bear: I am a Man*; and we will produce my play, *Waaxe’s Law*—which I wrote on the story surrounding the trial and Judge Dundy’s ruling. I hope you can come.

Adam Baron, J.D. 2002

From Egrets to Enforcement

EPA Region X, Seattle, WA



Adam Baron

It began with a canoe trip down a Louisiana bayou. There was a lone egret fishing about 100 yards away. As we came near, it took flight a little further down stream. We paddled a little closer, and it took flight again, over and over. By the end of the trip that bird had become a member of my family. From there, it was a short step into environmental law.

I’ve been doing enforcement cases at Region 10 in Seattle now for almost a decade, a community that includes giant coastal cedars, orcas, and all types of salmon runs. I made a decision early on to get my hands dirty instead of working at headquarters. From leaking fuel tanks to hazardous waste so toxic and radioactive it boggles the mind, I’ve served as the on-the-ground eyes for EPA, recording my observations and working enforcement cases. My motivation is constant. If I miss the problem,

Happily, my job is not all conflict. I’ve been chosen as a member of the Region 10 dive team, which supports discharge compliance, sediment management, biological surveys and data collection up and down the coast.

it’s likely no one else will catch it. But the balance is also a constant. I’m the guy that looks the business manager/commanding officer/property owner in the eye, sees the picture of her kids on the desk and explains that she might have to pay a sizeable fine and clean-up bill. But I always wanted to be in the gristmill of environmental protection, where the tension among values, statutes and dollars is the norm.

Happily, my job is not all conflict. I’ve been chosen as a member of the Region 10 dive team, which supports discharge compliance, sediment management, biological surveys and data collection up and down the coast. Now my community includes eel grass, sea cucumbers, geoducks, brilliantly colored sun starfish, and globs of creosote oozing from the Puget Sound floor. I’m constantly impressed by how much more my teammates know. One day I hope to become equally as “salty”.

Janet Woodka, J.D. 1992

Our Woman in Washington

*Senior Advisor to the Administrator and
Director of Regional Operations,
U.S. Environmental Protection Agency,
Washington, D.C.*



Janet Woodka

I currently serve as a presidential appointee in the Obama Administration at the U.S. Environmental Protection Agency. “What does that mean you do?” Pretty much a little of everything. I trouble shoot problems during the development of policy or regulations – on any and all issues. On a given day I might be working on a Clean Air Act, Clean Water Act, or RCRA issue. It also means ensuring that all of the programs within EPA have been consulted, including 10 regions where a half of all EPA employees work, and with other federal agencies that have quite different programs and points of view. I have also advised the Administrator on the BP spill and the long-term restoration of the Gulf ecosystems.

Following graduation in 1992, I cut my lawyer teeth on criminal defense work, then a stint with the Department of Energy, and then landed at Van Ness Feldman on energy, environment, and natural resources issues where I worked on permitting natural gas pipelines, Liquefied Natural Gas facilities, and the utility sector generally. But in 2005, Hurricane Katrina struck the city of New Orleans and I could not sit still. So, in March of 2006, I became the Legislative Director for New Orleans’ own Senator Mary Landrieu. Here, I worked on bills funding the levee systems in

Following graduation in 1992, I cut my lawyer teeth on criminal defense work, then a stint with the Department of Energy.

Louisiana, assisting new and innovative schools, and oil and gas revenue sharing for the State.

I then was appointed by the President as Federal Coordinator for Gulf Coast Rebuilding.

One week later, the Macondo Well caught fire and sank in the Gulf of Mexico. Since I had been working with people on the Gulf Coast since Hurricanes Katrina and Rita, it was a question of being in the right place at the right time – a place where I could do the most good. Our work might involve solving a dispute with FEMA on funding for a police station, freeing up a HUD property to shelter the homeless, an interagency group on wetlands loss, or identifying incentives for entrepreneurs.

I have been very lucky to have had the opportunity to do my bit for the city that gave me my education. I would not be where I am without Tulane and its gifted faculty.



Eric Ames

Eric Ames, J.D. 1990

Adventures in Climate Change

*Senior Attorney, New Mexico Department of
Environmental Protection, Albuquerque*

For the record, I would like to thank Tulane for the inspiration, skill and confidence to become an advocate in the public interest. Although my Department’s attorneys are not assigned particular subject areas, I have been the lead attorney for climate change, air quality and surface water issues. Along the way I have picked up a masters degree in public health, and another in business administration, and I served as a trial attorney for the Western Environmental Law Center for several years.

I’ve handled many cases, but the most challenging was a recently concluded, and vigorously contested administrative hearing over a first-in-the-nation state Rule to Reduce Climate Change Pollutants From Multiple Sources. It took two full weeks of trial, with the entire political and industrial spectrum (except the Governor, since retired) lined up on the other side. It involved 27 witnesses, 13 of our own, including two Nobel laureates, a Scopes Monkey Trial-like atmosphere at times involving the science and existence of climate change itself.

The new program, scheduled to start in 2012, affects 63 industrial sectors including electricity generation and oil and gas development, the two largest contributors to climate change. Each will have to reduce its emissions by two percent a year, or acquire emission credits from other entities. Economic analyses show a modest net benefit to the state economy by reducing pollution

I have been the lead attorney for climate change, air quality and surface water issues. Along the way I have picked up a masters degree in public health, and another in business administration

and promoting green jobs.

If it is allowed to happen. The vote of the Environmental Improvement Board was four votes to three, and the first thing that Governor-Elect Martinez told the press when she heard news of its decision was that her first step in office would be to 'repeal cap and trade'. Environmental victories are rarely permanent. But this one was lots of fun. It will be the culmination of my career with the state.

Editor's note: Eric Ames is currently on leave from the Department; Governor Martinez has so far been unsuccessful in canceling New Mexico's rules on climate change.

Lisa Kaas Boyle, J.D. 1990

Protector of the Pacific

Plastic Pollution Coalition, Santa Monica, CA



Lisa Kaas Boyle

My name is Lisa Kaas Boyle, and I am an environmentalist. Of course, I could have developed other attributes while attending law school in a city with Hurricanes (the drink!) on every corner, but 21 years later I retain a fierce dedication to protecting our natural world, an appreciation of community, and a love of hot sauce and jazz.

When I left the law school in 1990, I wanted to join the Environmental Section of the Los Angeles District Attorney's Office. They weren't hiring, so I showed up to work for free until a position opened. I served as a Deputy District Attorney for 7 years. I learned how to make a case from beginning to end and how to communicate with a jury and the press.

I was then recruited as the Director of law and policy for a non-profit based in Santa Monica called Heal The Bay, <http://www.healthebay.org>, which awakened me to the serious plight of our oceans. Data collected by Heal The Bay showed that 80% of the beach trash is plastic, which carries off-shore as well. Through Captain Charles Moore, founder of Algalita Marine Research Foundation, <http://www.algalita.org/index.php>, the first to study the accumulation of trash in the Pacific gyres,

When I left the law school in 1990, I wanted to join the Environmental Section of the Los Angeles District Attorney's Office. They weren't hiring, so I showed up to work for free until a position opened.

I learned that our oceans have become the plastic dumping grounds for the planet, which is now rebounding into our food chain. Alarmed, I began to write about these issues for the Huffington Post.

In 2009, I co-founded the non-profit Plastic Pollution Coalition, <http://plasticpollutioncoalition.org/>. Our focus is to eliminate single-use and disposable plastic objects, the greatest contributor to plastic pollution, and to measurably reduce the global plastic footprint. We have built a social network of over 2 million people, a presence on all continents, and the support of political leaders, philanthropists, actors, musicians, writers and artists as well as progressive businesses and leading international NGOs. A highlight last year was our

production of a TEDx conference called "The Great Pacific Garbage Patch," <http://www.tedxgreatpacificgarbagepatch.com>, featuring such ocean-issue luminaries as Sylvia Earle, Charles Moore and Van Jones. I gave a talk about Global Policies to Reduce Plastic Pollution and how my career solving the plastic pollution problem began at Tulane Law School in the Environmental Law Clinic, <http://www.youtube.com/watch?v=auPKCJsTmUE>. Thank you, Tulane, for giving me the tools for a career I dearly love.

Jim Goodhart, LL.M. 1991

The Wildlife Defender

General Counsel, Arkansas Game and Fish Commission, Little Rock, AK



Jim Goodhart

After clerking for Nauman S. Scott in the Western District of Louisiana and several years in private practice, I became General Counsel to the Arkansas Game and Fish Commission in 1997; I have also been an Adjunct Professor in natural resources law with the University of Arkansas since 2000.

My case of the moment is a petition to the U.S. Supreme Court of a writ of certiorari to overturn the recent decision in *Arkansas Game & Fish Commission v. United States*, which raises an important question under the Takings Clause of the 5th Amendment to the U.S. Constitution: Are government actions that destroy property by intermittent flooding a compensable taking?

Down by the RIVER



Energy and Environmental LLMs on the Mississippi at Carrollton; Fikire ("Fook") Getachew, Ethiopia, and Professor Houck



Energy and Environmental LLMs on the Mississippi



Then, they were Coastal Law 3Ls on the Mississippi at Kennertown; now, they're practicing law: L-R, Rachael Matthews (Animal Welfare Institute, DC); Gillian Gurley (US Department of Labor, La); Endre Szalay (Environmental Protection Agency, Seattle); Allison Shipp (Kanner and Whiteley, NO); and Thomas Sharp (Federal Energy Regulatory Commission, DC).



Barge Art on the Mississippi at Huey Long Bridge, artist unknown



River Cleanup Day, Becky Fromer



My case of the moment is a petition to the U.S. Supreme Court of a writ of certiorari to overturn the recent decision in Arkansas Game & Fish Commission v. United States.

The Court of Federal Claims said “yes” and awarded a \$5.6 million judgment in our favor. A divided Federal Circuit panel said “no.” In August, the Circuit denied rehearing en banc by a 7-4 vote.

The case arises from Army Corps of Engineers decisions from 1993 to 2000 to deviate, over our repeated objections, from an operations plan for Clearwater Dam in southeast Missouri, below which sits the 24,000 acre Black River Wildlife Management Area. Under pressure from upstream farmers, the Corps prolonged dam releases into the refuge instead of typical river pulses that would top riparian lands and then quickly recede. The deviations kept large portions of the refuge forest inundated during the critical growing-season. After six years, the forest collapsed, losing 18 million board feet of timber and large swaths of habitat managed for wildlife.

The Circuit ruled against a taking because the Corps’ actions were not permanent or ‘inevitably recurring’. Without ‘inevitably recurring’ flooding, the majority stated there can be no taking claim. In effect, the ruling allows the government to take private property without just compensation so long as its actions can be deemed “temporary.” The lower court had found that the Corps’ deviations actually damaged large areas, and that the damage was foreseeable as the natural, direct, and probable result of the Corps’ actions. The Circuit did not dispute those findings. Its new per se rule potentially affects all taking claims against the United States, particularly from intentional, if temporary, flooding. For this reason, I am hopeful that the Supreme Court will take up the question.

Clay Garside, J.D. 2005

Taking Care of the Coast
Walter and Wiygul, New Orleans, LA



Clay Garside

I was born and raised in Mobile, Alabama, graduated magna cum laude from Tulane Law School, and went on to clerk for the Honorable Carl J. Barbier (USDC-EDLA) until 2007. I then joined Waltzer & Wiygul, LLP, where I now litigate an active docket of the firm’s commercial, maritime, environmental, regulatory, and public law cases. My senior partners have deep Tulane connections as well, Joel Waltzer having been one of the Environmental Law Clinic’s first Attorney Supervisors, and Robert Wiygul lecturing in several classes while with the Earth Justice Legal Defense Fund.

Our representation of environmental interests ranges widely from individual property owners in takings cases to indigenous tribes in South Terrebonne, whose ancestral lands are among the most quickly disappearing land masses on Earth. Recently, we represented the Sierra Club in obtaining a federal injunction to prevent the completion of a multibillion dollar coal-fired power plant in Arkansas.

With the onset of the oil spill, we have devoted much of our efforts to the response, reform, and restoration of our people and our coastlines. We represent a number of environmental non-profits who have challenged the lax governmental oversight of offshore drilling. We represent a large charitable trust and owner of nine miles

of the most polluted coastline in the spill. We represent first responders in contract claims under the Vessels of Opportunity Program and Indian tribes claiming loss of subsistence use of natural resources. We continue to organize, advise, and litigate for fairness and compliance from BP and its Gulf Coast Claims Facility for fishermen, oystermen, seafood docks and processors, property owners, and myriad others impacted by the spill.

With the onset of the oil spill, we have devoted much of our efforts to the response, reform, and restoration of our people and our coastlines.

**Elizabeth Teel
Galante,
J.D. 1991, LL.M 1999**
Green Buildings for NOLA
Director, Global Green, New Orleans, LA



Elizabeth Teel Galante

I am responsible for Global Green’s New Orleans Office and Green Building Resource Center. I supervise its LEED Platinum Holy Cross Project, and rebuilding initiatives including green affordable homes, schools, and neighborhoods. On the way here, I practiced criminal and environmental law in the city for nearly ten years.

Hurricane Katrina impressed me with growing threat of climate change

to at-risk communities, and I decided to pursue a different path. In 2006, I opened the New Orleans office and our work has expanded rapidly to a staff of nine and numerous Ameri-corps Vista volunteers:

- partnering in 2006 with the residents of the Lower Ninth Ward to construct models for the sustainable rebuilding of the city, opening the first LEED Platinum, Zero Electricity Visitors Center in the region in the spring of 2008, with more than 20,000 visitors;
- leveraging our philanthropic dollars and technical expertise to persuade the state Recovery School District to commit to high performance, LEED Silver schools for all New Orleans public school students;
- providing energy-efficient one-on-one assistance to New Orleans homeowners seeking to make smart investments in their homes;
- creating a green job training and apprenticeship program for best practices green construction certification and a pathway out of poverty for at-risk youth;
- starting a multi-year initiative to

I supervise its LEED Platinum Holy Cross Project, and rebuilding initiatives including green affordable homes, schools, and neighborhoods.

enable wetland owners to use emerging carbon offset markets to protect Louisiana coastal wetlands.

Also along the way I have been honored as an Aspen Institute Fellow in its Henry Crown Leadership Program, Chair of the Green Collaborative of New Orleans, and a 2011 Champion of Change by the White House. It has been a fast and challenging run, something new every day, and directed toward the common good. I feel as if the law school gave me the tools to discover what I wanted to do with my life, and then do it.

Adam Reeves, J.D. 1995

The Water Manager

Partner, Maynes, Bradford, Shipp & Sheftel, Durango, CO



Adam Reeves

I represent the Southern Ute Indian Tribe, Southwestern Water Conservation District and La Plata Water Conservancy District, among others, in the area of western water rights and related areas including the federal alphabet soup of the ESA, CWA, SDWA, NEPA, FLPMA, FRRRPA, NFMA, NHPA and their state analogs. Which in turn, wander into such diverse areas as oil and gas, alternative energy development (including hydro-power, algae biodiesel, windpower, and nuclear), real estate development and agriculture.

I'm currently working towards a cooperative, protected instream flow in the Pine River, (in lieu of a state mandate), and on the construction of Long Hollow Reservoir for delivery of Colorado's compact delivery obligation to New Mexico. The La Plata River Compact requires Colorado to deliver half the river's gaged flow to New Mexico. Historically, because of inefficient irrigation practices, all water rights in Colorado could be met and groundwater recharge to the river met the return flow obligation. Nowadays, higher irrigation efficiency means less groundwater recharge and New Mexico has been able to call out all water rights in Colorado. At the same time, because the river can't be run like a Swiss watch, Colorado often over-delivers due to diurnal fluctuations and storm events. The new reservoir will operate like a small Drop 2 structure to optimize deliveries to

I'm currently working towards a cooperative, protected instream flow in the Pine River, (in lieu of a state mandate), and on the construction of Long Hollow Reservoir.

New Mexico in compliance with the Compact. It will also operate under its own water rights during the non-compact period which involves recharging the groundwater system to encourage a more stable stream year round.

In the midst of this, I have an archaeologist involved in NHPA Section 106 compliance who is trying to convince me that he needs to document a site composed of "casual roadside historic trash" that will be impacted by a temporary access road off an existing highway, because the trash is likely to be more than 50 years old and the site needs to be evaluated for National Register eligibility. At times, you can not make this stuff up.

Kevin McDunn, J.D. 2010

Labwork to Crabwork

Attorney, Louisiana Oil Spill Coordinator, Baton Rouge, LA



Kevin McDunn

In Charleston, SC, I spent days with abraded hands and torn jeans, hauling horseshoe crabs across a warehouse. The crabs and I were at the Endosafe division of Charles River Laboratories, where their blood is processed into endotoxin for detection kits. While

On graduating, I started as a house attorney for the state Oil Spill Coordinator's Office ("LOSCO," as you say on conference calls, when they've lost you by the third word), and assigned to the natural resource damage assessment piece of the Deepwater Horizon oil spill.

cleaning out the warehouse one evening, I found a lone crab that had been forgotten under a sink. It was the end of the day; the fishermen who brought it were gone. It sat like a little rock in a puddle of water. I drove it out to the coast where, as the day ended, it crawled over the grass like a wind-up toy and slipped into the murk. Eventually I realized that I was more interested in the crabwork than the labwork, and came to learn environmental law at Tulane.

In law school, I learned about Louisiana wetlands in "boot camp" at the LUMCON research center, about environmental litigation with the Environmental Clinic, and about Louisiana water law with the Water Resources Institute. On graduating, I started as a house attorney for the state Oil Spill Coordinator's Office ("LOSCO," as you say on conference calls, when they've lost you by the third word), and assigned to the natural resource damage assessment piece of the Deepwater Horizon oil spill.

I expected a lot of research and writing. Instead, I dropped into a torrent of conference calls with agency and BP representatives I didn't know, who were discussing assessments I had not yet read, and debating studies for invertebrate species whose names I barely recognized. With long hours of imposed homework and patient question-answering by friendly colleagues, things fell into place.

Today, I'm the agency's legal representative in several of the technical working groups. I've also tried to provide a friendly face at public outreach meetings, although I'm still not sure if a

suit and a smile implies "friendly" when standing next to a picture of an oily pelican. I've participated in studies of everything from fiddler crabs to terrapins, benthic worms and Gulf sturgeon. Not long ago, I watched small birds skitter along a mudflat that bore a sheen of weathered oil; a scooped handful of the mud held tarballs and smelled like old tires. Our goal is to build a body of data that can portray the damage caused by the spill in a way that will guide restoration.

It is an intensely complex case, and easy to get lost in phone calls and digital documents. Still, I hang on to an image of that small crab slipping off into Charleston Harbor. When Deepwater Horizon restoration is done, I hope to see the creatures of the Gulf do the same.

Colin L. Black, J.D. 1998

Law & Order: Wildlife

Environmental Crimes Section,

U.S. Department of Justice Washington DC



Colin L. Black

I am a Trial Attorney with the Environmental Crimes Section, which takes me on criminal environmental cases around the country. My particular focus has been on wildlife crimes. Recently I have been reconnecting with New Orleans as a member of the federal criminal task force investigating the Deepwater Horizon oil spill of April 2010, for which wildlife impacts have been a major issue. Much has been written, and remains to be written, about the application of criminal law to such an event, and to corporations of this magnitude.

After graduating, I completed a clerkship with Judge Royce C. Lamberth of the United States District Court for the District of Columbia. The following year, I lived in San Juan, Puerto Rico, while clerking for the then-Chief Judge Juan R. Torruella of the United States Court of Appeals for the First Circuit. After one year in the litigation section of Gibson, Dunn & Crutcher in Washington, D.C., I moved in 2002 to The Hague, Netherlands, where I spent five years with the Office of the Prosecutor for the International Criminal Tribunal for the former Yugoslavia prosecuting war crimes and crimes against humanity committed during the Balkan armed conflicts of the 1990s. The enforcement of public law, particularly that involving human and environmental rights, has always been my bent.

When I returned to the United

States in 2007 to join the Environmental Crimes Section, I was delighted to combine my prosecutorial experience with the passion for the environment which I developed in law school. I live in D.C. these days with my wife, Alejandra Vicente, and our two daughters. Alejandra is a human rights litigator with the Center for Justice and International Law (CEJIL), whose recent cases include representation of the Sarayaku tribe of the Ecuadorian Amazon in its case before the Inter-American Court of Justice arising from the State of Ecuador's leasing of petroleum exploration rights on their ancestral land without prior consultation. In a way, we feel we are doing the same thing.

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Environmental Law Journal

The Environmental Law Journal and its 25 student members are now editing five articles for the Winter 2011 Issue, see brief descriptions below. We are also reviewing articles for the Summer 2011 issue (space remains available for new contributions), and planning a fall event with the Journal Advisory Board.

Volume XXV, Issue 1, Winter 2011:

Mike Veron, Veron, Bice, Palermo & Wilson, L.L.C. Article: *Oilfield Contamination Litigation in Louisiana: Property Rights on Trial*

Based on personal litigation experience, Mr. Veron addresses the opposition Louisiana landowners have faced from the courts and the legislature in suing oil companies for the contamination of their property (see related article on page six of this newsletter).

Jane Graham, Everglades Policy Associate, Audubon of Florida. Article: *Snakes on a Plain, or in a Wetland: Fighting Back Invasive Nonnative Animals. Proposing a Federal Comprehensive Invasive Nonnative Animal Species Statute*

Ms. Graham argues for the establishment of a comprehensive federal non-native animal law, crafting a framework and recommendations for a model statute.

Robert Blomquist, Professor of Law, Valparaiso University. Article: *The Logic and Limits of Environmental Criminal Law in the Global Setting: Brazil and the United States—Comparisons, Contrasts and Questions in Search of a Robust Theory*

Professor Blomquist contends that strict, but arguably unfair and counterproductive, systems of criminal environmental law exist in both the United States and Brazil, and raises questions of legal philosophy in search of a consistent and effective practice.

Nate Hausmann, J.D. 2011, Lewis & Clark Law School. Article: *Monsanto Co. v. Geertson Seed Farms: Breathing a Sigh of Equitable Relief*

Mr. Hausmann explores NEPA remedies following the recent SCOTUS decision in *Monsanto Co. v. Geertson Seed Farms*, and a proposed test to harmonize them.

Jason Rapp, Contract Attorney, Hudson Legal. Article: *Coal and Water: Reclaiming the Clean Water Act for Environmental Protection*

Mr. Rapp discusses Clean Water Act issues in mountaintop removal mining, with a particular focus on EPA's enhanced review in Appalachia and pending litigation.



Journal Officers, 2011-2012

Matt Cardosi, Wes Rosenfeld, Kirk Tracy, Andrew King, Jon Cardosi



Oil-slicked Pelican, Port Fourchan

Institute on Water Law and Policy – Calculating the BP Bill

Whenever an oil spill damages natural resources the law requires the polluter(s) to restore the health of those resources and to compensate the public for the loss of ecologic and public services. There is nothing novel about this, and there have certainly been enough spills in the Gulf of Mexico for public agencies and the oil industry to have experience with what is called a Natural Resource Damage Assessment (NRDA) under the Oil Pollution Act. That experience coming from smaller and more confined spills, however, was hardly preparation for the breadth and depth of the damage done by the BP spill. The assessment is further complicated by the fact that Gulf waters and coastal areas that bore the brunt of the spill were already in decline and the subject of extensive restoration planning. In short this would be an NRDA unlike any before.

From its founding, the Institute has recognized the need to integrate NRDA's into the larger programs aimed at saving the rapidly disappearing ecosystems of coastal Louisiana, a topic Institute Director Mark Davis has worked on and written and spoken about for nearly 20 years. Much of his practical experience flows from the still ongoing work to cleanup and restore Bayou Trepagnier, a stream upriver of New Orleans contaminated by decades of discharges from a Shell refining complex.

While NRDA is run from the inside by state and federal personnel, the Institute has hosted a series of public meetings for the trustee agencies, worked with the Environmental Law Institute to develop NRDA fact sheets and convene public information sessions in Mississippi and southeastern Louisiana, and coordinated presentations and question-and-answer sessions at Tulane by Secretary of the Interior Ken Salazar and Bureau of Ocean Energy, Regulation and Enforcement director Michael Bromwich. This said, the data collection has only begun and the end result will be years away.

The Faculty

RECENT PUBLICATIONS

Adam Babich

Articles:

Can Preemption Protect Public Participation?
Case Western Res. L. Rev., 2011

Protecting Public Participation,
(with Brandon Sousa, TLS '11)
Envtl. F., May/June, 2011.

Controversy, Conflicts, and Law School Clinics,
Clinical L. Rev., 2011

Colin Crawford

Book Chapters:

Greening New Orleans: Local Government Post-Katrina, in LEGAL STRATEGIES FOR GREENING LOCAL GOVERNMENT, Keith H. Hirokawa and Patricia Salkin, eds. (American Bar Association, forthcoming 2012), with Brandon David Sousa, TLS '11

Engaging Students in Unexpected Ways: Interdisciplinary, Community-Based, Global, and Activist Models, in TRANSCENDING BOUNDARIES AND SPACES IN LAW TEACHING: ESSAYS FROM THE VULNERABLE POPULATIONS, Economic Realities Teaching Conference (Carolina Academic Press, 2011)

JUSTICIA COLECTIVA, MEDIO AMBIENTE Y DEMOCRACIA PARTICIPATIVA. LA CORTE CONSTITUCIONAL Y LA LEY FORESTAL [Collective Justice, The Environment and Participatory Democracy: The Constitutional Court and The Forestry Law], introduction, *Social and Cultural Protection and Environmental Justice: Lessons of the Colombian Model* (Siglo del Hombre/Universidad de los Andes)(Bogotá, Colombia 2010)

DERECHO, DEMOCRACIA Y ECONOMÍA DE MERCADO [Law, Democracy and the Free Market] (with Daniel Bonilla Maldonado and Carmen Gonzalez, eds. and co-authors of introductory chapter, *El Neoliberalismo Neoclásico, El Libre Mercado y Sus Críticos*,(Universidad de los Andes)) (Bogotá, Colombia 2010)



Environmental Law Faculty, 2011-2012

L – R Top row: Michael Pappas, Adam Babich, Mark Davis, Ann Yoachim, Colin Crawford
Lower row: Corinne VanDalen, Oliver Houck, , Amy Stein, Gunther Handl
(absent: Elizabeth Calderon, Lisa Jordan)

Articles:

Environmental Benefits and the Notion of Positive Environmental Justice,
U. Pa. J. Int'l L. 2011

Wastewater Resources: Rethinking Centralized Wastewater Treatment Systems, Land Use Planning and Water Conservation, 42-4/43-1 Urb. Lawyer Fall 2010/ Winter 2011

The Challenges of Climate Change Regulation for Governments on the Political Left: A Comparison of Brazilian and United States Promises and Actions, (with Solange Teles da Silva), Pace Int'l L. Rev. Online Companion, Sept. 2010, available at <http://digitalcommons.pace.edu/pil-online>

Mark Davis

Articles:

A Defining Resource: Louisiana's Place in the Coming Water Economy, with James Wilkins, Loyola (New Orleans) Law Review. (publication pending 2011)

A New Horizon: The Legal and Policy Legacy of the BP Deepwater Horizon Spill, Journal of Energy, Climate, and the Environment, Washington and Lee, (publication pending 2011).

Book Chapter:

Coastal Restoration and Protection and the Future of New Orleans, Chapter 12, in RESILIENCE AND OPPORTUNITY: LESSONS FROM THE U.S. GULF AFTER KATRINA AND RITA, Amy Liu, Roland V. Anglin, Richard M. Mizelle, and Allison Plyer, Editors, Brookings Institution Press, Washington DC (2011).

Gunther Handl

Articles:

International Legal Implications and Responses to the Deepwater Horizon/Macondo Oil Spill, in *International Law and the Liability for Catastrophic Environmental Damage*, [2011] Proceedings, American Society of International Law (publication pending)

“Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area: The International Tribunal of the Law of the Sea’s Recent Contribution to International Environmental Law, 20 Review of European and International Environmental Law (publication pending 2011).

Oliver Houck

Books:

Prologue, *The Missing Constitution in PRINCIPLES OF CONSTITUTIONAL ENVIRONMENTAL LAW*, American Bar Association, 2011.

DOWN ON THE BATTURE, University of Mississippi Press, 2010.

Articles:

The Clean Water Act Returns (Again): TMDLs and The Chesapeake Bay Program, Environmental Law Reporter, February 2011.

Worst Case and the Deepwater Horizon Blowout, Tulane Environmental Law Review, Fall 2010, Environmental Law Reporter, November 2010.

Save Our Selves: The Case That Changed Louisiana, Louisiana Law Review (publication pending, 2012)

Rescuing Ophelia: Avoyelles Sportsmen's League and the Bottomland Hardwoods War, (publication pending)

Book Reviews:

The Ducktown Disaster, The Environmental Forum, November/December 2011.

The Quiet World: Saving Alaska's Wilderness Kingdom, 1879-1960, The Environmental Forum, July/August 2011.

The Big Burn, The Environmental Forum, February/March 2011.

Regulating From Nowhere, The Environmental Forum, November/December 2010.

Michael Pappas

Articles:

Unnatural Resource Law: Situating Desalination in Coastal Resource and Water Law Doctrines, Tul. L. Rev. (publication pending, 2011)

Amy Stein

Articles:

Federalism Alternatives for Renewable Energy Siting (publication pending)

The Tipping Point of Federalism (publication pending)

GREEN LAW SUMMERS:

Once again, dozens of Tulane students come back this fall from a wide variety of summer internships in environmental law. All of which enrich the classroom, and in turn, enhance their chances for employment in the field. Their work in corporate law, plaintiff firms, and government offices often touched on environmental issues, but many of them worked for organizations exclusively dedicated to environmental issues, including:

Laura Alexander, 2L: Texas Commission on Environmental Quality

Erinn E. Banks, 2L: Alliance For Affordable Energy

Rachel Bleshman, 2L: Gulf Restoration Network

Alaina Brandhurst, 2L: Louisiana Disaster Recovery Foundation

Christopher J. Dalbom, 3L: Environmental Office, City of New Orleans

Laura Lynn Gongaware, 2L: National Oceanic and Atmospheric Administration, Office of General Counsel

Lauren D. Hudson, 3L: Southern Environmental Law Center

David Hynes, 2L: Green Justice

Anna M. Karhu, 2L: Alliance For Affordable Energy

Richard L. Kilpatrick, 3L: One Earth Future Foundation

Alexis Kyman: The Hon. Judge Barbier, BP Litigation

Abigail E. Legge, 3L: Natural Resources Defense Council

Kristie Leslie: Lundy, Lundy, Soileau & South

Jeremy Liem, 3L: Orange County Coastkeeper

David Mata, 2L: Louisiana Disaster Recovery Foundation

Kara McQueen-Borden, 2L: Gulf Restoration Network

Nicole J. Mers, 2L: Alliance For Affordable Energy

Wesley F. Rosenfeld, 3L: Chesapeake Bay Foundation

Brian Schaps: F. Gerald Maples

Jared Sternberg: CEJUDHCAN

Kirk Tracy, 3L: Surfrider Foundation

Selected issues covered: "NPDES permitting for OCS oil and gas sector"; "class action against Chevron for toxic plume"; "industrial exposure claims including asbestos and herring loss"; the Chesapeake Bay TMDL, "indigenous community environmental rights"; "beach public access, and "database of hydraulic fracturing regulation"; and "BP-like spill repose in Aegean Sea".



Alumni Notes

All of our environmental alums have stories, and we will tell them more fully in later issues. Until then, these briefs which, inter alia, show a rising emphasis on energy law:

Justin Bloom, New York, NY [1996] living on his sailboat in the Hudson River, just moved into a new position as the Eastern Regional Director of Waterkeeper Alliance. He will be “responsible for developing and strengthening new Waterkeeper organizations, developing and supporting regional and national advocacy initiatives, and amplifying the voice of the movement in our efforts towards realizing the vision of drinkable, swimmable and fishable water for our communities [the U.S. east of the Rockies].”

Francisco Bustamante Quito, Ecuador [LL.M. 2008] is currently working at the Ministry of the Environment of Ecuador in a program called “Programa de Reparacion Ambiental y Social” in charge of public policy regarding the recovery of environmental damages, proposing legal reforms and legislation.

Diana Csank, Washington, D.C. [2010] is an advisor to the President’s Council on Environmental Quality’s Office of General Counsel. She cannot “imagine landing in a better place – I have terrific colleagues and endless compelling work to do.”

Thaddeus Culley, Oakland, CA [2010] is practicing energy law with Keyes & Fox LLP, working to remove market and regulatory barriers to distributed, renewable energy generation. The majority of his work is before the California Public Utilities Commission and related to implementation of the state’s renewable energy goals.

Carlos Gavilondo, Syracuse, NY [1993] stays busy with environmental law issues in the Northeast. While his primary work as a partner in a Syracuse firm involves state public utility regulation, he has recently been working

with a developer who is interested in co-locating a renewable biomass energy facility with a natural gas-fired electric generator. He has also been involved with relicensing efforts for a hydro-power project. Topping it off, he is an adjunct professor of land use law at the State University of New York College of Environmental Science and Forestry, where he is pursuing a Master’s degree in environmental policy. In his spare time, he volunteers on the board of a local land trust that has been successful in providing lasting protection for several working farms in the area, and that provides trails and other natural spaces for outdoor recreation.

Geoffrey Goldberg, New York, NY [1994] is the Chief Marketing Officer for law firm, Lowenstein Sandler. Three years ago, the firm’s pro bono efforts became focused as the Lowenstein Center for Public Interest. Among its projects, Geoffrey worked with Merck and New Jersey local organizations to establish a legal program for homeless veterans; as a Gulf War veteran this project is “near and dear to my heart.”

Juan Gonzalez-Santiago, Puerto Rico [LL.M. 1994] is in civil practice specializing in litigation, civil rights and appellate work.

Dana Hanaman, Coloma, WI [2000] made her national television debut as an interviewee on The Ed Show, speaking about “the assault on natural resources and overtaking of factory farms.” She recently moved back to her home state of Wisconsin to become involved with environmental issues facing the region, chief among them stopping new CAFOs.

Itzhak Kornfeld, Jerusalem, Israel [1990] was a visiting faculty member last year at Widener Law School where he taught various courses including international environmental law. He currently advises gas drilling companies in the U.S. on OSHA regulations, and was invited this summer to meet with members of Israel’s Parliament on the environmental consequences of drilling for oil and gas. Additionally, he was a panelist at Tel Aviv University Law School’s “Environmental Regulation of Oil & Gas Drilling in the Offshore of Israel” roundtable this summer, which tackled explosive environmental issues surrounding the recent discovery of 200 billion cubic feet of gas off of Israel’s coast, including the lack of such basic laws as NEPA in Israel. He also published an article entitled, “Of Dead Pelicans, Turtles, and Marshes: Natural Resources Damages in the Wake of the BP Deepwater Horizon Spill,” in the Boston College Environmental Affairs Law Review.

Jordan Lesser, Albany, NY [2009] has been working hard to keep hydro-fracking out of New York as Counsel for Assemblywoman Lifton. From urging state and federal officials to call for investigations on fracking, to involvement with floor debate in the New York State Assembly and drafting bills, to reviewing draft regulations from the NYDEC, he stays busy.

Lillian Mateo, Puerto Rico [LL.M. 1999] is practicing with Ferraiuol: LLC and teaching environmental law in San Juan.

Rachel Matthews, Washington, D.C. [2011] very recently began working for the Animal Welfare Institute, primarily on farm animal welfare law.



Photo by Tom Varisco ©

Kelly Mofield, Westchester County, NY [1994] after several years with the Environment and Natural Resources Division at USDOJ, has taken time out to raise her five children, all boys.

Stephanie Payne, Houston, TX [J.D. 1991, LL.M. 1993] has worked as in-house counsel for Air Liquide since 1998. She spends time in the company's over 300 worldwide facilities to understand how they operate. Stephanie points out that, "It's just like Professor Houck used to say when assigning us reading in the Federal Register: you'd better learn to read EPA's rules and quickly extract the salient points because one day you'll be notified at 8am that at 9am you have to give a report to the CEO." In addition to drafting environmental indemnities, she negotiates water or air permits, and interprets RCRA and TSCA requirements. Currently she is working on the Portland Harbor Superfund Site, "an 11-mile segment of river bed contaminated by over 100 years of industrial activity including wartime endeavors that supported WWII." She notes that understanding the natural resource damage process involves a great deal more of science, economics, and statistics than pure legal understanding. [ditto Kevin McDunn report, supra].

John Pint, Brussels, Belgium [2004] recently moved to an in-house position in the lighting division of Dutch firm, Royal Philips Electronics, merging his

science background and law training. His position involves leveraging Philips' solid-state lighting patent portfolio in luminaries and retrofit bulbs by signing up licensees.

Trilby Robinson-Dorn, Irvine, CA [1997] has accepted a teaching position at University California Irvine Law School.

David Roman-Vargas, San Juan, Puerto Rico [LL.M. 1994] has been appointed Special Aide to the Chancellor on Environment, Health, and Safety Matters, and has led his third "highly-successful" student field trip-cum-seminar in China this past summer.

Martin Scharrer, Munich, Germany [LL.M. 2009] works for an investment firm focusing on funding renewable energy projects primarily in Germany and Italy, which has invested 300 M euro so far in energy projects. Along with creating the due diligence, he negotiates project related contracts, financing and securities for the energy projects. His company originally focused on photovoltaic power plants but has expanded to wind, water and biomass projects.

Josh Schnell, Washington, D.C. [2003] is working for the USDA, where he spends most of his time defending and advising the Forest Service. He enjoys the work, "especially when it requires me to get out in the woods."

Jason Totoiu, North Palm Beach, FL [2004] in January published, "Quantifying, monitoring, and tracking "take" under the Endangered Species Act: the promise of a more informed approach to consultation," in Environmental Law. Among his current work at the Everglades Law Center, he is involved in a nuclear re-licensing case before the NRC.

Tulane Environmental Law News

© Tulane Environmental Law Society
6329 Freret Street
New Orleans, LA 70118

President
Emily Russell

Editors
Andrea Rush and Alexis Kyman

Faculty Advisor
Oliver Houck

The Tulane Environmental Law Society would like to thank everyone who contributed to this issue.



Tulane's Environmental Law Program

The Tulane Environmental Law Program is one of the largest and most diverse in the world. Each year, Tulane graduates more than forty Juris Doctor and Masters candidates with specialties in energy and environmental law. What distinguishes Tulane's program in addition to its Faculty is the strength of its Clinic, scholarship of its Journal, the projects of its Payson Center and Water Institute, the energy of its Environmental Law Society, and the momentum provided by an engaged group of JD, LLM and SJD students. These seven components of Tulane's program – in the extraordinary setting of post-Katrina New Orleans, the Lower Mississippi River and the Gulf Coast – provide a unique academic experience for those with an interest in environmental law and sustainable development policy. For more information, contact the Law School's admission office at admissions@law.tulane.edu
John Giffen Weinmann Hall, Tulane University, 6329 Freret Street, New Orleans, LA 70118, 504.865.5930, or its web site at www.law.tulane.edu.



LAW SCHOOL

Tulane Environmental Law News

6329 Freret Street

New Orleans, LA 70118-6231