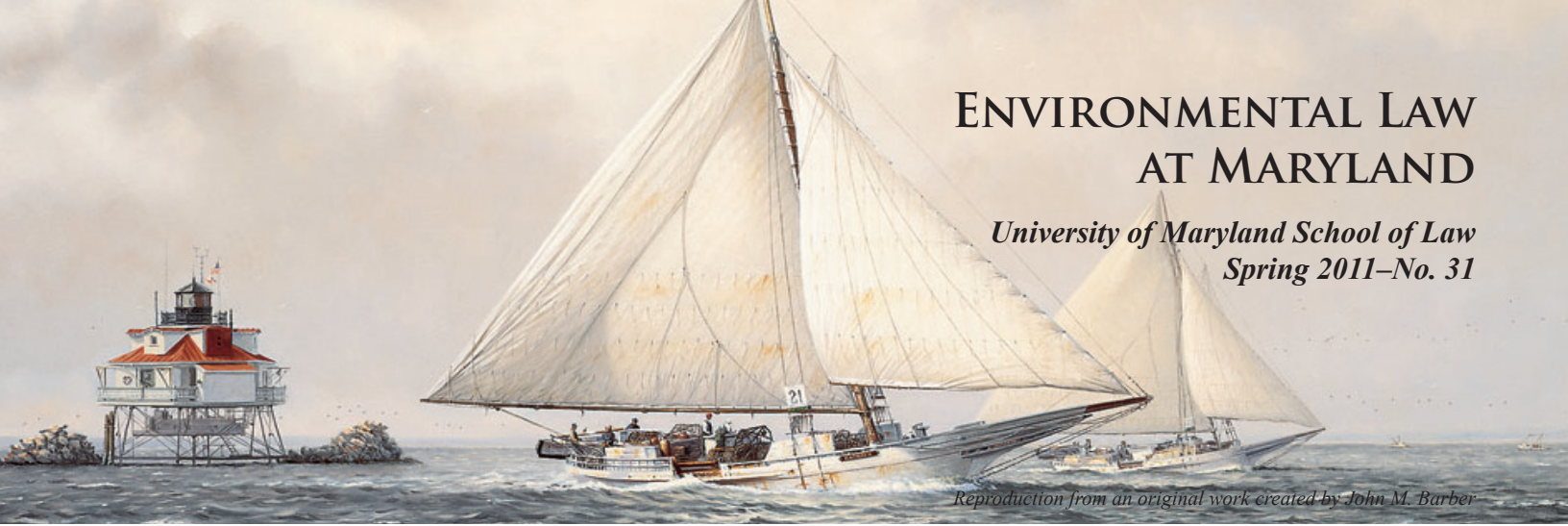


# ENVIRONMENTAL LAW AT MARYLAND

*University of Maryland School of Law  
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*Reproduction from an original work created by John M. Barber*

## THE WORLD COMES TO MARYLAND FOR INTERNATIONAL FINALS OF ENVIRONMENTAL MOOT COURT COMPETITION

*By William Piermattei*

This year's competition began in 2010—a total of 80 teams from around the world competing for the right to come to Maryland for the International Finals of the Stetson International Environmental Moot Court Competition held March 17 through March 20, 2011. Sixteen teams from nine countries on five continents ultimately won the right to compete in the finals, including teams from Brazil, China, India, Ireland, the Philippines, Trinidad and Tobago, Ukraine, the United States and Zimbabwe (for a list of the schools see the box on p. 3). Previously, Maryland hosted the Atlantic preliminary round for the international competition. This year was the first time the International Finals were held outside Stetson Law School.

This year's competition problem raised thorny questions of international law that would have been raised if the BP oil spill had fouled the waters of multiple countries and caused the company to file for bankruptcy. One issue was whether a nation's alleged failure to properly regulate offshore drilling activities constitutes a violation of international law. Another set of issues involved the environmental consequences of widespread use of chemical dispersants to minimize the impact of the oil spill. The competitors also had to address whether international law allows a domestic bankruptcy court to reserve the assets of the responsible company for its own citizens, leaving victims in a neighboring country without compensation.

During the preliminary rounds each team had four appellate arguments, which were held on Friday March 18 and Saturday March 19. On Friday evening, all participants in the competition were honored at the law school's third an-



*The 15th Annual Stetson International Moot Court  
Competition participants*

nual Fedder Lecture and Dinner. Professor George "Rock" Pring from the University of Denver Sturm College of Law and his wife Catherine "Kitty" Pring jointly delivered an inspirational guest lecture on "Greening Justice: Creating Environmental Courts and Tribunals" (see related article on p. 2).

Following the preliminary rounds, eight teams advanced to the elimination rounds: two Philippine teams (Ateneo de Manila and the University of the Philippines), two teams from the Law Society of Ireland, two U.S. teams (Hawaii and Hastings), and teams from India's National University of Advanced Legal Studies and Trinidad and Tobago. Emerging victorious in the quarterfinals were teams from the University of Hawaii, Trinidad and Tobago's Hugh

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## Competition

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Wooding Law School, the University of Philippines College of Law, and the Law Society of Ireland. In the semifinal round the Law Society of Ireland defeated Trinidad and Tobago and the University of Hawaii prevailed over the Philippine team.

The championship round was held before a distinguished panel of judges that included Tim Sellers, the University System of Maryland Regents Professor and Director of the Center for International and Comparative Law at the University of Baltimore School of Law, EPA Deputy General Counsel for International Programs Tseming Yang, and Professor Rock Pring. In the championship round the Law Society of Ireland defeated the University of Hawaii to capture the world championship. Laura Allen of Hawaii



*Championship round judges Tseming Yang, EPA Deputy General Counsel for International Programs, Professor Rock Pring, and Professor Tim Sellers*

won the award for Best Oralists in the Final Round. The best oralist for the Preliminary Rounds was Lance Cidre of Hastings. Ateneo de Manila School of Law (Philippines) won the award for Best Memorial, with University of Philippines College of Law and India's National Uni-

versity of Advanced Legal Studies taking second and third place for their memorials.

Winning the Spirit of Stetson award was the team from the University of Zimbabwe. For the inspirational story of how this team raised their travel expenses during a time of economic crisis in their country see the accompanying story on p. 3.

The University of Maryland Environmental Law Program is enormously grateful to all of the students, faculty, staff, alumni, and guest judges who helped make the competition a success. We are particularly grateful to alums David Mandell and Karla Schaffer, who teach Maryland's Environmental Advocacy course, for their extraordinary work in ensuring that the competition ran smoothly. Karla celebrated her birthday on the day of the championship round and the competitors surprised her by singing happy birthday in English, Chinese, Portuguese, Russian, and Shonu (Team Zimbabwe). Videos of the semifinal and final round arguments as well as the award ceremony are available at: <http://www.law.umaryland.edu/programs/environment/events/stetson.html>.



*"The Art of Advocacy."  
Original artwork by Meggie Gardner*

## ROCK AND KITTY PRING DELIVER THE 3RD ANNUAL FEDDER LECTURE

On March 18, 2011, the University of Maryland School of Law hosted the 3rd Annual Fedder Lecture and Dinner held in conjunction with the Stetson International Environmental Moot Court Competition for the competitors, alumni and supporters of the Environmental Law Program. The Fedder Lecture and Dinner was created with the support of the Fedder Environmental Fund, established through the generosity of alumnus Joel D. Fedder ('58) and his wife Ellen Fedder.

The 2011 Fedder Lecture was delivered jointly by George ("Rock") W. Pring, Professor of Law at the University of Denver's Sturm College of Law, and Catherine ("Kitty") G. Pring, Principal of ReSolution Resources, LLC. The Prings are the world's leading experts on specialized environmental courts and tribunals. Today, more than 370 specialized environmental courts and tribunals have been established in 43 countries and many more will be launched in the near future. The Prings' groundbreaking book *Greening Justice: Creating and Improving Environmental Courts and Tribunals* traces the explosive growth of these tribunals and assesses their prospects for improving global environmental protection. The Prings offer their book, *Greening Justice*, for free at: <http://www.accessinitiative.org/resource/greening-justice>.

The Pring's lecture discussed these developments and their implications for the future of global environmental law. They focused on the attributes that could help ensure the success of environmental tribunals: expanded standing and jurisdiction to encompass advocates representing the environment and all issues that impact the environment; presiding judges and experts with specific expertise in environmental law and science; robust alternative dispute resolution and active, streamlined case management for efficient administration of justice; and broad, flexible enforcement powers. The Fedder lecture may be viewed by visiting our website at: <http://www.accessinitiative.org/resource/greening-justice>.

# THE UNIVERSITY OF ZIMBABWE'S LONG JOURNEY TO MARYLAND

*By Rebecca Brown 3L*

This year's Stetson International Environmental Moot Court Competition had outstanding competitors from around the world gather at the University of Maryland School of law. While each team exhibited the professionalism, courtesy, and dedication one would expect from law students, one team stood out from the rest: The University of Zimbabwe. Law students Tapiwa Mari, Robin Tanyanyiwa Tinashe, and Dorothy Pasipanodya first learned of the Stetson International Moot Court Competition from a fellow law student at their university in Harare, Zimbabwe. None of the three Zimbabwean law students had studied international or environmental law before entering the competition. After researching the requirements necessary to enter the competition, the three Zimbabweans set to researching and writing their memorials and, in effect, teaching themselves international environmental law. A few months of writing and editing later, the three Zimbabwean students submitted their memorials.

Based on their memorial submission, Zimbabwe received an invitation to the international finals and with it came the next big challenge on their road to Baltimore. The team had to come up with about \$10,000 to get to the United States. After months of soliciting their school and local businesses for funds, they were still well short of their goal. They realized that drastic times called for drastic measures. During Christmas break while most students were vacationing and taking a much needed semester break, the three competitors were on the street, going from business to business and

person to person asking for money to attend the competition. Many individuals contributed small amounts, others as much as \$50 or \$100, but the team was nowhere near the amount they needed to get to the competition. Just when it looked like they would not be able to attend, a local beverage company, the Delta Corporation, made a large donation to allow the team to purchase airlines tickets. The Delta Corporation also assisted the team in networking with other local businesses to obtain the additional money they would need. Through their hard work and perseverance they raised enough money to come to the competition.

I had the incredible opportunity to host the Zimbabwe team while they competed in the Stetson Competition.

It was the first time any of them had visited the United States, and they arrived in Baltimore on St. Patrick's Day. After a brief introduction to the holiday with a visit to Canton, the team buckled down to prepare for the competition. I had a great time discussing everything from Zimbabwe's political climate and problems facing Africa, to local pop stars and favorite foods. Their outgoing spirits and enthusiasm for life made them a joy to host.

Even though the team did not officially place in the competition, they won the Spirit of Stetson award which is given to the team that exhibits the best qualities of the legal profession; dedication, professionalism, and courtesy to opposing counsel. Everyone who met these unique, motivated law students quickly realized that these students were special—full of enthusiasm, intelligence, graciousness, and humility. The Zimbabwe team was an inspiration to all who met them. They left expressing their gratitude for being able to compete in the competition, as well as a renewed vigor to enter the competition again next year. We look forward to competing against the University of Zimbabwe team in the future and thank them for showing us what it means to be an outstanding attorney: regardless of whether you win or lose a competition or case, the lasting impression left on colleagues is how you conducted yourself. Congratulations to the University of Zimbabwe team, the School of Law wishes you well and we hope to see you again next year.



*The University of Zimbabwe team (Tapiwa Mari, Dorothy Stabiso Pasipanodya and Tinashe Tanyanyiwa) with Joel Fedder '58 and Bill Piermattei '99.*

## **The countries and schools represented in the International Finals:**

- The Philippines (Ateneo de Manila School of Law, University of Philippines College of Law)
- Brazil (Centro Universitario Newton Paiva, Universidade Federal de Minas Gerais)
- China (China University of Political Science and Law)
- India (NALSAR University of Law, National University of Advanced Legal Studies, University School of Law and Legal Studies)
- Zimbabwe (University of Zimbabwe)
- Ireland (Law Society of Ireland – two teams)
- Ukraine (Kharkiv National University)
- Trinidad and Tobago (Hugh Wooding Law School)
- United States (American University, University of California-Hastings, University of Hawaii)

# ON THE CLINIC DOCKET

## ENVIRONMENTAL CLINIC BRINGS CLEAN WATER ACT ENFORCEMENT ACTIONS IN FEDERAL COURT

In previous newsletters (Fall 2010, No. 30, p.1 and Spring 2010, No. 29, p. 1), we highlighted the Environmental Law Clinic's suit against Hudson Farm and Perdue Farms Incorporated ("Perdue"). In the Perdue matter, the clinic has sued a large chicken farm and Perdue, the entity allegedly controlling the farm's operations, for violations of the Clean Water Act in their disposal of chicken waste. The suit (*Assateague Coastkeeper, et al. v. Alan and Kristin Hudson Farm, et al.*, case no. WMN-10-cv-0487, United States District Court for the District of Maryland) has proceeded through the discovery phase. Summary Judgment motions are due in October pending the resolution of several outstanding discovery issues. A second federal court matter is just getting underway and could have a major impact on how coal ash is disposed in Maryland.

The Brandywine lawsuit (Maryland Department of Environment and Defenders of Wildlife, et al. v. Mirant Maryland Ash Management, LLC, et al., case no. 8:10 cv-00826 PJM, United States District Court for the District of Maryland) pits a large energy corporation, GenOn (successor to Mirant), against the Maryland Department of the Environment as well as several environmental groups. The Environmental Clinic served a notice of intent to sue on Mirant for improperly storing coal ash at its Brandywine landfill in Prince George's County. After the clinic served its notice of intent to sue Mirant, the Maryland Department of Environment (MDE), sued Mirant in federal court.

In its lawsuit, MDE alleges that Mirant Maryland Ash Management LLC and Mirant Mid Atlantic LLC (collectively "Mirant") improperly stored coal ash at the Brandywine Landfill in Prince George's County, Maryland which allowed toxic pollutants to enter groundwater and surface water in violation of the Clean Water Act and Maryland state law. The Clinic moved to intervene in the case on behalf of its clients Sierra Club, Defenders of Wildlife, Patuxent Riverkeeper, and the Chesapeake Climate Action Network.

Mirant has used numerous disposal pits at the Brandywine landfill for coal ash disposal since 1970. Most of the pits that received coal ash are unlined, thereby allegedly allowing hazardous pollutants to leech out and contaminate ground and surface waters in the Patuxent River watershed. The Clinic's clients also allege that Mirant illegally discharged pollutants from outfalls into Mataponi Creek, a tributary of the Patuxent River, due to the poorly construct-



*October 2008 aerial photograph of the Brandywine ash landfill in Prince George's County, Maryland*

ed coal ash disposal site. Coal combustion waste contains numerous toxic pollutants including arsenic, cadmium, lead, mercury, copper, selenium, antimony, beryllium, chromium, cobalt, phenols, radium, and sulfides.

According to a 2008 MDE report, some of the pollutants in groundwater monitoring wells around the landfill were well above Maryland's water quality pollutant limits, including Cadmium (100 times primary water quality standards), and Aluminum (600 times the maximum contaminant level). The intervenor complaint also alleges that Mirant violated its NPDES permit by discharging cadmium into waters of the United States without disclosing and obtaining approval for such a discharge in violation of the Clean Water Act.

The Environmental Law Clinic, on behalf of its clients, has requested declaratory judgments that Mirant unlawfully released toxic pollutants and failed to comply with its NPDES permit issued by MDE. The Clinic also seeks injunctive relief, requesting that the court order Mirant to cease and desist the disposal of further coal ash, cease further discharges of coal ash pollutants, remediate ground and surface water pollutants, and submit to stricter oversight by both MDE and third parties to determine whether Mirant has taken appropriate steps to prevent future pollutant

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# ENVIRONMENTAL LAW CLINIC STUDENTS ARGUE BEFORE MARYLAND COURT OF SPECIAL APPEALS

The Environmental Law Clinic had a busy appellate docket for the 2010-2011 academic year (our Fall 2010 newsletter, No. 30, p.7 highlighted these matters). In the Fall semester, Nathaniel Keller and Emily Rohm argued on behalf of Environmental Integrity Project, Potomac Riverkeeper, Inc., and individual appellants in the matter of *Environmental Integrity Project et al. v. Mirant Ash Management, LLC, et al.*, Maryland Court of Special Appeals, case no. 01779 (Sept. 2009) to allow their intervention in a state court suit brought by the Maryland Department of the Environment (MDE) against Mirant. The suit involves Mirant's alleged violations of the Clean Water Act due to its coal ash disposal practices at the Faulkner landfill in Charles County.

The suit arose due to the Environmental Law Clinic's notice of intent to sue letter provided to Mirant and the MDE pursuant to the Clean Water Act. Thereafter, MDE filed suit in the Circuit Court for Prince George's County, Maryland against Mirant and the Clinic moved to intervene in the suit on behalf of its clients. The Circuit Court denied the request to intervene and the Clinic appealed the decision.

Before the Court of Special Appeals, Emily and Nat argued that citizens and environmental groups have the right to intervene in state court enforcement actions under the Maryland Rules of Civil Procedure (they have the right to intervene in federal cases by statute under the Clean Water Act). Specifically, Nat and Emily argued that citizens and environmental groups have a specific interest in keeping the Potomac River clean as they recreate and own homes down river from Mirant's coal ash disposal site. Nat and Emily also argued that the MDE does not adequately represent their interests in so far as MDE must balance economic impacts with environmental preservation and MDE's scope of enforcement is statewide and therefore it must consider how their enforcement action in this matter will affect other entities and rivers. MDE filed an amicus brief agreeing that they do not necessarily represent the Clinic clients' interests. Unfortunately, the Court of Special Appeals did not agree and affirmed the Circuit Court's denial of intervention because the Clinic's clients lack standing (the ability to make independent claims) in the matter. The Environmental Law Clinic has appealed the decision to the Maryland Court of Appeals and awaits its decision whether to accept

certiorari and hear the appeal.

In the spring semester, Shauna Stringham and Sarah Simpson argued the matter of *Thurman B. Jones, et al. v. The County Council of Prince George's County et al.*, Maryland Court of Special Appeals case no. 00008 (September 2010). The Clinic, representing the residents of an historic African American community, Cedar Heights, argued this environmental justice case before the Maryland Court of Special Appeals. The Clinic appealed the Circuit

Court of Prince George's County's decision to allow appellee American Resources Management Group, Inc.'s ("American Resources") special exception to build a concrete batching plant across the street from the Cedar Heights residential community. Cedar Heights already must contend with several industrial facilities near their neighborhood, including an aggregate rock crushing plant, clay mining, an asphalt plant, and a recycling transfer station.

On appeal, Sarah and Shauna argued that the County Council made several errors in their handling of American Resources' special

exception application. A "special exception" is used in local zoning ordinances to delineate extraordinary uses of land and requires the applicant to show that the proposed special exception use would not adversely impact neighboring properties or residents. First, Sarah and Shauna argued that the County Council inappropriately defined the "neighborhood" or surrounding community because it excluded the residents of Cedar Heights. Due to Cedar Heights' proximity to the proposed concrete batching plant, the residents of Cedar Heights should have been included in the "neighborhood" as potential adverse effects could extend into their community. Second, the County Council should have determined the ill effects the Cedar Heights community must endure due to existing industrial activity, including noise and air pollution. The County Council failed to consider the baseline noise and air pollution and therefore had no rational basis for determining that the additional air and noise pollution from the proposed concrete batching facility would not result in an adverse or unhealthy environment for the Cedar Heights community.

Finally, Shauna and Sarah argued that the County Council failed to heed the advice of the County's own expert, the Prince George's County Department of Health, who



*Environmental Law Clinic and their Clients at the Maryland Court of Appeals for the Environmental Integrity Project et al. v. Mirant Ash Management, LLC, et al. appeal*

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# CENTER FOR PROGRESSIVE REFORM ISSUES REGULATORY AGENDA FOR PRESIDENT OBAMA

Professor Rena Steinzor, President of the Center for Progressive Reform, recently co-authored, with Maryland alumni Matthew Shutz and James Goodwin, “Twelve Crucial Health, Safety, and Environmental Regulations: Will the Obama Administration Finish in Time?” ([http://www.progressivereform.org/articles/12Rules\\_1106.pdf](http://www.progressivereform.org/articles/12Rules_1106.pdf)). The white paper provides an agenda of the most important pending health, safety, and environmental regulations that President Obama’s administration still needs to finalize. While many advocacy groups routinely publish articles on the myriad of unfinished business the Obama administration should address, the Center of Progressive Reform (CPR) has provided the administration a blueprint to prioritize pending regulations. Founded in 2002, CPR is a network of university-affiliated Member Scholars with expertise in the legal, economic, and scientific fields. The mission of CPR is to promote informed and effective public policy through the work of its more than 50 Member Scholars and staff. CPR’s staff includes School of Law alumni Shana Jones (Executive Director), Matthew Schutz (Senior Policy Analyst), and James Goodwin (Policy Analyst).

## The Regulatory Agenda

The principles driving the publication of the regulatory agenda are two basic, fundamental facts of today’s regulatory world. First, the wheels of the regulatory process turn slowly, partly because the regulatory process is full of important opportunities for input from the public and regulated entities (whose interests are served by delay), and in part because Washington has simply grown accustomed to missed deadlines and overly lengthy review periods for pending regulations. Second, the 2012 presidential campaign will soon begin in earnest. As the election approaches and the highly charged presidential campaign escalates, the likelihood of finalizing meaningful regulations diminishes and, if issued beyond June 2012, Congress could undo those regulations pursuant to the Congressional Review Act. Therefore, the authors conclude, the Obama administration has a one year window of opportunity to finalize regulations. For these reasons, CPR has provided the administration the most important health, safety, and environmental regulations to finalize during the coming year.

The report examines 12 rules in all, three that the authors describe as currently on track, and nine that the authors say are either unlikely or in danger of remaining unfinished by June 2012. The three regulations that are on track to be finalized are: (1) the Boiler Hazardous Air Pollutant Rule (EPA); (2) the Ozone and Particulate Matter National Ambient Air Quality Standards (EPA); and (3) the Infant Formula Good Manufacturing Practices Rule (FDA). While

### The nine rules in danger of not being finished before June 2012:

- New Source Performance Standards to Reduce Greenhouse Gas Emissions from Petroleum Refineries and Power Plants (EPA);
- Corporate Average Fuel Economy (CAFE) Standard for light duty vehicles, model years 2017-2025 (EPA and NHTSA);
- Guidance on the Scope of the Clean Water Act (EPA);
- National Stormwater Program Rule (EPA);
- Mountaintop Removal Mining Rules (Guidance for Applying Clean Water Act Permits to Mining Operations and Stream Buffer Rule) (EPA and Interior OSMRE);
- Coal Ash Disposal Rule (EPA);
- Injury and Illness Prevention Program (OSHA);
- Pattern of Violations Policy (MSHA); and
- Chemicals of Concern List (EPA).

these regulations are important, they still must withstand the withering anti-regulation fervor that has gripped much of Washington D.C., particularly the Boiler and Ozone rules.

The report notes that the potential failure to complete work on the remaining nine “endangered” rules “would not be the consequence of congressional interference or other political opposition, but a flat out failure of the Administration to get its work done in a timely manner – a straightforward unforced error with potentially huge consequences.” The authors note three inter-related factors that would contribute to these potential unforced errors: delays from the Office of Information and Regulatory Affairs (OIRA), needlessly protracted deliberations by the agencies themselves, and pressure from anti-regulatory interests.

Some of the endangered regulations have much work to be done. The EPA has not published proposed standards for petroleum refineries or power plants or national storm water program rules. OSHA has not proposed Injury and Illness Prevention Program rules. Currently, EPA Clean Water Act scope guidance, mountaintop mining guidance, and the Chemicals of Concern List (pursuant to Toxic Substances and Control Act (TSCA) §5(b)(4)) are languish-

ing at OIRA, even though Executive Order 12866 exempts guidance documents from centralized OIRA review. The CPR authors urge the Obama administration to hold OIRA to the 120 day maximum review period and, if OIRA fails to adhere to the deadlines set out in Executive Order 12866, move forward with the rule making process.

President Obama promised the American people he would reinvigorate the federal regulatory agencies during his presidency, yet recently mocked overlapping federal regulations to protect salmon during his last State of the Union address. More recently, in a Wall Street Journal editorial President Obama promised to utilize precious regula-

tory resources to review regulations that allegedly hamper innovation and job growth. The recent comments from President Obama show how his opposition has already succeeded in shifting much needed resources away from establishing new rules to protect American lives and our environment and toward re-evaluating existing regulations. The crux of CPR's white paper is clear: the stakes in failing to act are too high to let redundant review processes, OIRA delay, and administration inaction derail important regulations that are already long overdue. The American people deserve better.

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## WARD KERSHAW SYMPOSIUM ADDRESSES WORKER SAFETY

*By Matthew Shutz '06*

**B**y the time the first oil slicks spread from the Macondo Canyon to Barataria Bay, fouling nesting grounds and fisheries, eleven men had died in a massive explosion and fire aboard the Deepwater Horizon drilling platform. Workers are often the sentinels whose injuries and illnesses foreshadow the harms inflicted upon the environment and the broader public by our industrial economy. While the blue-green link is clearest during disasters like this summer's oil spill or the 1984 explosion at Union Carbide's plant in Bhopal, it is integrated into the field of environmental law in subtler ways even during times of relative stability.

On October 7-8, the University of Maryland School of Law and the Center for Progressive Reform co-hosted the 2010 Ward Kershaw Environmental Law Symposium at the law school. This year's conference of legal and public health scholars and occupational safety and health professionals addressed reforms to federal laws and regulations that would better protect workers from the hazards that inevitably find their way from the workplace to the larger environment. Speakers also included several union health and safety officials, as well as former lawyers and medical officers from the Occupational Safety and Health Administration (OSHA) and Mine Safety and Health Administration (MSHA). The proceedings of the conference will be the basis for a new series of white papers by the Center for Progressive Reform, a network of scholars from around the country that promotes improved public health protections.

Chemical regulations were a focal point of the two-day conference. Unlike EPA, with its \$10 billion budget and dozens of statutes through which it can address environmental hazards, OSHA staff are responsible for protecting the entire American workforce with less than \$600 million and a single, outmoded statute. The Occupational Safety and Health Act was drafted forty years ago by a Congress that had full faith in administrative agencies' ability to set

risk-based standards. But then the federal courts took up challenges to OSHA's risk-based standards, during the same period when they were hearing challenges to EPA's risk-based air standards and toxic chemical regulations. In one case after another, from workplace benzene standards to vinyl chloride regulations under the CAA to asbestos regulations under TSCA, the courts heaped additional evidentiary burdens on OSHA's and EPA's risk-based approaches to regulation. Congress responded to these decisions with amendments to the Clean Air Act that allowed EPA to use a faster technology-based approach to setting standards to reduce air toxins, but left OSHA to toil away at rulemakings that demand such extensive technical analysis that the agency has set only two standards in the last decade to protect workers from specific chemical hazards.

Participants at the Ward Kershaw symposium presented a variety of potential solutions to OSHA's standard-setting problem. Professor Sidney Shapiro of the Wake Forest School of Law suggested using the OSH Act's General Duty Clause, which requires employers to furnish each employee a place of employment which is free from recognized hazards. Noting that EPA's characterization of public health risks from toxic chemicals are often derived from studies of occupational exposure and disease, participants suggested that recognized occupational hazards might be easily identified with greater collaboration between EPA and OSHA.

Professor Rena Steinzor and Environmental Law Clinic Director Jane F. Barrett outlined enforcement-based tools that would establish stronger incentives for employers to identify and mitigate occupational hazards. Barrett pointed out that the OSH Act's civil and criminal penalties are appallingly low—willful violations of the statute that lead to a worker's death can bring a statutory maximum \$7,000 fine. She suggested that the government might look to other

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## Ward Kershaw

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statutes for greater deterrent effect, such as the Alternative Fines Act or the general prohibition on fraud and false statements found in 18 U.S.C. § 1001 et seq. Professor Steinzor proposed a new investigatory system for occupational fatalities, based on a program she came across while teaching in Scotland this summer as part of the law school's Summer Abroad Program in Comparative Law at the University of Aberdeen. The idea is to create an investigatory body that would hear testimony about the causes of all occupational fatalities and provide recommendations about new regulations or other protections that could prevent similar incidents from occurring in the future.

The conference also had a session specifically devoted to legislative reform. This summer, the U.S. House of Representatives passed a bill that would improve both OSHA's and MSHA's regulatory authority. But as with 419 other pieces of legislation passed by the House during the 111th Congress, the bill died in Senate negotiations before the

election-season recess. The failure of that bill in a year when Americans witnessed the Massey mine disaster (29 dead), the explosion at a Tesoro oil refinery in Washington state (7 dead), and the BP oil spill (11 dead) provided a stark backdrop for the conference's discussion of legislative reform, which began with a presentation by Charlotte Brody, an organizer with the Blue Green Alliance.

The United Steelworkers and the Sierra Club launched the Blue Green Alliance in 2006 and have since opened their doors to other major unions and environmental groups. The Alliance's goals generally parallel the goals of the constituent organizations, but, as Brody explained, the unions' and environmentalists' shared core values can occasionally run at cross-purposes in specific implementation. For instance, environmentalists often bristle at worker advocates' habit of criticizing the OSH Act's weak criminal penalties by comparing them to the relatively strong penalties under the Endangered Species Act.

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# GOING GLOBAL: A YEAR IN THE EMERGENCE OF GLOBAL ENVIRONMENTAL LAW

*By Bob Percival*

**D**uring the past year environmentalists in the U.S. have had ample reason to be disheartened, particularly after the November 2010 elections swept scores of climate change deniers into Congress. This spring the U.S. House of Representatives passed an appropriations bill that would have cut EPA's budget by 30% while barring any use of funds for nearly all the agency's most significant current initiatives, including regulation of greenhouse gas (GHG) emissions, disposal of coal ash and wastes from mountaintop removal mining, mercury emissions from power plants, the phaseout of incandescent light bulbs, and enforcement of the Chesapeake Bay cleanup.

But outside the U.S. public concern for the environment continues to rise and developing countries are dramatically upgrading their environmental standards. Environmental NGOs and policy experts from around the world are collaborating more closely than ever and governments increasingly are borrowing regulatory innovations from one another. New disclosure and transparency initiatives are encouraging better environmental performance by encouraging companies to "green" their supply chains. The result is the emergence of a kind of "global environmental law" that is blurring traditional distinctions between private and public law and domestic and international law.

In my travels during the past year I have witnessed several aspects of this phenomenon. Environmental experts from throughout the world are collaborating more closely than ever. The IUCN Academy of Environmental Law, a global network of environmental law professors founded in 2003, held its 8th annual colloquium last September at the University of Ghent in Belgium, a week-long event in which hundreds of environmental law professors from all over the world participated. The Academy now has 149 institutional members from 45 countries on six continents, including the Maryland's Environmental Law Program, which is a founding member of this organization. Its annual colloquia have become "must attend" events for anyone interested in global environmental law. In July 2011 I will be participating in the 9th Colloquium in South Africa and in July 2012 Maryland will be hosting the 10th Colloquium (see related story, p. 12) as we celebrate the 25th anniversary of our Environmental Law Program.

Health professionals also are collaborating more closely with environmental law experts. In March I was invited by the World Health Organization (WHO) to participate in meetings of scientists and public health experts to launch a new WHO initiative to prevent cancer by reducing human exposure to toxic agents. The conference, which was



organized by Dr. Maria Neira, director of WHO's Department of Public Health and Environment, included nearly 100 scientists from 21 countries. The opening ceremonies in Oviedo drew a large press contingent due to the presence of Princess Letizia of Spain (see photo). Among the issues we discussed were the importance of completing a global phaseout of asbestos use. Despite bans on the use of asbestos in most of the developed world, asbestos use actually is increasing in some developing countries such as China and India. All major multinational corporations have withdrawn from the asbestos business, but Canada is considering re-opening an old asbestos mine to export more of this deadly product to the developing world. The conference concluded with the adoption of The Asturias Declaration – A New Call to Action on Environmental and Occupational Cancer Prevention, which will play an important role in WHO's preparations for the UN General Assembly's High-Level Meeting on Noncommunicable Disease Prevention and Control in September 2011.



*Dr. Maria Neira (in red), director of the World Health Organization's Department of Public Health and Environment; Princess Letizia of Spain (second to the left of Dr. Neira); Vicente Álvarez Areces, president of the principality of Asturias (to the left of the Princess), Professor Percival (directly behind Princess Letizia); and other participants in the WHO's International Conference on Cancer Prevention.*

The concept of "global law" is gaining wider acceptance, as indicated by a symposium I spoke at in February 2011 at the University of Washington School of Law in Seattle. The symposium on "Global Law and its Exceptions: Globalization, Legal Transplants, Local Reception and Resistance" featured a terrific group of speakers who explored how global law is evolving in several fields, including constitutional law, corporate law, environmental law, administrative law, human rights, and family law. The symposium was the brainchild of Professor Joel Ngugi who proposed four ways to think about global law: legal harmonization, the transplant thesis (countries have always "borrowed" law from one another), the resistance thesis (that what's happening

is pernicious and should be resisted), and the emancipation thesis (that law is malleable and can be used for many ends). In my presentation on "Global Law and the Environment" I reviewed developments in the emergence of global environmental law. University of Washington Law Professor Bill Rodgers responded to my presentation. In fall 2011 the University of Washington Law Review will publish a symposium edition of articles prepared in connection with the conference.

One of the developments I highlighted during my presentation at the University of Washington was the growth of transnational liability litigation. The most stunning development in such litigation to date was the \$8.6 billion judgment issued on February 14, 2011 by a trial court in Lago Agria, Ecuador against the Chevron Corporation for oil pollution in the Oriente region of Ecuador. In an editorial entitled "Shakedown in Ecuador" the Wall Street Journal denounced the lawsuit as "a form of global forum shopping, with U.S. trial lawyers and NGOs trying to hold American companies hostage in the world's least accountable and transparent legal systems." Wall St. Journal, February 15, 2011. However, this is contradicted by the fact that the plaintiffs initially sued the oil company in federal court in New York with the case being transferred to Ecuador only at the oil company's request. Robert V. Percival, "Texaco Asked for Ecuadorian Venue," February 22, 2011. Chevron is aggressively fighting the judgment on several fronts, including filing a RICO suit against the plaintiffs and their lawyers in the U.S., which enabled it to obtain a preliminary injunction to block its enforcement. The Ecuadoran plaintiffs have responded by hiring a top U.S. law firm to expand their legal team, aided by an injection of funds from global hedge funds.

Chile is a remarkable example of a developing country with broad political support for strengthening its environmental laws. In October 2010 I visited the University of Chile's Center for Environmental Law (Centro Derecho Ambiental or CDA) to speak at their conference on "Environmental Law in Times of Reform" (see photo). Chile has created a new and more powerful federal environmental agency that will have responsibility not only for pollution control, but also for management of protected areas. At the conference Chile's Minister of the Environment Maria Ignacia Benítez Pereira announced that the new Environment Ministry is likely to become the largest agency in the entire Chilean government. The election of a more conservative President (Sebastián Piñera), who assumed office in March 2010, has not slowed down environmental protection initiatives because of strong bipartisan support for environmental protection. After the country's first environmental demonstrations organized through Facebook and Twitter, President Piñera surprised environmentalists by canceling plans for a new coal-fired power plant in northern

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## Going Global

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Chile.

Another important development in global environmental law has been the growth of specialized environmental courts, a topic that was the focus of a symposium I spoke at in April 2011 at Pace Law School. The International Symposium on Environmental Adjudication featured a terrific opening keynote address by Brazilian Supreme Court Justice Antonio Herman Benjamin. Justice Benjamin was the founder and director of Brazil's Green Planet Society (an environmental NGO) prior to his appointment to Brazil's highest court in 2006. He contrasted two models



*Professor Percival with former Chilean Environment Minister Ana Lya Uriarte, CDA Co-director Valentina Duran, CDA researcher Daniella Ramirez Sfeir, University of Denver Professor Rock Pring and Kitty Pring, and other participants in the University of Chile's conference on "Environmental Law in Times of Reform."*

of the role of the judiciary - the *juiz espectador* and the *juiz protagonista*. In the former a judge just performs a passive role of "calling balls and strikes" in enforcing property and contract rights, while seeking to avoid environmental controversies because of their technical nature. In the latter, judges acknowledge that they often must decide highly technical issues, like those posed by intellectual property law, and they treat environmental rights created by newly amended constitutions as more than merely cosmetic. The conference also featured fascinating presentations by the Honorable Brian J. Preston, Chief Judge of the Land & Environment Court of New South Wales, Australia, and the Honorable Donald Kaniaru, who is directing the launch of the new Environmental Court of Kenya created by the country's new constitution adopted in August 2010.

I spoke on two panels at the conference - a panel on "The Rule of Law and Environmental Adjudication" and a panel on the "Capacity of Environmental Courts in China." In my first presentation I traced the history of the U.S. federal

courts' involvement in environmental disputes from the trans-boundary pollution cases heard by the U.S. Supreme Court in the early twentieth century to more recent controversies over EPA's regulatory decisions. On the second panel I emphasized the difficulties China's new environmental courts must confront because they are operating in a country without a long tradition of an independent judiciary.

In addition to the creation of specialized environmental courts in several Chinese provinces, China has been the source of other important developments in global environmental law. In December 2010 the All China Environment Federation, a group of environmental lawyers, won an important test case to shut down a polluting paper mill in Guiyan, the capital of Guizhou province. In March I spoke at a conference at Vermont Law School's on "China's Environmental Governance: Global Challenges and Comparative Solutions." The conference featured China's top environmental law professors, including Wang Canfa of the China University of Political Science and Law (CUPL), Li Yanfang of Renmin University, and Li Zhiping of Sun Yat Sen University. In my talk I highlighted transparency initiatives by Chinese NGOs, including efforts to "green" the supply chains of multinational enterprises operating in China. I also warned that Chinese companies extracting resources from developing countries should follow developments in transnational liability litigation such as the Chevron case.

Among the transparency initiatives underway in China is a project by the Beijing office of the Natural Resources Defense Council (NRDC) and the Institute of Public and Environmental Affairs (IPE), a Chinese NGO founded by Ma Jun. The two groups collaborate on a disclosure project that rates Chinese officials in different cities on how well they have implemented China's new Open Information Law when requests for environmental information are made. Their Pollution Information Transparency Index (PITI) has become almost as influential as the U.S. News & World Report ratings of American universities. Chinese officials now frequently contact the groups to find out how they can improve their ratings. The IPE also is working with a coalition of 36 Chinese NGOs to publicize environmental and occupational health concerns arising in the Chinese supply chains used by 29 multinational informational technology companies.

Developments in environmental law in China and India were the focus of another panel I spoke on at the 2011 Spring Meeting of the American Bar Association's International Law section. Jay Pendergrass from the Environmental Law Institute (ELI) and Stanford professor Armin Rosencranz discussed the state of environmental law in India. They noted that despite a burst of judicial activism on

behalf of the environment by the Supreme Court of India during the 1990s, development interests now are prevailing in most environmental conflicts in the country. The legal system works notoriously slowly in India and enforcement of environmental law has not been a high priority as the country pursues rapid development. I discussed five developments important to Chinese environmental policy: (1) increasing awareness of the need to combat climate change, as reflected in the government's new 12th Five Year Plan, (2) the creation of specialized environmental courts in the provinces, (3) NGO initiatives to encourage multinational companies to "green" their supply chains, (4) increasing production and consumption of asbestos in China, and (5) the possibility that Chinese companies could become targets of transnational litigation over their resource extraction practices in Africa and South America.

I visited China in May 2011 to present lectures at Shandong University School of Law in Jinan and Ningbo University School of Law in Ningbo. In Shandong I lectured on "Transnational Liability Litigation for Environmental Harm." I found considerable concern in China about the impact of the Japanese nuclear accident on the future of energy policy. Both China and India are relying heavily on construction of nuclear power plants to supply their future energy needs. China is beginning construction of 27 reactors and has 50 more in stages of planning. India has five under construction and 18 more in planning stages. Together the two countries account for more than 60 percent of new nuclear construction. While both countries have indicated that they do not expect the Japanese nuclear accidents to affect their energy plans, China has temporarily suspended licensing and ordered a safety review. India's Environment Minister Jairam Ramesh has indicated that the Jaitapur nuclear power project, located on the coast of the Arabian Sea in Maharashtra state, may need to be revised to take into account the threat of future tsunamis.

Energy policy has important implications for environmental policy throughout the world. In December 2010 I traveled to Berlin to present a paper on "Strategies for Promoting Green Energy Innovation, Deployment & Technology Transfer," at a conference sponsored by the Ameri-

can Institute for Contemporary German Studies (AICGS). The conference, which was part of AICGS's Transatlantic Climate and Energy Dialogue, was held in the historic Haus Huth, the only building in Postdamer Platz that escaped World War II without significant damage. My paper, which promotes the idea of a petroleum price stabilization tax to promote investment in green energy technology, has been published by the AICGS as Policy Report #45 on Intellectual Property Rights and Green Technology Transfer: German and U.S. Perspectives (2010). Germany has been making particularly impressive strides in its effort to reduce GHG emissions, though it will confront substantial challenges in continuing this progress due to its government's decision to phase out the use of nuclear power partly in response to political fallout from the Japanese nuclear accident.

The failure of world leaders to achieve global consensus on a post-Kyoto treaty for responding to climate change is not a product of a lack of global concern about the problem. During the Cancun climate negotiations last December, I was a guest on the BBC World Service's "World, Have

Your Say" program to discuss the climate change problem. The program is a truly global talk show with panelists in BBC studios in different countries interacting with callers from all over the world. During the hour-long program we interacted with callers from England, Latvia, Sweden, Mozambique, Belgium, South Africa, New Zealand, Mexico and Botswana. The moderator in London read emails from India, Afghanistan, Uganda, Ireland, and Canada.

In my travels during the past year to Chile, China and other parts of the world, I discovered that global environmental law is thriving as governments, NGOs and business undertake initiatives to protect public health and the environment in new and creative ways. When environmental scholars from around the world come to Maryland in July 2012 for the 10<sup>th</sup> Annual Colloquium of the IUCN Academy of Environmental Law, everyone will be able to learn even more about further impressive developments in the emergence of global environmental law.



*Professor Percival speaks with students at Shandong University School of Law in Jinan, China, on May 13, 2011.*

Join us for the largest gathering of environmental law professors ever when we celebrate the 25th Anniversary of Maryland's Environmental Law Program by hosting hundreds of environmental experts from every corner of the world



## The 10th Annual Colloquium of the IUCN Academy of Environmental Law

### **“Global Environmental Law at a Crossroads”**

July 1-5, 2012

University of Maryland School of Law  
500 West Baltimore Street  
Baltimore, Maryland 21201

The year 2012 will mark the 40th anniversary of the Stockholm Conference on the Human Environment and the 20th anniversary of the Rio Earth Summit. But when world leaders gather for the “Rio+20” conference next June, they will face a markedly different climate than during their previous gatherings. Despite rising concern for the environment, efforts to advance global environmental governance are facing headwinds in the wake of the global financial crisis and the failure to reach consensus on a post-Kyoto response to climate change.

The IUCN’s 10th Annual Colloquium will consider alternative future paths for the development of global environmental law and governance in the aftermath of the UN’s “Rio+20” Conference. Looking backwards, the Colloquium will examine what has worked and what has failed and why. Looking forward, it will explore opportunities for overcoming political resistance to sustainable development policies and new strategies for improving national, regional and international environmental law.

Also featured during this exciting week: opening dinner at the National Aquarium, global environmental law film festival, crab cruise, alumni winetasting, field trips, and 4th of July fireworks celebration.

For more information contact Environmental Law Program Coordinator Suzann Langrall at [slangrall@law.umaryland.edu](mailto:slangrall@law.umaryland.edu) or visit [www.law.umaryland.edu/iucnael2012](http://www.law.umaryland.edu/iucnael2012)



# PUBLIC HEALTH LAW NETWORK GOES ONLINE, ADDRESSES HYDRAULIC FRACTURING

By William Piermattei

As noted in the Fall 2010 newsletter (Vol. 30 at 14), the University of Maryland School of Law was selected as the Eastern Region Headquarters for the Public Health Law Network (<http://www.publichealthlawnetwork.org/>), an organization dedicated to providing expert legal assistance on environmental and public health issues to policy makers, public officials, researchers, lawyers, advocates, and public health practitioners. The University of Maryland School of Law is not only the Eastern Region Headquarters, but also the national referral center for environmental health issues.

Soon after the Public Health Law Network went on line in September 2010, an inquiry from a local policy maker in the Pittsburgh area requested information concerning what federal and state laws would apply to horizontal hydraulic fracturing (“fracking”), a method to extract natural gas from shale deposits, and how local authorities could address the booming natural gas drilling in western Pennsylvania. Maryland Professor Kathleen Dachille, Director of the Eastern Region Headquarters at the law school, immediately set to work with students in the Public Health Law Clinic to address the potential problems posed by fracking.

Horizontal hydraulic fracturing or “fracking” is a relatively new technique that has greatly expanded natural gas production, particularly in shale formations deep underground. The Marcellus shale formation stretches from western Virginia through most of West Virginia, part of eastern Ohio, through western Pennsylvania and Maryland, and up to western New York and is thought to hold trillions of cubic feet of natural gas. The most productive portions of the Marcellus shale are at depths of 4,000 to 8,500 ft underground where natural gas bubbles are suspended in the shale. Fracking allows a driller to drill down to the shale layer and then drill horizontally through the shale layer, injecting large amounts of fracking fluid, more than five million gallons per horizontal well, to fracture the shale and release the natural gas trapped inside.

The new drilling method was introduced to the Marcellus shale area in 2005 and greatly increased natural gas flow per well because of the ability to horizontally drill through the shale formation. The spread of this technology, particularly in Pennsylvania, has been staggering, going from 27 wells drilled in 2007 to 1,386 wells in 2010. The Pennsylvania Department of Environmental Protection issued more than 3,300 natural gas drilling permits last year,

up from 117 permits in 2007. The state has already issued another 1,088 permits for drilling in the Marcellus shale and an additional 504 wells have been drilled through April 2011.<sup>1</sup>

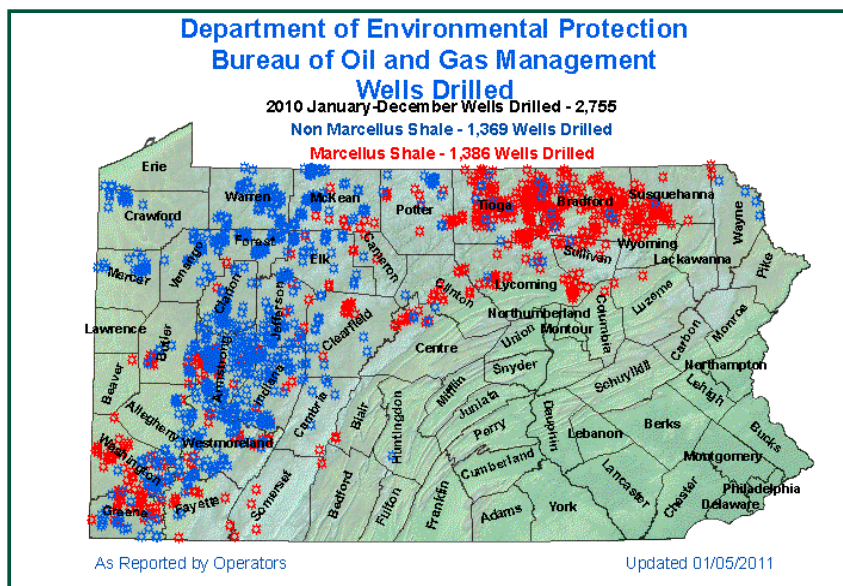
## The Problems

Because fracking is relatively new and spreading rapidly in the Marcellus shale region, the magnitude of risks posed are not known at this time. Though the scope of potential problems to health and the environment is not known, there are numerous indications that fracking poses significant and immediate risks to water quality, particularly drinking water.

First, each well uses up to 5 million gallons of fracking fluid which contains numerous chemicals. Thousands of gallons come back up from the well as waste water, carrying with it heavy metals, corrosive salts and potentially carcinogenic radioactive waste which naturally occur thousands of feet below ground. Currently this waste water is treated at waste water treatment plants (if at all) that are not equipped to treat radioactive waste water and then discharged into major rivers, sometimes just miles upstream from drinking water intakes. Second, natural gas and methane may migrate to contaminate drinking water supplies. Finally, due to confidential business information (CBI) protections, the chemical composition of fracking fluid is unknown, but include acids, corrosion inhibitors, anti-bacterial agents, scale inhibitors, friction reducers, surfactants, and gelling agents.

The explosive growth of fracking combined with the numerous ways that the drilling method can contaminate

*continued on page 14*



## Hydraulic Fracturing

*cont'd from p. 13*

rivers and drinking water has caused alarm among many environmentalists and public officials. New York has instituted a moratorium on fracking pending further study. According to a recent study, there has been a 17 fold increase in methane contamination of drinking water wells in and around natural gas drilling sites.<sup>2</sup> These findings are of particular concern in Pennsylvania, the area where fracking is most prevalent and also where up to a million private wells are used for drinking water. Government officials are scrambling to find answers to the potential problems fracking may pose. One such official requested assistance from the Public Health Law Network.

### Addressing the Problems

The Public Health Network forwarded the request to the University of Maryland School of Law where Professor Kathleen Dachille and students from the Public Health Clinic have been investigating the legal tools available to local officials, whether proposed local regulations may conflict with state or federal law, and existing state and federal laws and regulations as well as local ordinances that could be used to regulate fracking. Professor Dachille noted that “local government officials that want to address fracking must overcome several obstacles, including the lack of disseminated scientific information, the complexity of federal, state, and local laws and regulations, and the difficulty in assimilating available information and untangling the various laws and regulations that could apply to this problem. They just don’t have the resources.”

Enter the Public Health Law Network: “The real benefit (the Public Health Network) provides to local government

is the access to numerous public health and legal experts to analyze these difficult issues and students in the Public Health Clinic to do the necessary research. Not only do government officials obtain much-needed help, but students get a fantastic opportunity to address real-world problems and develop public health law expertise,” notes Professor Dachille. Under Professor Dachille’s supervision, students have prepared reference material for local government officials, recommendations on how officials can address fracking, and a presentation on the potential risks fracking poses. In addition, the Public Health Law network hosted a webinar on fracking which is available at: <http://www.publichealthlawnetwork.org/public-health-law-webinar-series/>. For more information on fracking, you can visit the Network’s website ([www.publichealthlawnetwork.org](http://www.publichealthlawnetwork.org)) or join the Network (it’s free) and receive a biweekly electronic newsletter highlighting upcoming events and available resources.

### References

<sup>1</sup>See, the Pennsylvania Department of Environmental Protection website at [www.dep.state.pa.us/dep/deputate/minres/oil-gas/new\\_forms/marcellus/marcellus.htm](http://www.dep.state.pa.us/dep/deputate/minres/oil-gas/new_forms/marcellus/marcellus.htm) for more information concerning the scope of natural gas drilling in Pennsylvania.

<sup>2</sup>Osborn, SG, et al., “Methane contamination of drinking water accompanying natural gas-well drilling and hydraulic fracturing.” *Proceedings of the National Academy of Sciences* (May 9, 2011). Available at [www.pnas.org/](http://www.pnas.org/).

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## Clean Water Act

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discharges. The clinic requests civil penalties of \$32,500 per day from January 4, 2006 through January 13, 2009 and \$37,500 per day thereafter (more than \$60 million in penalties to be paid to the government) as well as attorney’s fees and costs pursuant to the Clean Water Act. The court granted the Clinic’s motion to intervene and denied defendant’s motion to dismiss. The matter is now proceeding through discovery.

## Special Appeals

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analyzed the proposed plant and the residents’ complaints and determined that further study was required to determine whether the community already suffered from an unhealthy level of air and noise pollution before additional pollution sources were added to the overburdened community. Instead, the County Council granted the special exception to move forward with the construction of the plant, but requested the performance of a health study at some future, unspecified date. The Clinic and the residents of Cedar Heights await the Court of Special Appeals’ decision.

## 28 STUDENTS GRADUATE WITH CERTIFICATE OF CONCENTRATION IN ENVIRONMENTAL LAW

On May 20, 2011, a total of 28 students graduated from the University of Maryland School of Law with a certificate of concentration in environmental law. A total of 267 students have now graduated from Maryland with the environmental law certificate, which the school first offered in 1998.



*Dean Phoebe Haddon, Professors Robert Percival and Jane F. Barrett, environmental program Managing Director William Piermattei and Program Coordinator Suzann Langrall with some of the environmental law concentration recipients from the Class of 2011.*



On November 12, 2010 more than 200 students, faculty, friends and alumni of the University of Maryland Environmental Law Program gathered in Westminster Hall for the 19th Annual Environmental Law Winetasting. "Wine - Nature's Thanks for Preserving the Earth" is the theme of the annual winetasting. The wine-tasting featured 76 different wines from a dozen countries. They included some old Bordeauxs from three Médoc second growths, including three vintages of Chateau Pichon Lalande, as well as some old California cabernets and a port from the 1977 vintage. Alumna Jani Laskaris won the annual contest to guess the mystery wine, correctly guessing that it was a Greek cabernet.

# PROGRAM NEWS

## CONGRATULATIONS!

### **Kathleen O'Malley '11 wins Johns Hopkins Reed-Frost Scholarship**

Kathleen O'Malley '11 was recently accepted at Johns Hopkins Bloomberg School of Public Health, Master of Public Health (MPH) Program and soon thereafter received a Reed-Frost Scholarship of \$37,500 for her studies. The University of Maryland School of Law and Johns Hopkins recently initiated a dual degree (Juris Doctor and Master of Public Health) program for students interested in combining law and public health policy. Katie applied to the Johns Hopkins MPH Program during her second year of law school and, based on her submission, was selected as a Reed-Frost scholarship recipient.

Katie began her interest in Environmental Law and Public Health Law as an undergraduate at the University of Pittsburgh. She worked for two years as a research assistant on an NIH study on Type 2 diabetes and used her experience in the study to develop her senior Bachelor of Philosophy thesis on the mediating effect of self efficacy in depression and Type 2 diabetes. While at the University of Pittsburgh, she also became interested in the environment through grassroots clubs and activities. These experiences led her to the University of Maryland School of Law where she continued her work in both the public health and environmental fields.

Katie took advantage of Maryland's broad environmental law course offerings and opportunities. Katie and fellow Maryland Law student Leila Ashkeboussi were selected as Baltimore Albert Schweitzer Fellows and created curricula for Baltimore city school students to teach them about the environment working through the University of Maryland Club UMD mentoring program. Katie served as an extern at the U.S. EPA in the Office of Enforcement and Compliance Assurance (OECA) in the Office of Civil Enforcement's (OCE's) Waste and Chemical Enforcement Division. She also worked as a summer law



*Katie O'Malley ready to scale new heights at Johns Hopkins Bloomberg School of Public Health*



*University of Maryland School of Law graduate April Morton '11*

clerk at OECA's Office of Site Remediation and Enforcement's (OSRE's) Policy and Program Evaluation Division on policy related to institutional controls, brownfields, the Uniform Environmental Covenants Act, and polychlorinated biphenyls (PCBs). Katie also worked for Senator Cardin at the Senate's Environment and Public Works Committee where she analyzed enforcement provisions of the Great Water Bodies' legislation.

Katie plans to continue to combine her interests in public health and the environment at Johns Hopkins by researching the effects of hydraulic fracturing natural gas drilling on water quality. Katie is scheduled to complete her Master of Public Health in May 2012. She plans to utilize both degrees by working on public policy where the fields of environmental law and public health intersect. We wish Katie the best of luck at Johns Hopkins and look forward to her future work in the areas of environmental law and public health.

### **April Morton '11 Wins 2010 ABA Renewable, Alternative & Distributed Energy Resources Committee Student Writing Competition**

You may remember April Morton '11 from last year's newsletter (Spring 2010, No. 29, at 1) as part of the 2010 Stetson International Environmental Moot Court Competition World Champion team. This year, April completed an externship at the Environmental Protection Agency's Office of General Counsel, won the ABA Renewable, Alternative & Distributed Energy Resource (RADER) Committee's student writing competition, and graduated Magna Cum Laude with a Concentration in Environmental Law.

April's paper, "Thinking Globally, Acting Locally: Cooperative Federalism and the Development of Offshore Wind Parks," won RADER's student writing competition and will



appear in the next edition of the ABA Energy Committee's newsletter.

The paper focuses on the overlapping federal and state jurisdiction concerning off-shore wind park development and how this jurisdictional tension is resolved through "cooperative federalism." Regardless of whether wind parks are sited in a state's jurisdiction (within three miles of shore under the Submerged Lands Act) or federal jurisdiction (outside three miles under the Outer Continental Shelf Lands Act), April concludes that wind parks affect human activity and ecosystems that span the three mile jurisdictional boundary and therefore require a close partnership between federal and state regulatory authorities due to the unique federalism concerns that arise from potentially conflicting state and federal interests. By involving states at every stage of federal decision making, cooperative federalism addresses local economic, environmental, and regulatory concerns early in the wind park development process thereby eliminating sources of future conflict and obstacles to development.

We all look forward to April's future contributions to the environmental law field and congratulate her for her many successes at the law school.

### **Sarah Corstange 2L wins Best Oralist in English Award and Maryland Team Advances to Semifinals at the 2011 Inter-American International Human Rights Moot Court Competition**

When Sarah enrolled in the law school's Environmental Advocacy course, she had a goal of improving her public speaking and advocacy skills. Both Sarah and her moot court teammate, Molly Madden 2L, made the school's environmental negotiation team and looked forward to competing in the University of Richmond's Environmental Negotiation competition. In January, Richmond unexpectedly cancelled its competition at the last minute. At that late date, Sarah and Molly's options were limited to participating in the International Human Rights Moot Court Competition or foregoing competing at all.

With only six weeks to delve into international law and draft a brief, Sarah and Molly took up the challenge and entered the International Human Rights Competition. The competition is unique in that all teams compete (and judges question) in their native tongue and the entire competition is translated akin to United Nations proceedings. Long after their classmates had completed the year, Sarah and Molly continued to practice their arguments with Environmental Advocacy adjunct Professors Karla Schaffer and David Mandell.



*Sarah Corstange at the 2011 Inter-American International Human Rights Moot Court Competition in Washington D.C.*

Out of a field of nearly 100 teams, Sarah and Molly advanced to the semifinals before they were eliminated – but not before Sarah earned the Best Oralist in English award for her stellar performance in the competition, besting her teammate Molly (who was the second best English oralist) by a razor-thin .042 point margin. Sarah and Molly's accomplishments were truly extraordinary in that they were trained and practiced environmental advocacy, but were able to take those lessons, apply them to international human rights advocacy, study international human rights law, draft their brief, and prepare for a completely different competition in a little more than three months – proving the adage that in order to be a great environmental attorney, you must first learn to be a great attorney. Sarah and Molly appear to be well on their way and we look forward to more achievements from them in their third year.

## **LAW SCHOOL STUDENTS HELP ENSURE ENVIRONMENTAL JUSTICE FOR NORTH GULFPORT, MISSISSIPPI RESIDENTS**

*By Andrew Kraus 2L*

In January a group of students with the Maryland Law Service Corps travelled to Biloxi, Mississippi to volunteer with the Mississippi Center for Justice (MCJ) on a variety of legal issues facing the local community. One of the projects the students addressed was an environmental justice issue facing North Gulfport, a community just north of a proposed mammoth port facility expansion.

Gulfport, MS, located 13 miles west of Biloxi, is the home of 75,000 residents and a port facility which develop-

ers want to expand to operate at five times its current cargo capacity. The proposed port expansion will rival the ports of Houston, TX, Savanna, GA, Charleston, SC and even Los Angeles, CA. The expanded port, when completed, would have a 3 million TEU's (twenty foot equivalent units) per year capacity. As a comparison, one 18-wheel truck hauls 2 TEU's at a time. If the port operated at

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## Gulfport

*cont'd from p. 17*

capacity, it would require 1.5 million trucks to handle this cargo—the equivalent of 4,100 trucks a day or three trucks per minute, twenty four hours a day, driving through the area.

While the economic impact of this port on the local community is debated, the MCJ and area residents are concerned with the environmental health impacts due to increased air pollution. As part of the expansion, a limited access six lane highway will be built which will bifurcate the city of North Gulfport and Gulfport. This highway will allow for more rapid off-loading of the ship's cargo and will give truckers easier access from the port facility to the freeway, which is approximately 5 miles inland to the north. Also, the current rail system which parallels the proposed roadway would need to be modified to permit double stacked freight trains operating at 49 mph to aid in the off-loading and transport of cargo. The proposed limited access six lane highway and railway would run through North Gulfport, a predominately low income African-American community devastated by Hurricane Katrina.

The North Gulfport community would face the greatest impacts from the proposed port facility. The environmental justice issues pertaining to the proposed construction are largely centered on health and quality of life. The presence of bunker fuel burning ships off-loading cargo as well as increased diesel truck and rail traffic will greatly increase the amount of air pollution in the region. The entire port facility operation will emit several times the amount of air pollutants as the region's coal fired power plants. This increase in pollution can be expected to create higher rates of respiratory and cardiac ailments in adults and increased asthma rates in children. Studies confirm that children, who are substantially more susceptible to airborne pollutants than adults, living within 1500 feet of busy roadways experience significantly higher rates of asthma. The proposed port expansion would also likely lower area property values and make further residential development of the area, still heavily scarred from Hurricane Katrina, nearly impossible.

The MCJ's goal is to educate the Gulfport community about the proposed construction and what Gulfport will look like once the project is completed. In the coming months there will be public hearings hosted by the Army Corps of Engineers and the companies building the port to hear any public comments on the project. The MCJ is working to include as many community members as possible to attend these meetings to ask tough questions concerning the effects port expansion will have on their families' health and quality of life. University of Maryland students assisted the MCJ by working to create informative presentations that were shown to local community groups. Maryland students also met with a group of local middle



*Students from the University of Maryland School of Law and Touro School of Law at the Mississippi Center for Justice.*

and high school students who are working to create awareness about this issue via social media, such as YouTube and Facebook.

Engaging the Gulfport community will be the first step to make sure that they are treated fairly and their concerns are addressed. Developers and the Army Corps of Engineers must be held accountable for their decisions and address foreseeable harm before it occurs, rather than trying to clean up damaged communities and ameliorate irreparable harm to the health of area residents after-the-fact. This is the crux of environmental justice. Current environmental justice laws are in place specifically to protect communities such as North Gulfport from exploitation that will cause disproportionate harm, adverse health effects, and diminish their quality of life and ability to revitalize their town.

I found the experience working with the Maryland Law Service Corps and Mississippi Center for Justice to be a very motivating experience as I was able to witness first-hand the positive impact that environmental justice lawyers can have and the warm reception they receive from their clients. The most rewarding aspect of the experience was working with the middle and high school students who were very passionate about protecting their community and not letting indiscriminate development destroy their town. Their initiative to address these issues was inspiring and all were dedicated to persevering. I learned that being a lawyer is much more than representing a client in a case—it extends to undertaking community and educational outreach and working with citizens to protect their health, their future development, and their way of life.

# TO THE PERUVIAN AMAZON AND BACK AGAIN: WORKING WITH THE ACHUAR COMMUNITY

*By Michelle Salomon '11*

I saw the power of integrity this past August when I was deep in the Peruvian Amazon. I was doing an internship with EarthRights International (ERI), who represents the Achuar plaintiffs as co-counsel in a lawsuit against Occidental Petroleum, one of the largest oil and gas companies in the United States. During community assemblies, I listened to Achuar representatives describe in detail how multinational oil companies have uprooted and undermined their way of life and their determination to redress these wrongs.

EarthRights International (ERI) is one of the only NGOs in the nation that combines both litigation and advocacy to promote environmental justice and protect human rights. ERI was co-counsel on *Doe v. Unocal*, one of the first cases to use the Alien Tort Claims Act to hold multinational corporations accountable in U.S. federal court for human rights violations overseas.

The Achuar have inhabited the Amazon rainforest along the border of Peru and Ecuador for thousands of years. There are approximately 12,500 Achuar living in the Northeastern Peruvian Amazon, located in the department (“state”) of Loreto; they are organized into 77 communities along various rivers and their tributaries: the Huitoyacu (18 communities), Huasaga (20 communities), Pastaza (14 communities), and Corrientes river (25 communities). The Achuar rely on the rivers for drinking, cooking, transportation, and subsistence. Their land serves a critical cultural and spiritual identity of the Achuar, who have traditionally used plants in the Amazon as medicine. Lot 1AB is Peru’s largest oil reserve, and also the Achuar’s home. In the 1970s, Occidental, a company incorporated in Los Angeles, California, purchased the Lot 1AB concession from the Peruvian Government. Occidental drilled over 150 wells and constructed 300 miles of roads and pipelines throughout the Amazon. The technology Occidental used to extract crude oil was outlawed in both the U.S. and Peru.

In 2007 ERI and co-counsel filed a class action suit on behalf of Achuar communities along the Corrientes River. The suit alleges that, over a thirty-year period, Occidental contaminated the rivers and lands of the Achuar communities and knowingly dumped approximately 850,000 barrels of toxic wastewater per day into Achuar land and rivers, induced acid rain from gas flaring, and improperly stored waste in unlined pits in the Amazon. Plaintiffs allege that Occidental’s actions caused environmental contamination, death, widespread lead and cadmium poisoning and destruction of the Achuar way of life.<sup>1</sup> Occidental never cleaned up the contamination. Plaintiffs seek damages, injunctive and declaratory relief, restitution and disgorgement of profits, specifically requesting that Occidental fund

a comprehensive clean up and provide medical care to affected communities.

After the case was removed to federal court, in 2008 the United States District Court for the District of California dismissed the case on forum non conveniens grounds without placing any conditions on the dismissal. The Court held that the case should be tried in Peru because it is a more convenient forum than the U.S. On appeal this past December, the Ninth Circuit reversed the dismissal and ruled that the case should proceed in Los Angeles and should not be tried in Peru. According to the Ninth Circuit, the trial court did not give enough deference to the strong presumption



*The Achuar community of Antioquia*

in favor of a plaintiffs’ choice of forum, in this case Los Angeles, which happens to be only a short walk away from Occidental’s headquarters. The Ninth Circuit also noted that the lower court did not address the enforceability of a judgment in Peru. The case will proceed in the U.S. District Court in Los Angeles.

Though the Achuar have not yet prevailed in their lawsuit, I can still hear the conviction in the Achuar representatives’ voices as they explained to their communities the danger of being complicit through inaction. Their dedication to justice has inspired me to continue their fight in whatever way I can. While working at ERI, I gained a deep appreciation of the unique and culturally sensitive approach ERI brings to holding governments and corporations accountable for human rights violations. My experience with ERI and the Achuar showed me first-hand how foreign investment can detrimentally change peoples’ lives and their view of the world. As we traveled for several days by air, land, and boat to meet with the Achuar plaintiffs, I thought about the many other people in remote pockets of

*continued on page 20*

the world who are harmed by extractive industry activities and are similarly not positioned to assert their rights. I am determined to continue advocating on behalf of people whose most basic human rights have been violated by governments and transnational corporations.

**References**

<sup>1</sup>See *Maynas Carijano, et al. v. Occidental Petroleum Corporation, Occidental Peruana, Inc.* Plaintiff's Class Action Complaint filed in the Superior Court of the State of California in and for the County of Los Angeles, Case No. 8C370828, available at <http://www.earthrights.org/sites/default/files/legal/final-oxy-state-complaint-does-signed.pdf>.

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## ENVIRONMENTAL LAW AND PUBLIC HEALTH: MY EXTERNSHIP EXPERIENCE AT THE WORLD HEALTH ORGANIZATION

*By Juliana Galan '11*

Last August, as many of Maryland Law students were wrapping up their summers and gearing up for another semester in Baltimore, I was boarding a United Airlines plane bound for Switzerland generally and the World Health Organization (WHO) specifically. Sound fabulous? Well, it was pretty much all you can imagine. But it was not all ski slopes, chocolate and fondue. My semester-long internship with the WHO's Public Health and Environment department was an unforgettable experience.

I first arrived at the World Health Organization with all the bouncy enthusiasm of an idealistic student just waiting for the chance to put the world to rights. My primary task was to build a structured framework for a project seeking to identify how legal tools, such as legislation or litigation, may be used to promote and protect public health during extractive industry activities. Large-scale extractive industry projects, such as mining or forestry activities, have tremendous environmental, societal and public health-related impacts on host countries often ill-equipped to handle these problems. Identifying and defining legal mechanisms that could help prevent public health impacts would allow host countries to take advantage of the economic benefits extractive industries bring while minimizing the negative consequences to the host country's society and environment.

The project was incredibly broad. Preventing problems before they occur would save lives and avoid so much heartache, destruction and disaster to individuals and entire societies. I worked closely on developing the project outline with Dr. Carlos Dora, a world-renowned epidemiologist and coordinator of the Public Health and Environment

department, and with technical officer Michaela Pfeiffer. In addition to my WHO contacts, I was fortunate to have many Skype conferences discussing the details of the project with Bill Piermattei and Professor Percival. After a considerable amount of research, I pinpointed four key interconnected legal tools that would combine to help create a solid legal infrastructure: legislation and regulation,

internal enforcement mechanisms, civil society engagement and litigation or arbitration. We then spent the rest of the semester putting together a detailed proposal of the project to request funding from major contributors.

By the end of the internship, I felt fulfilled and satisfied with my accomplishments. Dr. Dora was extremely inclusive and truly made me feel a part of the team, working closely with me on the project throughout the semester. I was pleased and excited to be given the freedom to develop the work in whatever manner I chose, although

that was very challenging at times. I also participated in an international conference on housing and health and helped develop ideas for the structure of the project.

Was it all work and no play that semester, you might ask? While my work consumed most of my week, I made excellent use of my weekends, particularly during those first few warm months. Train travel is quick and efficient in Switzerland, and day trips to Montreux, Lausanne, and Gruyeres (home of the famous and delicious cheese!) were on the menu. I also took a break from my duties with WHO to direct an international swimming competition in Neuchatel, an hour from Geneva. I created the EU Swimming Invitational during my graduate studies in Paris in 2006 and



*Juliana Galan '11 at Mont Saleve  
outside Geneva, Switzerland.*

continue to direct the competition, which is held in a different country each year. The Neuchatel edition was a tremendous success, attracting 350 swimmers from 11 nations.

I went to Geneva primarily to experience the inner workings of an international institution and I left having learned a great deal and gained a considerable amount of experience with a renowned NGO. However, Geneva is known more for being host to international institutions than for its entertainment and night life. Restaurants were nearly always empty, shops closed early and remained closed

Sundays and occasionally even Mondays. Generally, the Swiss are introverted, so if you do not have established ties with family or friends, loneliness can be acute at times. This externship experience is not for those who are looking for a party outside of work. But if you enjoy exploring, hiking and fantastic views, there are abundant opportunities. Immersing myself fully in the World Health Organization and its mission to improve lives around the world was an exciting, gratifying, and memorable experience that I would gladly repeat.

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## STUDENT FILMMAKERS RECEIVE “GOLDEN TREES” AT 8<sup>TH</sup> ANNUAL ENVIRONMENTAL FILM FESTIVAL

For nearly a decade students in Professor Percival’s Environmental Law class have enjoyed an unusual assignment: to split up into small groups and make a short film about an environmental issue that concerns them. The purpose of the ungraded assignment is to make students think about how to communicate complicated regulatory policy issues to the public. With the rise of YouTube and other new media outlets, digital videomaking has become a valuable tool for influencing public opinion.

A total of 32 students in the fall 2010 Environmental Law class made nine environmental law films. As in past years the films demonstrated their enormous creativity. On March 23 the coveted “Golden Tree” awards were presented to the best films in ten categories as voted by an independent panel of judges.

This year’s top award-winner was “Silent Running” a spoof of the 1972 film that was one of the first environmental movies ever made. Filmmakers Ovais Anwar, Becca Brown, Mike Spinelli, Matt Standeven, Gregory Sunshine, and Brittany Tang-Sundquist used Lego figures to tell the story of a crew member of a spaceship harboring Earth’s last nature reserves who goes berserk when instructed to destroy them. The student version of the film won Golden Trees for “Best Picture,” “Best Use of Humor,” and “Best Special Effects.”

Also winning multiple awards was the film “The Story of the Patapsco” by Luis Diaz, Andrew Goldman, Jacob Holtz, and Esther Houseman. The film explored the history of the Patapsco River watershed south of Baltimore. It won Golden Trees for “Best Acting” and “Best Sound.”

The Golden Tree for “Best Interviews” was presented to the film “Go Beyond” by Amalia Pleake-Tamm, Steven

Isbister, and Peter Hogge. The film interviewed a young couple who were featured in a major oil company’s ad campaign to convince the public that the company was serious about developing alternative energy sources. The couple told about how they were discovered by an ad agency’s film crew while shopping at a weekend farmer’s market.



*Professor Taunya Banks presents filmmakers Becca Brown, Mike Spinelli, and Ovais Anwar with their Golden Tree Award for Best Picture for their Lego adaptation of the 1972 film Silent Running.*

For the first time in festival history, two musicals were entered. “Trashy Mermaid” by Natasha Mehu, Emily Estrada, Nathan Horne, and Ajoke Agbola won the Golden Tree for “Best Music.” A parody of Disney’s Little Mermaid, the filmmakers had Ariel singing not about love, but rather about how pollution is harming the ocean. Another student film, “ANWR: The Musical,” is a lengthy rock opera sung by sock puppets about the long-running controversy over whether to drill for oil in the Arctic National

Wildlife Refuge. Patrick McDonough, Jana Schultz, Emily Eisenrauch, Scott Lindsay and Courtney Leas produced the film.

The award for “Best Cinematography” went to Christina Gubitosa and Matt Peters for their film “Don’t Jump in the Harbor.” These filmmakers interviewed public health experts about the consequences for public health of pollution in the Baltimore Harbor.

This year’s Special Judges’ Award went to the film “Oysters in the Chesapeake Bay,” which was produced by Mike Adams, Hajrah Ahma, Kasia Fertala, and Justine Moreau. The award was for the best use of the “Ken Burns” effect in a student film. An independent film production (by a single student, Corin Vick) won the award for “Most Educational”

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for his film “Geoengineering” that explored proposals to combat climate change by injecting reflective material into the upper atmosphere.

A terrific film overlooked by Academy voters was “LEED” by Stephanie Dahl, Tyler Moser, and Paul Robinson. Robinson, an evening student whose day job is managing the construction of Patapsco Hall at the University of Maryland Baltimore County, used the film to explain why the project qualified for certification under the Leadership in Energy and Environmental Design program.

The Environmental Law Program would like to express

its sincere appreciation to all those who served as judges for the Golden Tree awards, including Professors Taunya Banks, Danielle Citron, Kathleen Dachille, and Katherine Vaughns, Research and Instructional Technology Librarian Jill Smith, Yale World Fellow Kala Mulqueeny, Zhenxi Zhong from Shanghai Roots & Shoots, former Fulbright scholar Mary O’Laughlin, Dominic Dachille and Richard Percival.

To view this year’s films, visit our website at [www.law.umaryland.edu/programs/environment/events/golden\\_tree](http://www.law.umaryland.edu/programs/environment/events/golden_tree).

## ALUMNI NEWS

### APPLE CHAPMAN ’99 PROMOTED TO ASSOCIATE DIRECTOR OF EPA AIR ENFORCEMENT DIVISION

Since graduating from the School of Law with a concentration in Environmental Law in 1999, Apple Chapman has worked for the Environmental Protection Agency (EPA). Recently, Apple was promoted to the Associate Director of the Air Enforcement Division in the EPA’s Office of Enforcement and Compliance where she will be part of a team managing EPA’s Clean Air Act enforcement docket.

Apple began her career at the EPA while she was at law school. She completed an internship with the EPA’s Office of General Counsel Honors Program after her second year of law school. After graduating, Apple was hired as a full time attorney in the Office of General Counsel in their cross-cutting issues office. After one year she transferred to the Air and Radiation Law Office. In the Office of General Counsel, Apple worked as in-house counsel for EPA policy makers, providing legal analysis for proposed regulations and policy decisions and worked with Department of Justice attorneys negotiating deadline suits and defending the EPA’s rules in lawsuits. Apple’s work included a wide array of legal issues, but primarily focused on rules regulating hazardous air pollutants and Title V Clean Air Act permitting for major sources, such as power plants.

After nine years working for the Office of General Counsel, Apple decided to try something new—a detail assignment with the Office of Enforcement and Compliance. “After spending years working on developing regulations, I wanted to get on-the-ground experience enforcing the rules that I helped develop and obtain more direct, tangible benefits for the environment by working on enforcement actions,” she said. She soon turned her detail assignment into a permanent position with the Office of Enforcement and Compliance, as part of a team of attorneys and engineers responsible for the EPA’s efforts to enforce new source

review rules under the Clean Air Act. She was the lead attorney in a suit filed against Detroit Edison Company, the first suit filed against a power plant under EPA’s new source review reform rules.

Apple has enjoyed her new position and the challenges of blending policy with litigation. She is part of a team, along with another Associate Director, the Office Director and two Branch Chiefs, that make strategic decisions concerning how EPA will utilize its strained resources, manage EPA staff attorneys, decide what cases to pursue and target EPA’s enforcement efforts. Apple acknowledges the support she received from the Environmental Law Program has been instrumental in her career development. “I will always be grateful for not only the excellent training I received at the law school, but also for the efforts Professors Percival and Steinzor made on my behalf,” she said. “They both went out of their way to help me get my foot in the door at the EPA.”

Apple, along with her husband Paul Versace ’99, also an Environmental Law Program alumnus and EPA staff attorney, remain actively involved with the Environmental Law Program. Apple came to the law school in October as an environmental career panelist and Paul recently judged the Stetson International Environmental Moot Court Competition in March.



*Apple Chapman ’99 with husband Paul Versace ’99 and their sons Rios and Dino*

# ANDREW GOHN '09 WORKS ON MARYLAND'S SUSTAINABLE ENERGY FUTURE

Andrew began working at the Maryland Energy Administration (MEA) before he even graduated from law school. The MEA needed a Program Manager to start developing Maryland's wind energy initiatives, preferably right away. Passionate about renewable energy, Andrew did not want to miss this amazing opportunity so he applied, interviewed, got the job, and has not looked back since.

The job was a perfect fit for Andrew, who had focused on energy and environmental issues during his law school experience. As Legislative Coordinator for the Maryland Environmental Law Society (MELS), Andrew was able to develop an understanding of the workings of State government while engaging with fellow environmentally-minded law students. In 2008, as a second-year, Andrew got the opportunity to co-chair the Focus the Nation climate change "teach-in" with fellow MELS member, Patience Bosley-Burke. The resulting program had high visibility and was a resounding success, including as keynote speaker Maryland Secretary of the Environment, Shari Wilson, and guest lecturers from BP Solar, the Natural Resources Defense Council, Sierra Club, EPA and several Maryland-based environmental NGOs.

While working to obtain his environmental law certificate, Andrew took advantage of the school's career development assistance and, with help from Professor Ruth Fleischer, obtained an externship with the Business Council for Sustainable Energy. For two summers, Andrew assisted the Council with briefings to caucuses of the U.S. Congress, preparation of testimony before a House Subcommittee, and recommendations to Congress and the Government Accounting Office (GAO) on issues such as carbon offsets, climate legislation cost containment and clean energy jobs. In the spring of Andrew's third year of law school, he obtained an externship in the office of U.S. Senator Benjamin L. Cardin. There, he researched policy options for reducing Chesapeake Bay nutrient pollution and assisted with preparation of the reauthorization of the Chesapeake Bay Program.

As a Clean Energy Program Manager, Andrew works to develop and manage programs and policies that accelerate the deployment of wind energy technology in Maryland. This includes running grant programs, working on issues such as net metering and community wind financing, and working with county and municipal governments to develop ordinances to expand wind turbine permitting.

Andrew worked closely with the Governor's office in the development of the Maryland Offshore Wind Energy Act of 2011, part of an ambitious plan to deploy wind energy in the ocean off Maryland's shores. Andrew serves as the State point-of-contact for the Maryland State/Federal offshore wind Task Force. In this role, Andrew has worked to coordinate marine spatial planning for future offshore wind energy projects which requires close collaboration with the U.S. Department of Interior's Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), the Maryland Department of Natural Resources, the U.S. Coast Guard and stakeholder groups from international shipping interests to commercial fisheries. For more information on Maryland's progress on its offshore wind energy plans, see: <http://www.boemre.gov/offshore/renewableenergy/stateactivities.htm>.

Andrew believes that his experience at the University of Maryland School of Law prepared him to seize the opportunity at the Maryland Energy Administration: "Like many students, I struggled with the deadlines and papers and constant studying, but my law school experience was absolutely invaluable. The professors supported me and my work both in and out of the classroom and encouraged me to follow my current career path. The school offers such a rich experience for folks who are passionate about environmental issues. Between the dedicated professors, the student groups, the extracurricular opportunities and the school's diverse professional network, the law school gave me all the tools I needed to succeed."



*Andrew Gohn '09*



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20<sup>TH</sup> ANNUAL  
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faculty, and friends of the Environmental Law Program.

**FRIDAY, NOVEMBER 18, 2011, 6:30 P.M.**

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