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[P E R S P E C T I V E S]

AVOIDING DEFORESTATION— A CRITICAL PIECE OF THE CLIMATE EQUATION

David Freestone, Lobingier Visiting Professor of Comparative Law and Jurisprudence

In December 2007, in an historic decision, the parties to the 1992 UN Framework Convention on Climate Change (UNFCCC), meeting in Bali, Indonesia, decided to include the issue of avoided deforestation—or “reducing emissions from deforestation and forest degradation,” as it is known in UNFCCC *argot*—in the Bali Action Plan.



This Action Plan is the so-called “roadmap” for the forthcoming negotiations that will aim to develop by 2009 a legal instrument for the post-2012 period—necessary because the “commitment period” of the 1997 Kyoto Protocol expires in 2012. The Kyoto Protocol to the

UNFCCC requires its developed country parties to make reductions in their emissions of greenhouse gases by an average of about 5.2 percent from 1990 levels throughout its five-year commitment period of 2008 to 2012. The Bali “roadmap” is of particular importance in that the UNFCCC parties agree to

consider “measurable, reportable, and verifiable, nationally appropriate mitigation actions” for all parties (including developing country parties), although developed country parties also agree to consider “commitments...including quantified emission limitation and reduction objectives”.

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★ ★ ★

SPRING 2009

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[V I E W P O I N T]

AN INTERLINKED FUTURE

Environmental law, energy law, and land use law have long been thought of by many as different fields that—if one were to use a Venn diagram—might overlap, but only on the margins. If this were ever true, it certainly is no longer the case. Environmental law, energy law, land use law, and the new area of climate law are increasingly understood to be interdependent. Problem solving, whether the problem is air pollution, energy security, greenhouse gas reduction, or siting of new transmission lines, requires consideration of all of these areas of the law. In the Venn diagram today the circles would have significant overlap.

A major element of environmental law for the foreseeable future will involve energy and land

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For our present purposes, however, even more significant is the provision of the Action Plan that commits the parties to consider: “Policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests, and enhancement of forest carbon stocks in developing countries...”. This decision represents a major breakthrough in the UNFCCC negotiations. In addressing the issues of climate change, it is worth recalling that the text of the 1992 Framework Convention puts the important role of sinks (such as forests) in absorbing carbon on a par with the need for the reduction of greenhouse gas (GHG) emissions. For example, Article 4(1)(d) requires the parties to “address stabilization of climate by sources and use of sinks” and Article 3(2) requires that parties “should take precautionary measures...lack of scientific certainty should not be used as a reason for postponing such measures...which [should]...cover all relevant sources, sinks and reservoirs [of GHGs]”

Nevertheless, the issue of sinks was highly controversial in the negotiation of the Kyoto Protocol and thereafter in the protracted process leading to the development of the “guidelines, policies and rules” for the implementation of the Protocol contained in the now famous Marrakech Accords—agreed at the Seventh Session of the Conference of the parties to the UNFCCC (COP7) in Marrakech in November 2001. The Marrakech Accords set out the basic regulatory framework for the Protocol and its so-called



“flexibility mechanisms,” including the Clean Development Mechanism (CDM). Under the CDM, industrialized countries can invest in projects in developing countries that reduce emissions of GHGs, and then use the “certified” emission reductions that are produced by those projects to set off against their own reduction targets. Despite the fact that agriculture, forests, and other land use (AFOLU) account for about 20 percent of the total amount of carbon that exists on the planet, it was decided at Marrakech that only reforestation and afforestation projects would be eligible for consideration under the CDM—and indeed to date only one such project has been approved by the CDM Executive Board. In the same vein, the European Emissions Trading Scheme (ETS), which began operations among the EU countries in 2005, does not at present count sinks at all.

There are a number of reasons for this—some political, but

others methodological. As we move into the beginning of the Kyoto commitment period, however, and attention is focused on the post-2012 regime, it is important that sinks, and particularly forest sinks, are firmly back on the agenda. In 2005 at COP 11, Papua New Guinea and Costa Rica—with support from a number of important forested countries—first put forward a formal proposal for credits from avoided deforestation. This is a vitally important issue. The 2007 *Stern Review of the Economics of Climate Change*, commissioned by the then-U.K. Chancellor of the Exchequer Gordon Brown, identified avoided deforestation as the cheapest option to mitigate increases in emissions of greenhouse gases. It is not a free option—nor even is it particularly cheap. Sophisticated monitoring mechanisms—often involving satellite surveillance—need to be put into place and effective compensation systems devised to encourage governments and their nationals to stop cutting down

trees. In addition, the 2007 International Panel on Climate Change (IPCC) Fourth Assessment has shown us that the current situation and prognosis for dangerous climate change is already far worse than had previously been envisaged. Stern suggests that if serious action is not taken within the next 15 to 20 years, the costs of coping with climate change could be in excess of 20 percent of total global income annually. The World Bank has estimated total global income currently at some \$35 trillion per annum, rising by 2050 to perhaps \$350 trillion, when the global population is estimated to be some 9 billion, with major relocations of population in developing countries and a huge demand for new infrastructure and power sources. Twenty percent of \$350 trillion in 2050 is some \$70 trillion per annum. These are enormous sums of money that put the current need for serious investments in new technology and innovative approaches to tackling both

{ WHAT'S NEW }

NEW ENVIRONMENTAL COURSES

This spring, GW Law became one of the first law schools in the country to offer a climate change course. *International Law of Climate Change* taught by Professor David Freestone focuses on the legal regimes created by both the United Nations Framework Convention on Climate Change and its Kyoto Protocol. Particular emphasis is given to carbon finance and trading mechanisms created by Kyoto; the national and regional schemes that assist nations in their Kyoto obligations; legal challenges of forest carbon sequestration schemes; legal aspects of emerging U.S. state and voluntary carbon credit schemes; the current and possible future proposals for federal legislation; the structuring of carbon finance transactions and the legal issues involved; drafting carbon agreements; possible conflicts with World Trade Organization (WTO) law; and proposals for the successor regime to Kyoto post-2012.

In addition, *Environmental Lawyering*, taught by Dean Lee Paddock, is a new corequisite course for students who have outside placements with environmental nonprofits or government agencies. The course addresses lawyering skills in the context of environmental issues and provides students with insights into the practice of environmental law.

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mitigation and adaptation into proper perspective.

It is also clear, however, that it is unlikely that the public sector by itself will be able to mobilize the scale of resources necessary. The success of the emerging carbon market has shown how the private sector can respond. The World Bank annual *State and Trends of the Carbon Market* has shown a huge growth in carbon trading. In 2007 total trades topped \$67 billion. Although the market is dominated by the European Emissions Trading Scheme with some \$50 billion of trades, the Clean Development Mechanism, mobilizing resources for developing countries, reached nearly \$7.5 billion, with \$5.5 billion in secondary trading of CRS. The system is a long way from perfect but it does demonstrate vividly the scale of resources that can be mobilized, mostly from the private sector. By contrast the public sector response—the Global Environment Facility (which includes five other focal areas within its mandate as well as climate change)—mobilized only US\$3.2 billion in 2006 for a 4-year replenishment.

Forests are not a quick fix for these issues. There is no quick fix. This scale of challenge will require a wide range of different approaches and technologies. However, agriculture, forests and other land uses are an important part of the mix of the mitigation efforts that will be necessary to achieve the reduction in carbon emissions that we will need. Avoided deforestation, or “reduced emissions from deforestation and forest degradation” (REDD) as the Bali roadmap calls it, in particular carries with it benefits that are not simply carbon-centric. Loss of forests worldwide has put strains on the life styles of

indigenous peoples, the conservation of biological diversity, and a wide range of ecosystem services. In particular, loss of forests has also caused problems with water conservation and drainage, with air quality (through haze and dust), with erosion and loss of topsoil; has caused land slips, and siltation problems, which in turn affect still further the viability of other marginal lands.

In 2005, Dr. Charlotte Streck and I edited a volume based on a series of legal expert workshops convened by the World Bank. That volume was designed to share more widely the very considerable experience that the Bank and a wide range of partners had developed in relation to the legal aspects of carbon finance in the first few years of working on the pioneering Prototype Carbon Fund (PCF). Established by the Bank in 2000, well in advance of the coming into force of the Kyoto Protocol, with some \$180 million in contributions from public and private sector participants, the PCF had a strong “learning by doing” agenda. Many of its operations and the instruments that it developed were truly “first-of-a-kind,” and our 2005 volume aimed to make this considerable experience and expertise available to a wider audience. In the few years since then, the growth in the carbon market has been astonishing. From 2000 when the PCF was virtually all that was available, the market has grown to be worth \$10 billion in 2005 and more than \$67 billion in 2007. What is equally impressive, albeit understandable with such a high level of investment, is that in this relatively short time the carbon market and its participants have developed a very high degree of sophistication. Although issues

remain with the functioning of the Clean Development Mechanism relating *inter alia* to additionality, efficiency, and responsibility, the mechanism has mobilised significant resources for sustainable development and has also been responsible for the development of very real practical expertise in the fashioning of carbon projects. Important general methodological lessons have been learned in the process of presenting projects for review by project sponsors as well as by the Kyoto mechanisms. Considerable research and thought has already gone into trying to make forest projects meet CDM criteria and in pushing the envelope beyond the artificial straitjacket put

upon such projects by their restriction to reforestation and afforestation activities. As the UNFCCC parties move towards the 15th Meeting of the Conference of the parties (COP15) in Copenhagen in December 2009, the issue of avoided deforestation or REDD—the sector regarded as the “lowest cost option” by the *Stern Review*—must be on their agenda. Now that the Bali Action Plan has recognized the importance of reducing emissions from deforestation and forest degradation in developing countries, it is clear that any new post Kyoto regime must consider forests and land use much more centrally in its approach. ★

[PROFILES]

DAVID FREESTONE

Lobingier Visiting Professor of International and Comparative Law



DAVID FREESTONE

David Freestone joined the GW faculty in January 2009 as the Lobingier Visiting Professor

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ENVIRONMENTAL
PERSPECTIVES

Environmental Perspectives is published twice a year by the Environmental Law Program at The George Washington University Law School.

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of Comparative Law and Jurisprudence. He was born in Kent, England. His wife, Jenny, is a successful artist. They have two sons, Mark and Michael. Mark Freestone is a Cambridge graduate and career sociologist in the United Kingdom. Michael Freestone is a Trinity College (Dublin) graduate and an LL.M. student at GW. Michael's very positive experience at GW in part persuaded David to consider teaching at the Law School.

Freestone graduated from the University of Hull in 1969 and earned an LL.M. in 1970 from King's College, London, specializing in international law. He later returned to the University of Hull as a research associate, subsequently becoming a senior lecturer. While on leave, Freestone worked for the Commonwealth Secretariat as adviser to the Ministry of Foreign Affairs of Antigua and Barbuda in the Caribbean. He later became the first director of research of Hull Law School, a position he held until he moved to the World Bank in 1996. In 1999 he was awarded an LL.D. from the University of Hull on the basis of his extensive publications in the field of international law. At the World Bank, Freestone was head of the Environment and International Law Unit. He was promoted to deputy general counsel in 2004.

At GW Law, Freestone teaches *International Environmental Law* and GW's first course on climate law, which he developed. He expects to teach a maritime law seminar in the fall. Freestone has worked with several members of GW's international law faculty for many years including Professors Dinah Shelton, Sean Murphy, Steve Charnovitz, and Michael Mattheson and

Associate Dean for International and Comparative Legal Studies Susan Karamanian.

Freestone's work involves international environmental law, particularly climate change, and law of the sea, particularly marine environmental law. Freestone is the editor-in-chief and founder of *International Journal of Marine and Coastal Law*. He was also co-editor, with Dan Bodansky, of *International Environmental Law and Policy* for 10 years. In 2008, Freestone was asked by Martinus Nijhoff to be the general editor of the new book series, *Legal Aspects of Sustainable Development*, five books of which are already under contract, including a collection of his essays, *The World Bank and Sustainable Development*. He is also completing editing of a major work for Oxford University Press, *Legal Aspects of Carbon Trading: Kyoto, Bali and Beyond*. In addition, Freestone is a senior adviser to the International Union for Conservation of Nature and will continue working with that group on issues pertaining to high seas governance.

Freestone's appreciation of nature runs deep. "When I was a child in West Africa and I

remember walking in the rainforest with my father, listening to the birds and monkeys calling to each other, and I have always been interested in wildlife and wildlife conservation. As a young university teacher I was asked to develop and teach a short course of fisheries law—which has become an established interest—and in the 1980s became interested in marine pollution in fisheries management."

From 1986 to 1992, Freestone represented the government of Antigua and Barbuda in the negotiation of a Protocol on Specially Protected Areas and Wildlife to the Cartagena Convention on the Protection of the Marine Environment of the Wider Caribbean. He was the only delegate from all the national participants to have attended all the negotiation sessions, and he later wrote about the experience. He says this service is what convinced him of the importance of international environmental law. He became one of a small group of academics in the United Kingdom at that time interested in that field. In the 1990s, this group produced books on climate change, conservation

"WHEN I WAS A CHILD, MY FAMILY LIVED IN WEST AFRICA AND I HAVE ALWAYS BEEN INTERESTED IN WILDLIFE AND WILDLIFE CONSERVATION. AS A YOUNG UNIVERSITY TEACHER I WAS ASKED TO DEVELOP AND TEACH A SHORT COURSE OF FISHERIES LAW—WHICH HAS BECOME AN ESTABLISHED INTEREST—AND IN THE 1980S BECAME INTERESTED IN MARINE POLLUTION IN FISHERIES MANAGEMENT."

DAVID FREESTONE

of biological diversity, and the precautionary principle.

From those initial writings to his work with the World Bank to his teaching and writing efforts at GW Law, Freestone has been a pioneer in the international environmental law field and continues to make a significant impact in an area of increasing global importance. ★

DAVID GRINLINTON

David Grinlinton is an associate professor at the University of Auckland, New Zealand. He is visiting GW Law this spring and is working on a number of projects including a book on housing law, research on property rights and sustainability, and working with Dean Paddock on a solar energy law research project.

Grinlinton focuses on property rights, mining and energy law, and environmental law. He has published widely on these subjects, and has advised law firms, government and other agencies, and public interest groups in these matters.

Prior to entering academia, he practiced mainly in the areas of land and commercial property and oil and gas law. He undertook postgraduate studies in Australia and the United Kingdom, returning to teach at Auckland in 1989. He has also taught at various



DAVID GRINLINTON

times in Australia, Canada, Scotland, Denmark, and Japan.

Grinlinton is the general editor of the LexisNexis *Resource Management Bulletin* and a member of the editorial board of the *New Zealand Journal of Environmental Law*. He is a founding member of the New Zealand Centre for Environmental Law, which was established at the University of Auckland in 1996. He is also an officer in the New Zealand Naval Reserves, and served with the NZ Provincial Reconstruction Team in Bamiyan, Afghanistan, from 2006 to 2007.

Grinlinton holds B.A. and LL.B. degrees from the University of Auckland and an LL.M. from the University of Western Australia. He is a barrister and solicitor of the High Court of New Zealand. ★

MARGRET KIM (LL.M. '97)

Senior International Policy Advisor and China Program Director, California Air Resources Board; Secretary, California Environmental Protection Agency

Margret Kim was born in Korea and spent her childhood in Hong Kong, graduating from the Hong Kong International School in 1981. She now lives in Sacramento, California, with her husband, but continues to devote significant attention to developing environmental and climate laws and policies in China.

Kim graduated from the University of Southern California in 1985 with a B.A. in international relations and political science. She earned a J.D. in 1988 from Southwestern University. She later earned an LL.M. from GW, concentrating on international environmental law, a focus that was shaped by Professor Arnold Reitze and the environmental faculty. Kim

“...CLIMATE CHANGE IS THE SINGLE MOST IMPORTANT AND CHALLENGING ISSUE THAT MANKIND WILL HAVE TO FACE. WITH INCREASING RESOURCE SCARCITY AND ENERGY SECURITY, THIS ISSUE HAS BECOME CRITICAL IN THE NEW WORLD ORDER.”

MARGRET KIM

chose GW Law for several reasons, first among them the school's location, which provided her with access to several organizations involved in international matters.

Kim began her career serving as general counsel and executive vice president of government relations to multinational corporations and was a partner in a firm specializing in environmental law. She transitioned out of the private sector, moving to a position as deputy secretary and general counsel to the California Resources Agency, a cabinet-level agency with more than 30 departments and boards that are collectively responsible for California's natural resources, including land, water, wildlife, parks, energy, minerals, and historic and cultural sites. Kim was then appointed by California Gov. Gary Davis to serve as public adviser to the California Energy Commission.

Her current position is senior international climate policy advisor and China program director to the chair of California Air Resources Board and secretary of California Environmental Protection Agency. She specializes in the development of California's carbon markets with a focus on engaging developing countries like China. “California's Global Warming Solutions Act may be the first state law

forcing us to think globally while acting locally,” Kim says.

Kim's ongoing work with China and Hong Kong aim to promote the rule of law and sustainable development practices. She lectures and holds workshops in collaboration with China's State environmental agency, provincial environmental protection bureaus, and universities to help promote participation in environmental decisionmaking. She is also an advisory board member of the Center for Environmental Management and Policy established by Nanjing University and the Jiangsu Environmental Protection Department. Kim was a Fulbright senior specialist at Beijing University School of Law, a visiting fellow scholar at Tsinghua University School of Public Policy and Management, and a visiting professor at Hebei University of Science and Technology.

In the United States, Kim serves as chair of the International Energy Resources Transaction Committee and Board of Governors of the American Bar Association's Section on Environment, Energy and Natural Resources. She is a member of the Commission on Environmental Law of IUCN, a member of ELI, the Energy Bar Association, and International Bar Association. She says she is interested in climate change law

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“Because climate change is the single most important and challenging issue that mankind will have to face. With increasing resource scarcity and energy security, this issue has become critical in the new world order.”

Kim is the co-founder of the EcoLinx Foundation, a California based nonprofit that assists China in transitioning into a more climate friendly future via sustainable energy methods. China is now the world’s largest emitter of CO₂. The foundation uses various approaches such as encouraging the government and people to invest in renewable and energy efficient methods, clean energy technology development, and fostering environmental education, to achieve its goals. ★



GATHA MANNS

determine the future of our planet. Education is the first step towards understanding how best to make, and keep, our planet clean for future generations.”

During the fall of 2008, Manns interned at EPA through the GW Graduate Placement program where she was assigned to the Air, Mobile Sources Division of the Office of Enforcement and Compliance Assurance. In this position, Manns drafted various documents for EPA officials, including Notices of Violation and letters responsive to U.S. Customs and Border Protection matters. Her last project with the EPA was a larger scale project that involved determining the Clean Air Act pollution control standards for non-fleet motor vehicles converted to clean fuel vehicles. Manns plans to stay in

GATHA MANNS

LL.M. student

Gatha Manns is pursuing an LL.M. in environmental law at GW as a continuation of her interest in environmental issues. “As human beings, we are responsible for the well-being of the plants and animals on our great planet Earth. Studying environmental law helps us better understand our responsibility and role as caretakers,” she says. “It is up to all of us to

“AS HUMAN BEINGS, WE ARE RESPONSIBLE FOR THE WELL-BEING OF THE PLANTS AND ANIMALS ON OUR GREAT PLANET EARTH. STUDYING ENVIRONMENTAL LAW HELPS US BETTER UNDERSTAND OUR RESPONSIBILITY AND ROLE AS CARETAKERS.”

GATHA MANNS

the D.C. area after graduation, if her job permits. She would like to pursue additional classes at GW, possibly in international law.

Manns is originally from Texas. She played basketball for and earned undergraduate and J.D. degrees from Baylor University. She joined the Navy’s Judge Advocate General’s Corps during her second year in law school. She has served the United States for more than 14 years, undertaking numerous assignments in areas including Rhode Island, Connecticut, California, Naples, Italy, Washington, D.C., and Manama, Kingdom of Bahrain.

She is continuing her service-while pursuing her LL.M. degree. She describes her GW experience, thus far, as having been “excellent.” “GW has a comprehensive Environmental Law program with superb, dedicated, approachable faculty members.” ★

REBEKAH REYNOLDS, J.D. '07

Rebekah Reynolds is an enforcement attorney at the EPA. Reynolds graduated in 2003 from the University of California, San Diego, with a double majoring in environmental systems and Latin American studies. She studied for one semester at Universidad de Sevilla. Reynolds took a year off before law school, teaching English in a rural community in the central highlands of Ecuador for part of that time.

While attending GW, Reynolds took advantage of the public interest opportunities offered at the school and the ability to intern for academic credit. She was awarded the Shapiro Public Interest Fellowship, which allowed her to work 20 hours per week at the National Resources

Defense Council, a national nonprofit environmental law organization. She also interned at Meyer Glitzenstein and Crystal, a small public interest law firm specializing in wildlife and open government law, and with two sections of the Environment and Natural Resources Division of the U.S. Department of Justice, the Law and Policy Section in D.C. and the Natural Resources Section in the Sacramento field office.

Reynolds was also president of GW’s Environmental Law Association, organizing a national conference with keynote speaker Al Gore.

After graduating, Reynolds took the California bar before moving to Dallas to work at the EPA Region 6. She is an enforcement attorney in the Resource Conservation and Recovery Act (RCRA) and Toxics Enforcement Branch. She manages her own docket of cases involving administrative and judicial enforcement primarily pertaining to RCRA, but some Emergency Planning and Community Right to Know Act and Clean Water Act cases as well. Her position involves reviewing evidence, issuing information requests, drafting referrals to the Department of Justice, bringing administrative enforcement actions under 40 C.F.R. Part 22, and negotiating settlements. She



REBEKAH REYNOLDS



VICE PRESIDENT AL GORE WITH ALUMNA REBEKAH REYNOLDS (TO GORE'S LEFT) AND STUDENT LORENE BOUDREAU (FAR RIGHT) AT THE 2007 NATIONAL ASSOCIATION OF ENVIRONMENTAL LAW SOCIETIES CONFERENCE HELD AT GW LAW.

also works on tribal enforcement issues as well as bankruptcy issues.

"The current, quickly evolving, and multidisciplinary nature of environmental law makes this an exciting area in which to practice," Reynolds says. ★

LORENE BOUDREAU, J.D. '09

Lorene (Renie) Boudreau hails from Swarthmore, Pennsylvania. She graduated in 2004 with a B.A. in history from Trinity College in Hartford, Connecticut, where she took a survey course in environmental policy, piquing her interest in environmental law. She then worked for two years as a litigation paralegal in Philadelphia for Ballard, Spahr Andrews & Ingersoll before coming to GW.

During her first year at GW Law, Boudreau was involved in the planning of the National

Association of Environmental Law Society's annual conference, which was hosted by GW's Environmental Law Society. She is now the group's co-vice president. This year she is researching some of the ramifications of the Supreme Court's decision in *Massachusetts v. EPA* under the supervision of Professor Jamie A. Grodsky.

This fall, Boudreau will clerk for the Supreme Court of New Jersey. In the fall of 2010, she will join the Philadelphia office of Ballard Spahr Andrews & Ingersoll. She hopes to work with the firm's environmental group.

"In addition to a moral obligation I feel toward devoting my career to mitigating environmental degradation, environmental law is fascinating because of its interdisciplinary nature. The environment and environmental laws are considerations in every transaction today," she says. ★

"...ENVIRONMENTAL LAW IS FASCINATING BECAUSE OF ITS INTERDISCIPLINARY NATURE. THE ENVIRONMENT AND ENVIRONMENTAL LAWS ARE CONSIDERATIONS IN EVERY TRANSACTION TODAY."

LORENE BOUDREAU

{ WHAT'S NEW }

GW WELCOMES SUSTAINABILITY DIRECTOR



MEGHAN CHAPPLE-BROWN

GW President Steven Knapp appointed Meghan Chapple-Brown as the first director of the recently established University Office of Sustainability. As former director of client services for SustainAbility, Chapple-Brown advised companies such as Ford, Nike, Wal-Mart, and Eli Lilly. She specializes in the relationship among sustainable futures, organizational strategy, and market innovation. She brings significant experience working in Mexico, Brazil, and Argentina through her previous positions at the Dow Center for

Growth, the World Resources Institute, and Public Allies.

President Knapp noted that Chapple-Brown "brings skills and experience that will help the University achieve its aspiration of becoming a model of sustainability in the greater Washington area and a national leader in this area among institutions of higher learning."

She holds a bachelor's degree in environmental sciences and pre-medicine from Northwestern University and master's degrees in corporate strategy and in environmental policy from the University of Michigan.

For more information, please visit <http://sustainability.gwu.edu>.

ALUMNUS JOINS WORLD CONSERVATION UNION IN GERMANY

John Costenbader (J.D. '08) joined the International Union of Conservation of Nature Environmental Law Centre in Bonn, Germany, as a legal officer. Costenbader holds a master of public affairs degree from Indiana University. Prior to law school, he was involved in research in Africa and Latin America and served as a forestry volunteer with the Peace Corps in Mali.

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use law. The issues that will be on the agenda include:

- How should the conventional pollutants such as sulfur dioxide, nitrogen oxides, and mercury generated by coal and oil-fired power plants be controlled? Will the Clean Air Interstate Rule (CAIR) survive? If not, what system will replace it? How will CAIR or its successor be implemented and enforced?
- What will the new national and international climate regimes look like? What impact will these regimes have on power generation? On national and international equity concerns?
- What role will biofuels play in the United States? What impact will increased biofuels production have on conservation programs? On wetlands preservation? On agricultural pollution? On habitat protection?
- How will we address the issues associated with alternative energy facility siting such as aesthetic concerns, offshore leasing questions, state versus federal authority, and access to transmission lines? Should there be an expedited siting process for alternative energy



facilities? If so, how should public participation and environmental review be handled? Will utilities be required to have a minimum portfolio of renewable energy sources? What sources should be included in a renewables portfolio?

- How will the siting of thousands of miles of new transmission lines be handled? What role will NEPA play? Will there be attempts to exempt some corridors from NEPA? Should there be an expedited NEPA process for important new lines? How will the public be involved? How will corridor decisions be made? Under what circumstances, if any, should state preemption occur?
- What is the role of carbon sequestration? How should sequestration liability and financial assurance questions be dealt with? What are the land use and property rights issues related to sequestration?
- What are the environmental issues associated with next-generation batteries? How will we deal with

end-of-life management of batteries? How will we deal with the potential public health issues of nanoscale materials that may be used in next-generation batteries?

- How will automobile emissions be regulated? What will be the impact of the California waiver? Will states continue to impose new vehicle standards in advance of the federal government?
- How will greenhouse gas concerns affect smaller businesses and households? What changes will be needed in building codes? In appliance standards? In planning and zoning approaches? Will small businesses and individuals be allowed to feed energy into the grid across the country?
- How will climate regulatory systems function? What will be the scope of cap and trade legislation? What impact will it have on energy usage? What are the equity issues raised by a cap and trade system? Is a GHG tax a viable alternative? How will a cap and trade system be effectively enforced?

- What role will energy and building efficiency play in GHG reduction? What type of regulatory structure will encourage utilities to focus on energy efficiency? What role should procurement standards play?
- How will climate affect the implementation of laws such as the Endangered Species Act? Does ESA require government agencies to reduce GHG emissions to protect habitat?
- What land use and planning and zoning changes will need to be made to adapt to deal with climate change?

At GW Law, we are beginning to focus more on these complex questions. We added this spring a new course on international climate change law, our two energy law courses have been evolving to focus more on the environmental and climate issues associated with energy production, we are beginning a new research project on the legal framework associated with more rapid commercialization of solar energy, we worked with the University on a conference that looked at “Accelerating Greenhouse Gas Emissions Reductions,” and we are planning a major program on next-generation energy and the law.

It is both challenging and exciting to work at the intersection of energy, environment, land use, and climate. ★

Associate Dean for Environmental Legal Studies



Lee Paddock

GW LAW WELCOMES NEW ADJUNCT FACULTY

GW Law welcomes new adjunct faculty members David Friedland and Will Irwin.

David Friedland is chair of Beveridge & Diamond's environmental practice group. He stepped into the very big shoes of Professor Arnold Reitze to teach the Clean Air Act course. Friedland serves as the vice-chair of the ABA's Section on Environment, Energy and Resources after serving for two years as chair. His practice touches every aspect of the regulation of air pollution under the Clean Air Act and state and local air pollution statutes and regulations. He earned undergraduate and law degrees from Georgetown University.

Will Irwin succeeded Bob Dreher this fall in teaching Natural Resources Law and also assists with program development. He lives with his wife, an environmental policy analyst, in the D.C. area.

He was born in Ithaca, New York, and raised in Iowa City, Iowa. He grew up in tune with nature, often fishing, hiking and camping. Irwin's father was a Fulbright professor who

relocated his family to Germany when Irwin began high school. Irwin finished high school back in the United States and then graduated from the University of Michigan in 1965 with a bachelor's degree in American culture. Irwin joined the Peace Corps, serving from February 1966 through December 1967 in Kabul, Afghanistan.

After returning to the United States, Irwin enrolled in law school at the University of Michigan. After graduating, he secured a fellowship to research water pollution control in Germany. He then worked for two years as executive secretary of the Vermont Water Resources Board. Irwin moved to the D.C. area in 1973 and wrote research reports for the Environmental Law Institute for five years before being recruited to work for the federal government. He served as an administrative judge with the U.S. Department of the Interior, first as chair of the Board of Surface Mining Appeals from 1978 through 1982, and then as a member of the Board of Land Appeals from 1982 through 2006.

One of Irwin's most memorable experiences was working with a team that drafted a comprehensive environmental and natural resources law for Afghanistan. He notes that it was a difficult challenge and a lesson in how hard it is to draft a statute that integrates the management of all natural resources, including air, water, land, wildlife, and special natural areas.

In addition to his nearly 30 years of government experience, Irwin brings classroom experience to GW Law, teaching environmental law, administrative law, and legal writing at other schools.

Irwin credits the lives and example of President Theodore Roosevelt and Stewart Udall as an inspiration to his career, saying that they drew attention to Americans' use and abuse of natural resources. "Over the years, we have seen those



WILL IRWIN

problems grow and become more complex, to the point where now the crisis is anything but a quiet one, or just a national one. It really is urgent that we work together as citizens of the world to conserve all of our resources for the sake of all of us." ★

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WILL IRWIN



IN PRINT

Recent publications by GW Law faculty:
Sean D. Murphy, Patricia Roberts Harris Research Professor of Law, published the fifth edition of *International Law: Cases & Materials* (with Damrosch, Henkin, & Smit) (2009).

Dinah L. Shelton, Manatt/Ahn Professor of International Law, published *Human Rights and the Environment* (with Don Anton) (forthcoming Cambridge University Press).

Associate Professor **Jamie A. Grodsky** is co-editor of and contributor to *Genomics and Environmental Regulation: Science, Ethics, and Law* (Johns Hopkins University Press, 2008). The book examines the social, scientific, legal, and ethical issues raised by potential applications of new genomic data in environmental regulation. This is the first book-length examination of the topic, integrating the work of leading scientists, social scientists, and legal scholars in the field. ★



IN PRINT

Recent publications by GW Law faculty:

Associate Professor **Steve Charnovitz** wrote "A New WTO Paradigm for Trade and the Environment," *Singapore Year Book of International Law* (2007) and "The WTO's Environmental Progress," *Journal of International Economic Law* (2007), which were

reprinted in *The Future of International Economic Law* (Oxford University Press, 2008).

David Freestone, Lobingier Visiting Professor of Comparative Law and Jurisprudence, is the editor of *Legal Aspects of Sustainable Development*. This new three-volume series from Martinus Nijhoff Publishers features work on all aspects of the international legal dimensions of the concept of sustainable development. Its aim is to publish important works of scholarship on a range of relevant issues including conservation of natural resources, climate change, biodiversity loss, and the role of international agreements, international organizations, and state practice.

Freestone also published: "Editorial: Principles Applicable to Modern Oceans Governance" 23 *International Journal of Marine and Coastal Law* (2008); "Ocean Iron Fertilization and International Law," theme Section on "Implications of large scale iron fertilization of the oceans" 364 *Marine Ecology Progress Series* (with Professor Rosemary Rayfuse) (2008); "A Decade of the Law of the Sea Convention: Is it a success?" 2007 39 *The George Washington International Law Review* (2007); and "Meeting the Challenge of Climate Change: Legal Strategies for Reducing Greenhouse Gas Emissions" in *Direito Ambiental Comparado* (with Charlotte Streck, Arlindo Daibert, editor) (2008).

Associate Dean **Lee Paddock** published "Green Governance: Building the Competencies Necessary for Effective Environmental Management," 38 *Environmental Law Review* 10609 (September 2008). ★

{ WHAT'S NEW }

ROBERT L. GLICKSMAN APPOINTED TO ENVIRONMENTAL LAW CHAIR

GW is proud to welcome Professor Robert L. Glicksman to its faculty as the J.B. and Maurice C. Shapiro Professor of Environmental Law. Rob comes to GW with a distinguished record in teaching and scholarship while at the University of Kansas School of Law. His primary teaching interests are Environmental Law, Regulation of Air and Water Pollution, Regulation of Toxic Substances and Hazardous Waste, Administrative Law, and Property.

He has authored or co-authored several books including *Administrative Law: Principles, Policies, And Problems* (with R. Levy), *Public Natural Resources Law* (with G. Coggins), *Risk Regulation At Risk: Restoring A Pragmatic Approach* (Stanford University Press 2003) (with S. Shapiro), and *Environmental Protection: Law And Policy (5th ed.)* (with D. Markell, B. Buzbee, D. Mandelker, & D. Tarlock). He has also authored dozens of articles on environmental law.

NEW ENVIRONMENTAL LAW JOURNAL TO BE LAUNCHED

GW will begin work this spring on publishing the new *Journal of Energy and Environmental Law*. The Journal will focus on energy issues with an emphasis on legal issues related to next-generation energy resources including alternative energy, energy facility siting, smart grid, and energy efficiency. The Journal

will also emphasize environmental issues related to energy production and use, including climate change, air pollution, land use, environmental impact assessment of energy projects, and extraction. For more information on the new journal contact Lee Paddock at lpaddock@law.gwu.edu. ★



{ PROCEEDINGS }

SUSTAINABLE CONSUMPTION AND PRODUCTION



MORE THAN 60 ENVIRONMENTAL EXPERTS AND PRACTITIONERS ATTENDED THE NORTH AMERICAN CONFERENCE ON SUSTAINABLE CONSUMPTION AND PRODUCTION AT GW IN NOVEMBER.

On November 6 and 7, GW Law played host to the North American Conference on Sustainable Consumption and Production. The meeting was co-sponsored by the U.S. Department of State, Foreign Affairs and International Trade Canada, the United Nations Department of Economic and Social Affairs, and the United Nations Environment Programme Regional Office for North America. The aim of the conference was to define a regional approach to advance sustainable consumption and production (SCP) in North America that also contributes to the global Marrakech Process. The meeting was attended by more than 60 experts from government, the UN, academia, NGOs, business, and industry.

Sustainable consumption and production was addressed in Agenda 21, a key outcome of the UN Conference on Environment and Development held in Rio de Janeiro, Brazil, in June 1992. In particular, chapter four of Agenda 21 focuses on unsustainable patterns of production and consumption and on national

policies and strategies to encourage changes in unsustainable consumption patterns.

In 2002, the development of a 10-Year Framework of Programmes on SCP was included in the Johannesburg Plan of Implementation adopted at the World Summit on Sustainable Development. Under the plan, governments agreed to “encourage and promote the development of a 10-year framework of programmes in support of regional and national initiatives to accelerate the shift towards sustainable consumption and production to promote social and economic development within the carrying capacity of ecosystems.”

The program will be the focus of the United Nation’s Commission on Sustainable Development meetings in 2010–2011. In 2010, CSD will review progress on SCP, as well as best practices, lessons learned, and case studies. In 2011, the CSD is expected to consider how to implement CSD initiatives through the program.

For more information, please visit www.iisd.ca/ymb/sdWSC/html/ymbvol156num1e.html. ★

{ ON THE AGENDA }

Visit www.law.gwu.edu for more information on these and other events at GW Law:

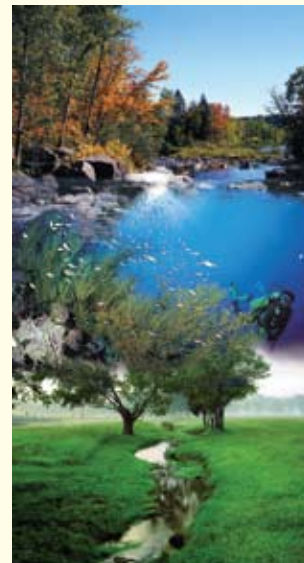
GW LAW HOSTS NEPA CONFERENCE



GW Law hosted a major conference on the future direction of the National Environmental Policy Act on March 23 and 24. The event was co-sponsored by the President’s Council on Environmental Quality and the Environmental Law Institute. The agenda included many of the country’s best-known NEPA scholars and practitioners.

NEPA at 40 was a unique gathering designed to critically assess the future of the act in the context of today’s environmental challenges. We explored the opportunities and difficulties NEPA presents by addressing issues such as climate change, alternative energy development, sustainable development, environmental equity, and trans-border resource and pollution problems. In addition, the conference examined the core function of NEPA and that of the Council on Environmental Quality in shaping federal environmental policy.

Participants had the exceptional opportunity to discuss with some of the foremost NEPA scholars and practitioners, ranging from those who helped shape NEPA in its early years to those who are exploring the leading edge of NEPA today, the issues that will set NEPA’s direction for the next generation. For more information on the event visit http://eli.org/seminars/past_event.cfm?eventid=445.



ACCELERATING GREENHOUSE GAS REDUCTIONS

On April 15, the Law School joined with the University to explore the technology, public policy, and legal issues related to greenhouse gas reductions that could be achieved through carbon capture and storage, more rapid commercialization of solar energy, and next generation personal transportation. The Troutman Sanders law firm has worked closely with GW Law on the program. For more information, please visit www.sustainability.gwu.edu/events.html. ★

SECOND ELIZABETH HAUB PRIZE FOR GW LAW FACULTY

The International Council of Environmental Law and Stockholm University awarded Professor Freestone, Lobingier Visiting Professor of Comparative Law and Jurisprudence, the 2007 Elizabeth Haub Prize for Environmental Law at a ceremony in Stockholm on November 17. The annual award recognizes exceptional achievements in the field of environmental law. Freestone was specially recognized for his pioneering work in elucidating the content of the Precautionary Principle as an environmental legal principal.

Freestone's colleague Dinah Shelton, Manatt/Ahn Professor of International Law, was the 2006 recipient of the Haub Prize. GW Law congratulates Freestone and Shelton on their many accomplishments and contributions.



2007 ELIZABETH HAUB PRIZE FOR ENVIRONMENTAL LAW RECIPIENTS FRANÇOISE BARHENNE-GUILMIN AND DAVID FREESTONE

Professor **Dinah Shelton**, Manatt/Ahn Professor of International Law, was selected by the International Union for Conservation of Nature as its distinguished lecturer for the Academy's 6th Annual Congress held in November in Mexico City.

Associate Dean **Lee Paddock** was elected by the ABA Section on Environment, Energy, and Resources to serve on its governing council. ★

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