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ENVIRONMENTAL AND ENERGY LAW PERSPECTIVES

■ PERSPECTIVES

THE ROLE OF COMPLIANCE PROGRAMS IN BUILDING SOCIETAL VALUES IN SUPPORT OF SUSTAINABLE DEVELOPMENT

By: LeRoy C. (Lee) Paddock, Associate Dean for Environmental Studies and Loni Silva (J.D. '12)

This discussion is excerpted from the forthcoming article "Beyond Deterrence: The Role of Compliance and Enforcement Programs in the Context of Sustainable Development" to be published in the *Environmental Law Reporter News & Analysis*.



Problems like climate change, estuary deterioration, and urban smog are caused by a combination of large sources of pollution and thousands of smaller sources. Our traditional compliance and enforcement system was designed and is capable of managing many of the pollution

problems that emanate from larger sources of pollution. However, compliance and enforcement systems are often ill-equipped to respond to diffuse sources of pollution. As a result, achieving sustainable environmental outcomes requires reliance on behavioral drivers other than the regulatory system.

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■ SPRING 2012

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■ VIEWPOINT

ENERGY LAW FOR A NEW GENERATION

Energy issues are pervasive today, with headline issues that include the construction of international oil pipelines, siting of offshore wind generators, competition with China for leadership in alternative energy, and many others. Surprisingly, given the critical importance of energy policy over the next decade and more, few law schools emphasize energy law in the classroom or in their research efforts. Energy law is, in my opinion, one of the two most underserved areas of public policy by law schools—the other being health care.

Today, energy lawyers are dealing with increasingly complex project financing arrangements for new generation and trans-

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Societal values are one of these key behavioral drivers. While we don't typically think of compliance and enforcement officials as having a role to play in shaping values beyond the specific and general deterrence that results from an enforcement action, these officials can, and likely should, consider how they can assist in changing public values in a way that achieves environmental results beyond merely deterrence.

Whether viewed in terms of individual responsibility, ethics, or stewardship, values must play a growing role in environmental governance. The Aspen Institute, in its work on resource stewardship, observed:

Continued prosperity depends on our ability to protect natural heritage and learn to use it in ways that do not diminish it. Stewardship is at the core of this obligation. It calls upon everyone in society to assume responsibility for protecting the integrity of natural resources and ecosystems and, in so doing, safeguarding the interests of future generations. Without personal and collective commitment, without an ethic based on acceptance of personal responsibility, efforts to sustain natural resources protection and environmental quality cannot succeed.¹

“CONTINUED PROSPERITY DEPENDS ON OUR ABILITY TO PROTECT NATURAL HERITAGE AND LEARN TO USE IT IN WAYS THAT DO NOT DIMINISH IT.”

Similarly, President Clinton's Council on Sustainable Development found, “[s]tewardship is an essential concept that helps define appropriate human interaction with the natural world.”² And in a recent report, the EPA's National Advisory Committee for Environmental Policy and Technology recommended that the agency incorporate the concept of stewardship into its core mission, defining stewardship as



“individuals and institutions taking responsibility to protect and enhance the environment and human health. As an ethic, environmental stewardship is rooted in both individual values and organizational cultures. As a practice, environmental stewardship embodies the understanding that compliance with environmental regulations is fundamental, that voluntary efforts are important but not a replacement for compliance, and that individuals and organizations should systematically and continuously work to reduce or avoid the adverse environmental and health impacts of their activities. Stewardship as both an ethic and a practice requires the fair treatment of all communities.”³

Based on this definition, the National

Advisory Committee for Environmental Policy and Technology report suggested that stewardship can make meaningful contributions to achieving significant environmental outcomes. EPA's work is, of course, driven primarily by regulatory mandates from Congress and is limited by resources. Strong regulatory and enforcement programs play a significant role in motivating stewardship actions.... However, the complex environmental challenges the country and the world face often stretch beyond the borders of the law and frequently outstrip the resources available to the Agency. Addressing big environmental problems requires the Agency to leverage other resources (such as private sources of funding, citizen action, and corporate actions like

supply chain requirements) and sources of knowledge and experience. We believe that stewardship activities can make important contributions to leveraging these external resources.⁴

Values are one of the key drivers of environmental behavior. People tend to act in pro-environmental ways when a situation activates a feeling of moral obligation to do so—simply put, pro-environmental behaviors are more likely when people feel morally responsible to undertake them. People will engage in pro-environmental actions when situations activate personal norms.⁵ Personal norms, which are feelings of an obligation to act in a particular way,⁶ can be a potent influence on environmental behavior because people try to avoid the guilt of breaking personal norms. Personal norms are deeper than social norms, which are rules for expected behavior based on the behavior of others. A person acting on a personal norm will behave more consistently than a person acting out of extrinsically created social norms because the feeling of obligation and guilt exists whether or not other people disapprove.⁷ When norms become very deeply internalized, they give rise to identity, which is a sense of oneself.

The Norm-Activation Theory of Altruism was developed by S.H. Schwartz.⁸ Schwartz was interested in the question of why people help others when there is no benefit to them. The Norm-Activation Theory of Altruism posits that people help others when situations illicit their feeling of personal obligation—that is, when something activates a personal norm. Building on the Norm-Activation Theory of Altruism, the Values-Beliefs-Norms Theory posits that activation of a personal norm stems from one's values.⁹ The Values-Beliefs-Norms Theory suggests that values underlie and affect everything, from how a person interprets information, to what they are aware of, to what they think humans are responsible for, to what they do about it.

According to Values-Beliefs-Norms theory,¹⁰ values affect and shape one's beliefs, beliefs then affect and shape one's norms, and one's norms lead to behavior.¹¹ A person will choose environmentally preferred behavior when the choice triggers a feeling of moral obligation to do so. But what that feeling of obligation is will depend on the

WHAT'S NEW

SHAPIRO CONFERENCE MARKS 40TH ANNIVERSARY OF THE CLEAN WATER ACT



ENVIRONMENTAL
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JOURNAL OF ENERGY &
ENVIRONMENTAL LAW

The year 2012 marks the 40th anniversary of the passage of the Clean Water Act (CWA) amendments, the landmark legislation that aimed to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” GW Law recognized this milestone in environmental protection through the 2012 J.B. and Maurice C. Shapiro Environmental Law Conference, held March 22-23 in the Jacob Burns Moot Court Room. The conference brought together many

of the nation’s top CWA experts from academia, government, and private practice to reflect on the environmental field’s accomplishments and discuss the future of water pollution control in the United States.

The Environmental and Energy Law Program’s annual spring conference was made possible by a generous endowment from the J.B. and Maurice C. Shapiro Charitable Trust. The 2012 conference was co-sponsored by the Environmental Law Institute (ELI) and GW Law’s *Journal of Energy and Environmental Law*.

CLIMATE ADAPTATION CONFERENCE HELD MARCH 30



On March 30, GW Law and the University of North Carolina Law School co-sponsored a conference on climate adaptation at the UNC Law School. Professor Robert Glicksman, J.B. and Maurice C. Shapiro Professor of Environmental Law, was a featured speaker at the event,

which was part of the Law School’s Shapiro Symposium series.

A copy of the agenda for the conference is available on our web site at www.law.gwu.edu/environmental.

A HISTORY OF STUDENT ENGAGEMENT



Gossen and his classmates took action during a transformative moment in American history. Students and young people were expanding social action to include a growing concern for the environment. GASP led the way, drawing national and international attention, as the *Washington Post*, *Washington Evening Star*, and *Time* magazine, among others, ran stories and editorials supporting their efforts. A West German television station interviewed Gossen, and GASP members were featured on a DC talk show. *Time's* article noted, "Dismay over the decaying state of the environment is fast replacing peace as the gut issue among the nation's young.... Well versed by now in the techniques of protest, they are even turning to the courts for help. A group of Washington law students recently brought legal action to force the capital's transit authority to muzzle the fumes from its diesel buses."

What started off as a learning exercise in law school led these ambitious GW Law students to shed light on an important environmental problem, and their drive stimulated action to remedy the situation. GASP members spoke to area high schools and participated in the first annual Earth Day events. Their efforts drew attention and praise from notable figures in the environmental movement, including Senator Edmund Muskie and Ralph Nader.

GW Law students were at the forefront of social change during a critical time in the environmental movement, strengthening GW Law's environmental law program and setting a high standard for future generations of students. Gossen's letter is an inspiring tribute to the enduring fulfillment that comes from using a legal education to push boundaries and change the world. His extraordinary law school activities remind us that GW Law is the place to make a lasting difference. ■

WHAT STARTED OFF AS A LEARNING EXERCISE IN LAW SCHOOL LED THESE **AMBITIOUS GW LAW STUDENTS** TO SHED LIGHT ON AN IMPORTANT ENVIRONMENTAL PROBLEM...

■ Paul Gossen's (J.D. '70) law school experience is a proud reminder of GW Law's history of changing the world through law in action. In a letter to the Environmental and Energy Law Program, Gossen wrote, "Perhaps you were never aware of what environmental efforts were made by the law school students in 1969." Indeed, Gossen and his classmates succeeded in turning a hypothetical Administrative Law course assignment into an opportunity to challenge bus pollution in the Washington, DC, area.

On the last day of their spring 1969 class, Gossen urged his classmates to put in practice their "intellectual work" on an assignment dealing with a local interstate compact to address bus pollution. As a result, Gossen and seven of his classmates incorporated the Greater-Washington Alliance to Stop Pollution (GASP). They petitioned the Metropolitan Transit Commission to compel bus companies to implement maintenance measures on buses that would reduce pollution.

WHAT'S NEW

ECOSYSTEM SERVICES CONFERENCE PLANNED AT THE UNIVERSITY OF SURREY, ENGLAND



The International Interdisciplinary Conference on Regulatory and Institutional Frameworks for Markets for Ecosystem Services, which is being planned by GW Law and the University of Surrey, will be held June 6-7, 2012, in Surrey, England. Research in several fields over the last decade demonstrates the possible economic value of ecosystems in the following services: provisioning, or producing food or providing clean water; regulating, or modulating climate and preventing the spread of disease; supporting in areas such as nutrient cycles and crop pollination; and cultural, where services are spiritual

or recreational. While these benefits are clearly recognized today, the question of whether and how to create real markets that can monetize these services and perhaps pay for their maintenance remains a challenge. The conference will address the economic issues related to ecosystems services. Watch for the conference announcement on our web site at <http://law.gwu.edu/environmental>.

ELA BOASTS FULL SCHEDULE OF SPRING EVENTS



The GW Environmental Law Association (ELA) offered a variety of career-oriented, educational, volunteer, and social programming this semester. To help students investigate career paths and employment opportunities, the ELA co-hosted an environmental law career panel with the DC Bar Association as well as a GW Environmental Law Program Young Alumni/ELA mix-and-mingle event. For the first time in recent years, the ELA is offering an environmental and energy law peer-mentoring program to pair 1Ls and transfer students with upper-level law students who can share insights about environmental courses, internships, and networking at the Law School.

The ELA recently gained substantial ground in its effort to improve sustainability at the Law School by advocating for double-sided printing as the default print setting for all student-used printers. At ELA's recent general body meeting, Sophie Wasko from the GW Office of Sustainability spoke about the university's ongoing efforts to make the campus more sustainable, how students can contribute to this effort, and what students can easily do on a daily basis to help such as using school recycling receptacles correctly and more often.

To further help the community at GW Law and beyond, the ELA will offer a number of pro bono and volunteer events. Members will conduct pro bono legal work for the Center for Progressive Reform, teach middle-school classes focused on environmental issues in local schools in conjunction with the GW Street Law program, organize a volunteer work day in one of GW's community gardens, and lay the groundwork for painting a GW roof white to lower its heat index and thereby save energy. ELA already has planted trees on the GW campus as part of the ABA Section of Environment, Energy, and Resources "Million Trees Project." Finally, to help remind members why they work so hard to protect and use wisely our environment and its resources, the ELA will lead several outdoor trips, including hiking, canoeing, and apple-picking.

For more information about the organization or upcoming events, please visit the ELA's web site at <http://docs.law.gwu.edu/stdg/ela>.

PROFILES



RYAN ALBRECHT LL.M. '11

Captain Ryan Albrecht was one of six Air Force officers who recently graduated from GW's Environmental LL.M. program. Because there is an extensive overlap between military activities and environmental issues, the Environmental LL.M. program gave Albrecht the skills and knowledge to take on a vital role in an area important to the Air Force. "I've wanted to practice environmental law ever since I graduated from law school, but the opportunity never presented itself. When I heard about the Air Force-funded LL.M. program, I jumped at the chance to apply," Albrecht says. He graduated in August with highest honors.

Despite his long-held interest in environmental law, Albrecht took a circuitous route to the LL.M. program. Before joining the Air Force Judge Advocate General (JAG) Corps, Albrecht was a litigation associate for three years at Greenebaum Doll & McDonald, PLLC, practicing in Ohio and Kentucky. He joined the Air Force and spent two years at Hill Air Force Base in Utah prosecuting courts-martial, adverse actions, and administrative discharges. Next, he was assigned as a medical law consultant at Wilford Hall Medical Center, located at Lackland Air Force Base in San Antonio, Texas. He served as in-house counsel to Wilford Hall and nine other regional Air Force hospitals, advising

on medical-legal issues, including credentialing actions, risk management, bioethics, and patient privacy. Albrecht also served as legal advisor and a voting member of the Air Force's largest institutional review board, advising on human research protocols.

While advising the review board, Albrecht had a conversation with a physician about the potential human health and environmental hazards from the presence of pharmaceuticals in water. Albrecht explains, "Current regulations aren't designed to address many emerging contaminants such as pharmaceuticals and endocrine disruptors. There are other non-regulatory drivers—economic and human-based—that could be applied to limit the introduction of pharmaceuticals into the environment." Around this time, he learned about the Air Force-funded LL.M. program. His discovery of pharmaceuticals in water formed the basis of his LL.M. thesis on the occurrence of pharmaceuticals in the environment, which is scheduled to be published in the spring edition of *GW Law's Journal of Energy and Environmental Law*.

After completing the LL.M. program, Albrecht was assigned as the Environmental Liaison Officer to Air Mobility Command at Scott Air Force Base in Illinois. He provides and coordinates environmental legal advice to the Air Mobility Command, its 12 subordinate installations, and the Air Force District of Washington. "Being an Environmental Liaison Officer for the Air Force gives me a unique opportunity to handle a wide variety of environmental

ALBRECHT'S THESIS ON PHARMACEUTICALS IN THE ENVIRONMENT APPEARS IN JEEL'S SPRING ISSUE.

issues, ranging from tribal consultations to being legal advisor on an environmental assessment and compliance program inspection team, and everything in between," Albrecht says.

Captain Albrecht was a past member of the Board of Editors of the *Air Force Law Review* and is an active member of

the American Bar Association, serving as past-Chair of the Administrative and Government Law committee of the ABA's GP Solo Group, group administrator of the Air Force JAG Corps/ABA group membership program, and a member of the Committee on Disaster Response and Preparedness.



TAMARA EVANS (J.D. '12)

Tamara Evans' calling as an environmental advocate started in elementary school, where she wrote her first letter to a member of Congress, organized her school's first recycling drive, and formed a student group that walked neighborhood dogs to raise money for saving endangered species. She later graduated summa cum laude from the University of Missouri with a bachelor's degree in Spanish and an interdisciplinary major in environmental studies, political science, and history.

After college, Evans completed a 13-month fellowship with the Greencorps Field School for Environmental Organizing, where she experienced firsthand how to work the levers of power in the political system and worked to motivate others to do the same. She organized advocacy campaigns for the Sierra Club and the Alaska Coalition, and she directed a record-breaking fundraising office for the Ohio State Public Interest Research Group. Evans then joined the Sierra Club as the Training and Field Director for their student-run chapter (SSC). For two

years, she coordinated the summer activist training programs, spearheaded the SSC's first Spanish-language training series, and partnered with outside groups to empower minority students to confront environmental injustice in their communities. She also implemented a fellowship program that provides support for outstanding student organizers who are financially disadvantaged.

The Sierra Club promoted Evans to National Director of the fellowship program. Under her direction, the program became one of the top-performing entities in the Sierra Club, as well as a force in the broader youth climate movement. The permanent staff doubled as the program expanded, reaching more than 60,000 young voters through its electoral campaign in 2008. The affiliated base of student groups grew from 20 to 250, initiating the largest lobby day in American history and the recruitment of one-fifth of the 12,000 attendees.

On the heels of her impressive achievements at the Sierra Club, Evans decided that a J.D. from GW Law would provide the credentials and deeper understanding of the legal system to take her environmental advocacy to the next level. Indeed, last summer she returned to her climate change work at the Sierra Club as an intern, equipped with legal skills to critically analyze the laws and propose solutions rather than merely advocate for solutions proposed by others.

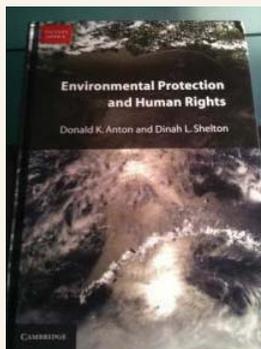
In addition to interning with the Sierra Club, Evans has completed legal clerkships with The Nature Conservancy, helping to preserve watersheds in Latin America, and the Center for International Environmental Law, advocating for effective environmental and human rights safeguards in United Nations- and World Bank-sponsored climate projects. In the fall, Evans will work with the Environmental Protection Agency's Office of Enforcement and Compliance Assurance, and the following spring, she'll work with the Environmental Integrity Project. She is also looking forward to representing GW Law's moot court board as a participant in Pace Law School's Environmental Law Moot Court Competition.

Evans was honored to be selected as Editor-in-Chief of the *Journal of Energy and Environmental Law*. She looks forward to continuing to cultivate the journal's reputation as the nation's top journal at the intersection of energy and environmental law.

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WHAT'S NEW

DIALOGUE ON ENVIRONMENTAL PROTECTION AND HUMAN RIGHTS HELD IN MARCH



GW Law hosted a dialogue on Environmental Protection and Human Rights on March 27 featuring Dinah Shelton, Manatt/Ahn Professor of International Law, and Donald K. Anton, Associate Professor of International Law at Australian National University College of Law. Professors Shelton and Anton authored a recently published teaching text, *Environmental Protection and Human Rights*. The dialogue featured presentations by Professors Shelton and Anton followed by a dialogue about the impact that rights-based environmental protection may have over the next few years.

More information on the program is available on our web page at <http://www.law.gwu.edu/environmental>.

GW LAW STUDENTS TRAVEL ABROAD FOR JOINT RESEARCH PROGRAM



Associate Dean Paddock (far left, second row from bottom) and the entire International Student Energy Research Project contingent.

As nations explore the viability of renewable fuel sources to meet the growing global energy demand, they face myriad legal and policy uncertainties at national and international levels. To prepare GW Law students to innovate and lead on this issue, the Environmental and Energy Law Program initiated a unique joint research program this school year in conjunction with the University of Groningen in the

Netherlands and the Getulio Vargas Foundation in Brazil. The program focuses on the intersection of law, economics, and sustainability in the energy context.

Over the 2011-2012 academic year, six GW Law students joined peers from international partner institutions for an exciting opportunity to work on multi-disciplinary, international research teams. The teams are undertaking research projects to explore legal and policy issues related to biofuels development, carbon capture and sequestration, and linking of existing and emerging national and regional carbon emissions trading systems.

The program commenced with a week-long kick-off event at the University of Groningen in the Netherlands before the start of the fall 2011 semester. There, participating students learned about relevant political, economic, and legal backgrounds for each country. GW Law 3L Rich Martinelli remarked, "I've really

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IN PRINT



ASSOCIATE DEAN LEE PADDOCK

served as lead editor of **Compliance and Enforcement in Environmental Law: Toward More Effective Implementation** (Edward Elgar Pres, 2011).



ROBERT L. GLICKSMAN

co-authored, with Dietrich H. Earnhart, the book **Pollution Limits and Polluters' Efforts to Comply: The Role of Government Monitoring and Enforcement** (Stanford Economics and Finance, 2011).



DINAH SHELTON

co-authored, with Donald K. Anton, the book **Environmental Protection and Human Rights** (Cambridge University Press, 2011).

STUDENT CO-AUTHORED BOOK CHAPTERS

Jennifer Bowmar, Environmental Law Fellow and LL.M. student; **Charlotte Youngblood**, a 2011 LL.M. graduate; and **Lea Colasuonno**, a 2L, each have co-authored book chapters with Dean Paddock that will be published this year. The chapters include:

“The U.S. National Environmental Policy Act at 40: Progress and Challenges” (Paddock and Bowmar), in *30th Anniversary of the Brazilian National Environmental Policy Act*.

“Demand Response and Infrastructure Development in the United States” (Paddock and Youngblood), in the forthcoming book *Energy Networks and the Law—Innovative Solutions in Changing Markets*.

“Multi-Layered Environmental Governance in the United States” (Paddock and Bowmar) and “Water Management and Protection in the USA” (Paddock and Colasuonno), in the forthcoming book *Environmental Protection in Multi-Layered Systems: Comparative Lessons from the Water Sector*.

CURRICULUM

NEW COURSES

Four new courses will be added to the Environmental and Energy Law curriculum this fall. They include:

- WILDLIFE AND ECOSYSTEMS
- THE LAW OF SUSTAINABLE AGRICULTURE
- ATOMIC ENERGY LAW
- ENVIRONMENT AND ENERGY POLICY PRACTICUM

For additional information, visit our web site at www.law.gwu.edu/environmental and go to Curriculum.

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ROBIN JUNI

Assistant Dean for Student Affairs

In fall 2010, after 15 years of dedicated service to the Law School and the Environmental and Energy Law Program as an adjunct faculty member, Robin Juni was named Assistant Dean for Student Affairs and Professorial Lecturer. Dean Juni's legal expertise and mentorship of students over the years made her an ideal addition to the Office of Student Affairs.

Dean Juni began her 20-year career as a trial attorney in the Environment and Natural Resources Division at the U.S. Department of Justice (DOJ), a position she attained through the DOJ Honors Program. She was first drawn to environmental law through her background in science (she has an undergraduate degree in physics) and continues to find "the underlying factual issues as fascinating as the surrounding legal framework." At DOJ, she represented federal agencies in dozens of litigation matters and served as the division representative to the Attorney General's Task Force on Alternative Dispute Resolution. Among her many accomplishments, she received an EPA Bronze Medal denoting "significant acts or achievements which materially aid the Agency mission" for her successful defeat of a remedy challenge at an Illinois smelter. She moved to private practice at Jones Day in 1997, where she counseled clients on a variety of domestic and international environmental issues, including claims

for natural resource damages, appellate regulatory challenges, property acquisition and development, toxic torts, environmental impact statement requirements, and expert witness management. At Jones Day, she was named a "leading" environmental lawyer in the *PLC Which Lawyer? Yearbook* for 2007, 2008, and 2009.

Although her practice provided her with a rewarding career, Dean Juni discovered a unique sense of fulfillment from teaching and working with students. Environmental Law Fellow Jennifer Bowmar says, "When it comes to Dean Juni, I'm reminded of the saying 'a mentor is someone whose hindsight can be your foresight.' She takes this idea to heart, with her honest desire to pass the wisdom she's gained through her notable career on to the next generation of environmental lawyers." She was enthusiastic about the opportunity to join GW Law full time, where she has combined her passion for student services with the academic interests she developed as a fellow at the Oxford Centre for Socio-Legal Studies.

In her new role, Dean Juni provides individual advising services, supervises academic programming (including orientation events and academic awards), and serves on the Academic Integrity and

DEAN JUNI WAS NAMED A "LEADING" ENVIRONMENTAL LAWYER IN 2007, 2008, AND 2009.

Academic Scholarship Committees. She said the unpredictable mix of daily student issues keeps her on her toes and is more stimulating than a typical day-to-day law practice.

Dean Juni is also continuing her adjunct teaching schedule. This spring she is teaching a class on Environmental Negotiation and Dispute Resolution, which covers both traditional negotiation skills and specific issues that arise in environmental disputes. She hopes the course will provide students interested in environ-

mental and science-based disputes a forum to develop their analytical skills in real-world situations and to react more quickly and appropriately in client representations



RACHELE TREGER (J.D. '12)

Rachele Treger's path to become an environmental lawyer began while she was growing up in southern Oregon, enjoying regular camping trips; later, she interned and worked in the environmental field. Her long-held passion for the environment and her range of experiences have made her a hard-working and engaged member of the GW Law community.

Before studying at Pomona College, Treger spent a year in Mariestad, Sweden, as a Rotary International Youth Exchange student, learning the unique ways Swedes show appreciation for nature. Her interest in environmental and energy law developed during her senior year at Pomona when she worked as a research intern at EcoSecurities, an international sourcer, developer, and trader of greenhouse gas emission reduction credits. "Working in California at EcoSecurities during the months following the state legislature's passage of Assembly Bill 32, the Global Warming Solutions Act, I gained a greater understanding of and felt drawn to the complex, expanding realm of climate and energy law issues, whose resolutions will require real creativity and innovation," Treger says.

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After graduating from Pomona magna cum laude with a B.A. in international relations, Treger worked in the environmental field on editorial and production assignments at the Huntington Library Press and on a kids' awareness environmental campaign at Recreational Equipment, Incorporated. She also served as a volunteer instructor for the Sierra Club's 10-week Wilderness Travel Course before deciding to enroll in law school.

Treger chose to attend GW Law because of its strong environmental program, prominent environmental law journal, and ideal location in DC. Her expectations have been fulfilled on all fronts: Her coursework has been stimulating; she is the current Senior

District Court judge in Oregon the summer after her 1L year, where she aided in drafting a published dissent from a case the judge heard while sitting by designation on the U.S. Court of Appeals for the Ninth Circuit.

Treger's law school experience has opened her eyes to the spectrum of roles she could play as an environmental attorney in the private, public, or nonprofit sector. Still an avid outdoorswoman—she enjoys hiking, camping, and canoeing in Shenandoah National Park—she hopes to apply her passion and legal skills to helping her clients, community, and government make sound environmental decisions and progress toward resolving the energy, natural resource, and environmental challenges our country faces.

tribal law enforcement personnel complies with environmental laws and regulations. Throughout his distinguished career as a lawyer, manager, educator, expert, author, and mentor, colleagues say he has demonstrated the leadership skills, passion, and ambition that serve to make him a role model for young lawyers.

Before accepting his current position, Walker served as the OECA Senior Enforcement Counsel, where he supervised the litigation of regional and nationally lead administrative enforcement cases, including appeals to the EPA Environmental Appeals Board. Some of his accomplishments include collecting the EPA's first administrative penalty over \$1 million, serving as the Senior Executive Service member of the agency's first environmental justice task force, and serving as the lead negotiator for supplemental environmental justice projects in several high-profile settlements.

Walker also has served as the Enforcement Counsel for Toxics and Pesticides, where he had national legal and policy responsibility for enforcing violations of the Toxic Substances Control Act (TSCA); the Federal Insecticide, Fungicide, and Rodenticide Act; the Asbestos Hazard Emergency Response Act; and the Emergency Planning and Community Right-To-Know Act. He has been involved in a variety of CERCLA- and RCRA-related activities including serving as counsel on cost recovery actions.

In 1986, he argued the first show cause motion in an administrative subpoena action involving the Alyeska Pipeline Service Company in the District Court of Alaska. The court's decision, upholding the EPA's right to subpoena documents and witnesses, was upheld and expanded by the U.S. Circuit Court of Appeals for the Ninth Circuit. In the 25 years since that ruling, this important legal precedent has never been successfully challenged and currently serves as the basis for the EPA's investigation into a wide variety of chemical issues, including the national review of hydro-fracking.

In addition, Walker has been at the forefront of developing innovative alternatives to traditional law enforcement activities, from the effective use of self-auditing of permit holders to voluntary disclosure of violations. One of the most innovative enforcement programs developed under

"I FELT DRAWN TO THE COMPLEX, EXPANDING REALM OF CLIMATE AND ENERGY LAW ISSUES, WHOSE RESOLUTIONS WILL REQUIRE REAL CREATIVITY AND INNOVATION."

Articles Editor of the *Journal of Energy and Environmental Law*; and she has gained regulatory, policy, and litigation experience interning at several DC government agencies. In addition, Treger is the current President and former Treasurer and 1L representative of the Environmental Law Association.

Treger interned part-time as a law clerk in the Office of the General Counsel at the U.S. Department of Energy and at the District Department of the Environment (within the DC Attorney General's Office) during the fall and spring semesters of her 2L year, respectively. Last summer, she served as a legal intern in the Immediate Office of the Solicitor at the U.S. Department of the Interior, working directly with Solicitor Hilary Tompkins and her special counselors and deputy solicitors on issues related to the Endangered Species Act, the National Environmental Policy Act, Indian trust law, intellectual property, and renewable energy. She also interned for a U.S.



MIKE WALKER

Director, National Enforcement Training Institute, U.S. Environmental Protection Agency

Mike Walker has worked closely with the GW Environmental and Energy Law Program, placing student interns at the U.S. Environmental Protection Agency's (EPA) Office of Enforcement and Compliance Assurance (OECA). He holds the second longest federal government service record among the attorneys in the OECA. Currently, he is the Director of the OECA National Enforcement Training Institute and is responsible for ensuring that the training of federal, state, local, and

his supervision and direction is the TSCA Section 8(e) Compliance Audit Program. Under this program, more than 15,000 chemical health and safety studies were submitted to the EPA in exchange for limited immunity from prosecution. More than \$22 million dollars in stipulated penalties were collected under this program.

Walker is a 1974 graduate of the University of Wisconsin-Milwaukee and a 1977 graduate of the University of Toledo College of Law. He began his career with the EPA in the Region 5 office in Chicago in 1979; before that, he worked in state government in Wisconsin. He was appointed to the Senior Executive Service by EPA Administrator William Reilly in 1991. In September, the University of Toledo honored him as the Distinguished Alumnus for 2011.

During the past 15 years, Walker has served as Adjunct Professor of Law at Pace Law School, the University of Maryland School of Law, the University of Toledo College of Law, and William and Mary College of Law. He was taught courses on natural resources law and federal commercial chemical regulation, and he has co-taught courses regarding CERCLA-RCRA.

Walker takes very seriously the role that he and other seasoned attorneys can serve

by “raising the environmental bar”—mentoring new and future lawyers. In addition to his “regular” work, Walker is the Director of OECA’s Clinical Legal Education Honors Law Clerk Program. Since 1989, he has hired more than 1,000 law students as law clerks, including more than 75 from GW Law. Walker fosters a symbiotic relationship between the staff lawyers at the EPA and the

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“IT IS IMPORTANT TO EXPOSE LAW STUDENTS TO THE HIGHER ETHICAL AND MORAL POTENTIAL OF OUR PROFESSION.”

law clerks. “We pair each law clerk with a lawyer-mentor. Mentors are told to involve the law clerk in every facet of the lawyer’s activities, to treat them like any entry-level professionals,” he explains. “EPA gets lots of excellent legal work from the students, they get practical on-the-job work experience, and the lawyers get the training they need on how to supervise another person.”

As part of their training and orientation, Walker requires all law clerks to take a number of EPA on-line enforcement courses and to review with him a video about attorney Charles Hamilton Houston. “It is important to expose law students to the higher ethical and moral potential of becoming a member of our learned profession” he says. Houston, an African American born in Washington, DC, served in a segregated Army unit in France during World War I. After fighting to make the world safe for democracy, Houston returned to segregation and discrimination in his own home town. Vowing to right these wrongs, he enrolled in Harvard Law School, was the first black editor of the law review, and is the principal architect of the battle to end Jim Crow discrimination. His legal theories and the corps of civil rights attorneys he mentored and developed initiated law suits all over the United States culminating in *Brown v. Board of Education*. Like Houston, Walker tells his law students, “a lawyer can be a social engineer or a parasite on societythe choice is up to you.” ■

WHAT'S NEW

STUDENTS TRAVEL ABROAD

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appreciated hearing the perspectives of students and professors from other countries, particularly in light of the extent to which smart solutions to the climate and energy crises require global cooperation.”

In order to put into perspective the theoretical questions they would address in their research, the participants went on field trips to observe energy-related sites in the Netherlands, including the headquarters of the Dutch Gas Transmission Company, a large energy production park consisting of gas and coal-fired power plants intermixed with wind turbines, and a liquid natural gas storage facility. Nick Bryner (3L) explained, “The site visits to energy facilities were a good complement to the program in order to get a sense of the practical issues involved in regulating energy production.” The week concluded with each institution forming six-person research teams. Team members will undertake independent research while coordinating with their team members. The goal is to eventually combine their research into a comprehensive team product.

The international participants will travel to Washington, DC, in the spring for the Environmental and Energy Law Program’s close-out event at GW Law. Participants will go on field trips related to their research and attend briefings by federal agency officials and representatives of non-governmental organizations. Each team will formally present and defend its research conclusions to a panel of experts.

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obligation is shaped by values.¹² Stern et. al (1999) found that Values-Beliefs-Norms theory offers the best account for non-activist support of the environmental movement.¹³

Eckersley (1992), Grendstad, and Wollebaek (1998), and Thompson and Barton (1994) describe values in terms of anthropocentrism (i.e., the belief that the environment needs protection because of its contribution to human welfare)¹⁴ versus eco-centrism (i.e., the belief that the ecosystem has an intrinsic value and therefore should be protected). Stern et. al describe three value orientations: self-interest, altruism towards others, and altruism toward other species and the biosphere.¹⁵ These can be referred to as egoistic values, altruistic values, and biospheric values. An individual with egoistic values cares about the environment when there is a direct and personal impact on the individual. An individual with altruistic values cares about the environment because of its relevance to other human beings.¹⁶ An individual with biospheric values cares about the environment and ecological systems themselves, beyond the impact on human survival and personal comforts.

Pro-environmental actions (like other kinds of actions) are taken because a trigger activates a moral obligation. The moral obligation, in turn, depends on one's value



orientation, so that only a trigger within the value orientation will activate the moral norm to act.¹⁷ A person with an egocentric value orientation may not be triggered by a message to save the planet, but the person's actions may be triggered by a message to save the lake that the person swims in every morning. Given that diffuse sources of pollution often resulting from decisions by individuals about how to manage farms or drive vehicles or undertake development that increases runoff and destroys habitat are critical elements of many of our major environmental problems, building societal values is essential to solving these problems. This value-building effort must recognize how to communicate with persons holding

very different value systems.

Compliance and enforcement programs may be able to play an important role in building personal and social norms that support more sustainable environmental outcomes by carefully considering how compliance and enforcement programs can have an impact on educating individuals and organizations; reminding individuals and organizations of the importance of environmental issues; activating egocentric, altruistic, or biocentric values; and demonstrating that those who comply with or, more importantly, go beyond what the law requires are assured that they will not be undermined by noncompliance.

¹ "The Stewardship Path to Sustainable Natural Systems,"² above, pp. 3-4.

² The President's Council on Sustainable Development, *Sustainable America: A New Consensus For the Prosperity, Opportunity And A Healthy New Environment for the Future* (1996), p. 109.

³ U.S. Environmental Protection Agency, National Advisory Council for Environmental Policy and Technology, "Advice Letter to the Administrator on Promoting Environmental Stewardship" (2010), pp. 1-2, available at http://www.epa.gov/ocempage/nacept/reports/pdf/2010_06_24_nacept_stewardship_letter.pdf.

⁴ *Ibid.*, p. 2.

⁵ S. Koger and D. Winter, *The Psychology of Environmental Problems* (Taylor and Francis Group, 2010, 3rd ed.), p. 107.

⁶ A. Nordlund and J. Garvill, "Value Structures Behind Proenvironmental Behavior" (2002), 34 *Environment and Behavior*, pp. 740-56, available at <http://eab.sagepub.com/content/34/6/740.short>.

⁷ *The Psychology of Environmental Problems*, 54 above, p. 102.

⁸ S. Schwartz, "Normative Explanations of Helping Behavior: A Critique, Proposal, and Empirical Test" (1973), 9 *Journal of Experimental Social Psychology*, pp. 349-64; S. Schwartz, "Normative Influences on Altruism," in L. Berkowitz, (ed.), *Advances in Experimental Social Psychology* (Academic Press, 1977), pp. 221-79.

⁹ *The Psychology of Environmental Problems*, 54 above, p. 107; T. Dietz and P. Stern, "Toward a Theory of Choice: Socially Embedded Preference Construction" (1995), 24(2) *Journal of Socio-Economics* (pp. 261-279), p. 273.

¹⁰ *The Psychology of Environmental Problems*, 54 above, p. 107; T. Dietz, A. Fitzgerald, and R. Shwom, "Environmental Values" (2005), 30 *Annual Review of Environment and Resources*, (pp. 335-372), p. 356.

¹¹ *Ibid.*

¹² *The Psychology of Environmental Problems*, 54 above, p. 107-110; "Toward a Theory

of Choice: Socially Embedded Preference Construction," 58 above, p. 270.

¹³ P. Stern, T. Dietz, T. Abel, G. Guagnano, and L. Kalof, "A Value-Belief Norm Theory of Support for Social Movements: The Case of Environmentalism" (1999) 6(2), *Human Ecology Review* (pp. 81-98), p. 50.

¹⁴ A person with an anthropocentric value orientation is less likely to act to protect the environment if a human-centered value interfered.

¹⁵ P. Stern, T. Dietz, and L. Kalof, "Value Orientations, Gender, and Environmental Concern" (1993), 25 *Environment & Behavior*, pp. 322-48.

¹⁶ Stern has found that mobilization is more successful when the problem is framed in terms of avoiding harmful consequences to people and in ways that lead potential converts to see themselves as personally responsible.

¹⁷ *The Psychology of Environmental Problems*, 54, p. 109; "Toward a Theory of Choice: Socially Embedded Preference Construction" 58, p. 270. ■

WHAT'S NEW

JEEL CONTINUES TO BUILD SUCCESSFUL REPUTATION



GW Law's *Journal of Energy and Environmental Law* (JEEL) continues to establish itself as the premiere source for converging energy and environmental scholarship. Published in cooperation with the Environmental Law Institute (ELI), JEEL is a student-edited journal distributed to the ELI *Environmental Reporter News & Analysis* subscribers, among others. The winter edition of the journal became available in February and includes articles on energy efficiency, carbon capture and storage, the potential impact of Russian oil exports on the Baltic Sea, and climate protectionism.

Interested in submitting an article to be considered for publication in JEEL?
Find information about submitting an article by visiting groups.law.gwu.edu/JEEL/pages/submissions.

General inquiries and article submission may be sent to gwjeel@gmail.com. For information on subscribing to JEEL, please contact the Environmental Law Institute at orders@eli.org or telephone at 800.433.5120.

GW LAW AND NACLE PROVIDE INTERNATIONAL RESEARCH OPPORTUNITIES



Josie Balzac

As a founding member of the North American Consortium on Legal Education (NACLE), GW Law offers students the opportunity to engage in research projects on important issues of environmental law that transcend international borders to affect North America as a whole. Environmental LL.M. student Josie Balzac is taking advantage of one such opportunity by participating in a research project that is a collaborative effort by GW Law, the University of Ottawa Law School in Canada, and the Instituto Tecnológico y de Estudios Superiores de Monterrey in Mexico. The project focuses on the public participation aspect of the Submissions on Enforcement (SEM) Articles 14 and 15 of the North American Agreement on Environmental Cooperation (NAAEC).

The NAAEC is an environmental side agreement that complements the North American Free Trade Agreement (NAFTA). The parties to the NAAEC created an international organization, the Commission for Environmental Cooperation of North America (CEC), in order to "facilitate cooperation and public participation and foster conservation, protection, and enhancement of the North American environment." Under the NAAEC SEM process, Articles 14 and 15 allow the parties to "bring the facts to light" by allowing any person or NGO to submit to the Secretariat of the CEC written assertions that a party to the NAAEC is failing to enforce environmental laws.

The goal of the NACLE project is to determine the effectiveness of public participation in this submissions process and to develop a research paper informing the CEC of the findings. The project will evaluate the general public's awareness of the SEM process from a social science perspective by answering the following questions: Is the public aware of the process? Who is using the process? Is the process difficult to use? Is it visible and useful? What recommendations can be made to create increased and more effective public participation? Additionally, the project participants plan to determine indigenous communities' involvement in SEM. The project will include a comparative analysis of the procedures and public participation in submission processes of other free trade agreements, specifically the Central American Free Trade Agreement (CAFTA). On November 12, 2012, GW Law will host a NACLE workshop discussing various research topics related to NAFTA and the NAAEC, including the SEM project.

NACLE was formed in 1999 to promote increased understanding within North American countries of neighboring legal systems by providing opportunities for cross-border research, curriculum development, and student exchange. NACLE represents an explicit recognition by its member law schools that law professors, law students, and lawyers are

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mission facilities, new technologies such as hydrofracturing in the eastern United States, siting and financing major additions to the interstate transmission network that involve complex questions of state and federal jurisdiction, major changes to environmental regulation that may lead to the shutdown of

stantial number of alumni who practice in the field. We have for over 30 years taught courses in energy law. We now have an LL.M. concentration in Energy Law and courses focusing on utility regulation, the environmental impact of energy, the international law of climate change, the Clean Air Act, and international project finance. Three years ago, we began publishing the *Journal*

solutions to energy problems. And we can, at the same time, educate a new generation of energy lawyers.

Over the next year, we will be seeking partners to help build an energy policy program at GW Law that will be able to make a real contribution to addressing the big law and public policy challenges associated with the evolution of our domestic energy system, as well as the international objective of providing greatly expanded access to energy while significantly reducing the impact of energy generation on health and the environment. This is an ambitious goal but one that we believe is critical both for our teaching mission and our mission to contribute to solving major public policy challenges.



WE CAN HELP DESIGN ALTERNATIVE LEGAL STRUCTURES THAT FACILITATE CREATIVE SOLUTIONS TO ENERGY PROBLEMS.

older coal-fired power plants, concerns about the impact of electricity generation on climate change, a desire on the part of the international community to provide universal access to energy to reduce poverty and improve public health, and the need to couple expanded access to energy with technologies that are likely to produce a less harmful impact on health and the environment.

Fortunately, GW has a long history in energy education for lawyers and a sub-

of Energy and Environmental Law with the Environmental Law Institute to encourage scholarship in the energy law field and to provide our students with direct exposure to energy law issues. This year, we will add a new course dealing with disposal of nuclear waste and we are in the process of designing a new course on eastern oil and gas law.

But all of this is just a start and only part of the picture. It is important for law schools in particular to directly engage in identifying and helping to design public policies that can provide expanded access to reliable, reasonably priced and environmentally sound energy. GW's location in Washington, DC, puts us in a particularly good position to play a major role in this process. We can provide a nonpartisan forum to convene thought leaders from all sectors to explore innovative ideas for dealing with energy challenges.

We can engage our J.D. and LL.M. students in research that has a direct impact on energy policy. We can help design alternative legal structures that facilitate creative



Paul Schiff Berman
Dean and Robert Kramer Research
Professor of Law

IN MEMORIAM: PROFESSOR RAYMOND W. MUSHAL



*Professor
Raymond W. Mushal*

The GW Law community remembers with gratitude the life of Ray Mushal, who taught Environmental Crimes since 1993. Professor Mushal passed away recently. He was a tireless advocate of environmental crimes litigation, with a long career at the U.S. Department of Justice's Environmental Crimes Division of the Environment and Natural Resources Section.

Professor Mushal was a trailblazer throughout his career in advancing the mission of the Environmental Crimes Division and a champion of environmental crimes programs nationwide.

He began his career through the Attorney General's Honors Program in 1973, after serving with the U.S. Army in Vietnam and graduating from law school at the University of Pennsylvania.

At the DOJ, he was involved in landmark environmental crimes litigation; reviewed and drafted legislation and sentencing guidelines; developed important ENRD policies, including the Community Service Policy; trained agents and prosecutors; and created resource materials and a website for environmental prosecutors nationwide. Professor Mushal was passionate about his work at the DOJ and equally passionate about teaching. He cared deeply for his students and colleagues, and the Law School will greatly miss one of its most dedicated adjunct faculty members.

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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WHAT'S NEW

GW LAW AND NACLE

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increasingly confronted with complex legal issues as a result of the interaction between institutions and individuals across North America. Effective legal education and lawyering in the 21st century requires an understanding of the similarities shared by the legal systems of the United States, Canada, and Mexico, while at the same time remaining sensitive to their differences. GW Law is proud to be a NACLE founding member. Other U.S. member schools include the University of Arizona James E. Rogers College of Law and the University of Houston Law Center. NACLE's Canadian and Mexican member institutions include: Dalhousie University Faculty of Law in Halifax, McGill University Faculty of Law in Montreal, the University of Ottawa Faculty of Law, Instituto Tecnológico de Estudios Superiores de Monterrey Escuela de Derecho in Monterrey, Universidad Nacional Autónoma de México, Instituto de Investigaciones Jurídicas in Mexico City, and Universidad Panamericana Facultad de Derecho in Mexico City.