
ENVIRONMENTAL LAW AT MARYLAND

WINTER 1993, No. 1

1993 PROGRAM HIGHLIGHTS

During 1993 the Environmental Law Program at the University of Maryland Law School extended its record of accomplishments in teaching, research and public service. The program enters its eighth year of operations with an expanded curriculum, stronger faculty, and record levels of student interest and involvement. The following are highlights of the progress of the Environmental Program.

ENVIRONMENTAL FACULTY AND CURRICULUM

Rena I. Steinzor has joined the Environmental Program as a new full-time, tenure-track faculty member. Professor Steinzor comes to the Law School from the Washington law firm of Spiegel & McDiarmid where she was the partner in charge of an extensive environmental practice representing nearly 400 city, county, state and public agencies. A graduate of Columbia Law School, Professor Steinzor is the former staff counsel of a congressional committee responsible for considerable environmental legislation. She is an expert on Superfund, hazardous waste regulation and environmental federalism, issues that are part of her extensive research agenda. In her capacity as the new director of the school's **Environmental Law Clinic**, Professor Steinzor plans to involve students in assisting municipal and county government with compliance and enforcement of the environmental laws. Her hiring culminated a lengthy search in which the Faculty Appointments Committee considered more than 80 applications for the environmental position.

As part of the Law School's nationally acclaimed Legal Theory and Practice Program, a course in **Environmental Justice** was offered for the first time during the Fall 1993 semester by Professors **Sherrilyn Ifill** and **Richard Boldt**. Students in the course examined legal strategies for redressing the disproportionate impact of environment risk on minorities and the poor. Students in the course represented members of a minority community opposing the siting of a landfill next to an historic church and farmworkers exposed to carcinogenic pesticides.

Annie Petsonk, an attorney with the Environment and Natural Resource Division of the Department of Justice, joins the Environmental Program's adjunct faculty this year with a particularly timely course on **International Trade and the Environment**. From 1992-93, Ms. Petsonk served as Director of Trade and Environment in the Office of the U.S. Trade Representative. Students in her seminar, which will be offered in Spring Semester 1994, will participate in mock trade negotiations and the briefing and argument of trade dispute resolution exercises.

In this issue:

Faculty and Curriculum . . .	1
Clinic and Externships	2
Environmental Symposium	2
Environmental Law Courses	3
Publications, Research and Public Activities	3
Maryland Environmental Law Society	4

*Published by the Environmental Law Program
School of Law, University of Maryland at Baltimore
Robert V. Percival, Director*

cont. on page 2

cont. from page 1

Robert Percival will be teaching a new course in **Comparative Environmental Law** as part of the the University of Maryland Law School's summer 1994 program at the University of Aberdeen in Scotland. The course will compare how legal systems in the United States and Europe have responded to environmental problems, including oil spills, air and water pollution, waste management, and regulation of toxic substances. The course will be taught jointly with Scottish environmental law professors.

Alan Miller, director of the Center for Global Change, has been named the first Charles Taylor Fellow in environmental law. The fellowship is funded by a gift in memory of Mr. Taylor, from his former colleagues at the law firm of Gordon, Feinblatt. The fellowship will be awarded annually to an outstanding affiliate or adjunct faculty member in the Environmental Program. Professor Miller, who served as the head of the Clinton Administration's Transition Team for the Environmental Protection Agency, has been teaching the seminar in **International Environmental Law** for the past four years as an affiliate professor of law.

ENVIRONMENTAL LAW CLINIC AND ENVIRONMENTAL EXTERNSHIPS

One of the most significant new initiatives undertaken by the school's full-time Environmental Clinic has been the representation of citizens living near the **Superfund sites at the Aberdeen Proving Ground (APG)**. The sprawling military base, built on a scenic peninsula jutting out into the northern reaches of the Chesapeake Bay, has been the site where chemical weapons and munitions were tested for decades and disposed of with scant concern for the environment. This has produced widespread environmental contamination, including releases of many exotic chemical substances. Funded by technical assistance grants from EPA, groups of concerned citizens who live near APG have hired the University's Toxicology Program to provide technical advice concerning environmental remediation measures. Students in the environmental clinic who are representing the citizen groups are working jointly with students and professors from the Toxicology Program on a project to develop measures for accelerating the cleanup.

With the hiring of Professor Rena Steinzor as the new director of the Environmental Law Clinic, the clinic is poised to expand in new directions, including compliance counseling for county and municipal governments.

The Environmental Program's **Externship Program**, which permits students to receive up to 13 credits per semester while working with environmental agencies or organizations, continues to grow. During 1993, fifteen students participated in full-time environmental externships with agencies and organizations that included EPA's Office of Enforcement, EPA's Office of Administrative Law Judges, the National Oceanic and Atmospheric Administration (NOAA), the National Wildlife Federation, the National Audubon Society, the Natural Resources Defense Council, the U.S. Attorney's Office, and the Chesapeake Bay Foundation. As part of new measures for supervising externs, the environmental externs will attend regular group meetings with their faculty supervisors on a rotating basis at their various jobsites. This process will give all students participating in the externships an opportunity to become acquainted with the work of the other environmental agencies and organizations. Beginning in spring 1994 a new environmental externship program has been initiated with the Maryland Department of Natural Resources.

ENVIRONMENTAL SYMPOSIUM

In April the law school hosted the 1993 Quinn, Ward & Kershaw Environmental Symposium. The 1993 symposium focused on the topic of "Environmental Justice," which concerns efforts to remedy the disproportionate impact of environmental risks on minorities and the poor. The symposium featured presentations by Deohn Ferris (director of the Environmental Justice Project for the Lawyers Committee for Civil Rights Under Law), Richard Lazarus (Washington University School of Law), Vicki Been (NYU School of Law), Clarice Gaylord (EPA Office of Environmental Equity), Luke Cole (California Rural Legal Assistance Foundation), Michel Gelobter (Columbia University School of International and Public Affairs), Paul Mohai (University of Michigan School of Natural Resources), Jane Sigler (Waste Management, Inc.) and Rachel Godsil (Law Clerk, Judge Walker, U.S. Court of Appeals for the Second Circuit). Papers prepared for the symposium are being published in a special issue of the *Maryland Journal of Contemporary Legal Issues*.

The 1994 Quinn, Ward & Kershaw Environmental Symposium will be held on April 8, 1994. The topic will be "Corporate Environmentalism" which will focus on how environmental concerns are changing corporate behavior. Among the topics that will be addressed at the symposium are environmental marketing claims, disclosure of environmental liabilities under the securities laws, joint ventures between environmental groups and corporations and corporate environmental policies. SEC Commissioner Richard Roberts has agreed to speak along with representatives of major corporations, environmental groups, and other government agencies.

PUBLICATIONS, RESEARCH AND PUBLIC SERVICE ACTIVITIES

Environmental Law Courses Offered in 1993 and Spring 1994

Environmental Law
(Percival)

International
Environmental Law
(Miller)

Law, Science & the Prevention of Lead Poisoning
(Percival/Silbergeld)

Criminal Enforcement of the Environmental Laws
(Barrett)

Land Use Control (Power)

Toxic Substance Regulation (Garrison)

Toxic Torts (Percival)

Environmental/Administrative Law Workshop
(Percival)

International Trade and the Environment (Petsonk)

Legal Theory & Practice: Environmental Justice
(Boldt/Ifill)

Environmental Law Clinic
(Steinzor)

Professor Percival's textbook, Environmental Regulation: Law, Science, and Policy, became the most widely used environmental law textbook in the nation during its first year of publication. More than 60 law schools have adopted the text, which was published by Little, Brown and Company in July 1992. In August 1993, Little, Brown issued Professor Percival's 1993 Supplement to the casebook. A second edition is planned for publication in spring, 1995.

In October, the Environmental Law Reporter published Professor Percival's study, "Environmental Law in the Supreme Court: Highlights from the Marshall Papers," 13 Environmental Law Reporter 10606 (Oct. 1993). The article reviews what the papers of the late Justice Thurgood Marshall reveal about the handling of environmental law cases in the U.S. Supreme Court. Professor Percival found that decisions in several major environmental cases changed due to last-minute vote switches. The article also includes a statistical analysis of voting patterns by the justices in environmental cases. In another article published last spring, "Overcoming Interpretive Formalism: Legislative Reversals of Judicial Constructions of Sovereign Immunity Waivers in the Environmental Statutes," 43 J. Urban & Cont. L. 221 (1993), Professor Percival argues that the Court has failed to adjust the interpretative principles it employs to take into account the shift from a common law regime to a system largely dominated by public law.

In April, Environment magazine published a major survey conducted by Professor Percival of the state of environmental education in law schools. "The New Nature of Legal Education," Environment, April, 1993, p.6. Using statistical data, supplemented by information gathered from a survey and interviews with environmental law professors, the study documents the rapid growth of environmental courses and environmental faculty in law schools. The study found that more than twenty law schools are developing specialized environmental law programs, which represent a major shift away from law schools' traditional resistance to specialization.

One reflection of the growing reputation of Maryland's Environmental Law Program is that the school was selected by Fulbright Scholar Natalya Ivanakova as the place to study U.S. environmental law. Professor Ivanakova, from Far Eastern University in Vladivostok, Russia, has spent the Fall 1993 semester in residence at the Law School while studying and conducting research in U.S. environmental law on a scholarship from the J. William Fulbright Scholar Program.

Incoming Professor Rena Steinzor recently published two articles that examine the impact of the Superfund program on local govern-

cont. from page 3

ments and urban land use planning. Steinzor, "To Pay or Not to Pay: Local Governments' Stake in Legislation to Reauthorize Superfund," 25 *Urban Lawyer* 627 (1993); "Superfund for Urban Land-Use Planners," in *Planning, Zoning & Eminent Domain* (Matthew Bender 1993).

An empirical study by Maryland environmental law student Steve Groseclose has been accepted for publication as an article in the *Maryland Law Review*. Entitled "Reality and the Regulatory Agenda: An Empirical Study of the Environmental Protection Agency's Clean Air Act Rulemaking Progress," the article documents how EPA has consistently failed to meet even its own internal timelines for completing rulemakings required by the Clean Air Act.

Professor Percival and University of Maryland toxicology Professor Ellen Silbergeld are conducting research on the legal and scientific history of lead poisoning and efforts to prevent it. In September, Professor Percival presented their joint paper, "Science, Law and the Paradox of Preventative Regulation: Lessons from the History of Lead Poisoning," at the Environmental and Natural Resources Law Seminar at Stanford Law School. Professor Percival also made a presentation on "Environmental Regulation, Fairness and the Constitution," at a symposium on Regulatory Takings: The Implications for Environmental Law held at the University of Michigan Law School in January.

Professor Scott Burns chaired a panel on "Chesapeake Bay IV: A Model for Coastal Seas Governance" at the Conference on Environmental

Management of Enclosed Coastal Seas held in Baltimore on November 11, 1993.

Professor Percival has been awarded a Fulbright Scholarship to teach Environmental Law and to assist with the development of environmental programs at the Comenius University Law School in Bratislava, Slovakia during the spring semester 1994.

Professor Percival has been named co-chairman of the D.C.

Bar's Section on Environment, Energy and Natural Resources. He also has been elected to the Board of Directors of the Environmental Law Institute.

In July, Professor Percival delivered a speech on "Defending the Environment: Understanding the Military's Mission," to an audience of more than 200 military personnel at the U.S. Army Ordnance Center & School at the Aberdeen Proving Ground.

MARYLAND ENVIRONMENTAL LAW SOCIETY

The Maryland Environmental Law Society (MELS), the student environmental organization, has had an active year. In addition to sponsoring a brown bag speakers series, one of the major student projects has been to raise funds for the purchase of an emissions allowance pursuant to the 1990 Amendments to the Clean Air Act that permit market trading in pollution rights. The students plan to purchase an allowance to discharge one ton of sulfur dioxide at the EPA auction of allowances in March 1994. They will then let the allowance expire, effectively reducing the amount of permissible sulfur dioxide emissions by one ton. The student project was featured in a front-page story in *The Daily Record* on November 26 and the *Baltimore Sunday Sun* on November 28.

In cooperation with the Health Law Program, MELS held a dinner program in November that examined the Clinton Administration's proposals to reform food safety legislation. Speakers at the dinner included Erik Olson (NRDC), Michael Walker (EPA), Steve Russell (National Agricultural Chemicals Association) and Jim Aidala (House Government Operations Committee).

For the second year in a row Maryland students finished second in the National Environmental Negotiation Competition held at T.C. Williams Law School in Richmond. The Maryland team was composed of students Maureen O'Doherty and Jackie McNamara.

In January 1994 a student will be attending the 7th Annual National Association of Environmental Law Societies (NAELS) Conference to be held in Malibu, California.