



ENVIRONMENTAL LAW AT MARYLAND

*University of Maryland
Francis King Carey School of Law
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SPECIAL 25TH ANNIVERSARY EDITION

CELEBRATING A QUARTER CENTURY OF ENVIRONMENTAL LAW AT MARYLAND

By Bob Percival

When I joined the Maryland faculty in 1987, I was given a clear mission: to establish a world class Environmental Law Program. Among the many things that impressed me about Maryland was the school's commitment to create a truly full-service environmental law program that would emphasize interdisciplinary education. Maryland Professor Mike Millemann had laid the groundwork by involving scientists from Maryland's Center for Environmental and Estuarine Studies with the notion that the program could serve as a kind of legal counsel for the severely polluted Chesapeake Bay. It was enough to entice me away from what had been a dream job with one of the nation's top public interest environmental groups – the Environmental Defense Fund (EDF).

EDF had been founded by scientists concerned about the impact of DDT on the environment. In my six year there I learned the importance of lawyers working with scientists and economists to develop creative solutions to daunting environmental challenges. I quickly grasped that my own law school education had left me woefully ill-prepared for this task. My experience of learning by doing at EDF convinced me of the importance of developing a program that prepares the next generation of environmental lawyers to be able to hit the ground running upon graduation.

The first order of business for Maryland's new program was to establish an environmental law clinic. The clinic won its very first case in the U.S. Court of Appeals for the D.C. Circuit representing a citizens group from a small town in rural Maryland who wanted EPA to stringently regulate hazardous aluminum smelter waste. The first clinic students also worked with graduate students in the univer-

sity's Toxicology Program on an interdisciplinary project to implement the toxic "hot spots" provisions of the 1987 Clean Water Act Amendments. When the clinic students testified at Maryland's triennial review of its water quality standards they were astonished to discover that they were the only party seeking more stringent standards despite all the hoopla to "Save the Bay."

With the support of a generous endowment from the law firm of Quinn, Ward & Kershaw, the program also launched an annual environmental symposium. The first symposium,

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UM Carey Law Welcomes Scholars from
nearly 100 Universities and 34 Countries to
IUCN Environmental Law Academy
Colloquium

Environmental Law Program Welcomes
New Faculty Member Michael Pappas

Ward Kershaw Forum Focuses on
Accountability in the Chesapeake Bay

MDE Releases New Standards for
Construction Stormwater Discharges

Perspectives

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billed as a “National Environmental Symposium on the Chesapeake Bay,” immediately created fireworks when a brave, whistle-blowing scientist from Maryland’s state environmental agency documented efforts by political appointees to undermine implementation of the Clean Water Act.

Much has changed about the teaching and practice of environmental law during the last quarter century. Twenty-five years ago top tier law schools disdained the notion of specialty programs. Except for the field of tax law, law school appointments committees hired the “best athletes” who were told what to teach. Now that law has grown in breadth and complexity, most schools recognize the value of faculty with experience in practice and the need for strong programs of clinical education.

Maryland’s environmental faculty each came to the program after a distinguished career in the field. Professor Rena Steinzor, who helped craft the Superfund legislation while working for Congressman James Florio, has become one of the nation’s leading scholars on federal regulatory policy and the politicization of science, topics she has tackled in several influential books. The Center for Progressive Reform that Professor Steinzor helped found, and over which she now presides as president, has become one of the most highly respected voices in federal regulatory policy controversies. Prior to coming to Maryland, Clinic Director Jane F. Barrett was the leader of the U.S. Attorney’s environmental strike force who won the first felony conviction of a federal contractor for violating environmental laws, and later the head of white collar criminal defense at a major Washington law firm. These experiences have made her one of the nation’s most formidable environmental litigators, a talent she is now sharing with Maryland’s clinic students.

One of the greatest joys of teaching in the Environmental Law field is that virtually everyone who does so is motivated by a shared concern for preserving the planet for future generations. This may help explain why the global community of environmental law professors is such a supportive, collegial group. Sadly, however, the strong bipartisan consensus that fueled the early growth of environmental law has broken down. Contrary to what some critics allege, this does not mean that political correctness has taken over the academy. Maryland’s program has helped students who wanted to work on environmental issues for conservative organizations, such as the Competitive Enterprise Institute and the American Chemistry Council, obtain externships with them.

An important key to the success of an environmental law program is to have superb adjunct professors. Maryland’s

proximity to Washington has blessed its program with an unusually talented group. Some, like Kristen Engel and Dan Reicher, have moved on to join the academy full-time, while others like EPA’s Mike Walker continue to inspire our students year after year.

Perhaps the most significant development in the last quarter century is the globalization of environmental concerns. It has dramatically affected my own career, which is now largely devoted to the development of global environmental law. Environmental law students now have opportunities to take environmental tours of China, to participate in international competitions, and to interact with the global environmental community of concerned professors. Thus, it seems particularly appropriate that the signature event celebrating a quarter century of the University of Maryland’s Environmental Law Program will be the school’s hosting of the Tenth Colloquium of the IUCN Academy of Environmental Law from July 1st to July 5th. Maryland’s Environmental Law Program is a founding member of the Academy, which quickly has grown into a truly global organization whose annual colloquia are a must-attend event for scholars interested in global environmental law. Last year the Academy was awarded the ABA’s prize for Outstanding Achievement in Environmental Law and Policy.

When Maryland’s program celebrated its 20th anniversary five years ago, it hosted a conference on “Globalizing Clinical Education to Protect the World’s Health and Environment.” More than 40 experts from 13 countries attended that two-day event. This year’s Colloquium will be a considerably larger affair. Scholars from nearly 100 universities in 34 countries on six continents will participate in the Colloquium whose theme is “Global Environmental Law at a Crossroads.” More than 150 presentations will be made during the week-long event. The Colloquium will feature an opening plenary panel of experts examining what happened at the June 2012 Rio+20 Earth Summit, a dinner at the National Aquarium with a keynote address by Georgetown Professor Edie Brown Weiss, an international environmental film festival and wine tasting, and a post-Colloquium program and reception at the World Bank in Washington, D.C.

Today, 25 years after the founding of Maryland’s program, specialty programs are a common feature of nearly every law school and environmental programs are among the most popular. With these changes in legal education it is safe to say that the current generation of law students will be better prepared than ever for careers in this exciting field.

HIGHLIGHTS FROM THE 25-YEAR HISTORY OF MARYLAND'S ENVIRONMENTAL LAW PROGRAM

1987

Maryland Environmental Law Program established as part of the university's new interdisciplinary Coastal and Estuarine Policy Program. Environmental Law Clinic established. Laura Mrozek becomes Program Coordinator. Annual environmental law symposium launched with an endowment from Quinn, Ward & Kershaw. Maryland hosts the first "National Environmental Symposium on the Chesapeake Bay."

1988

MARYLAND LAW REVIEW publishes special environmental issue. Maryland's new Environmental Law Clinic wins its first case in the U.S. Court of Appeals for the D.C. Circuit overturning EPA's exemption of hazardous smelter waste that contaminated a rural Maryland community.

1991

Maryland's program makes its first venture into the international arena with Professor Percival lecturing in the Soviet Union and the program hosting Soviet environmentalists shortly before the fall of communism.

1992

First edition of Professor Percival's best-selling casebook *Environmental Regulation: Law, Science and Policy* is published. First annual Environmental Law Winetasting Party for students, faculty and alumni is held.

1993

Maryland publishes the first edition of "Environmental Law at Maryland," one of the first newsletters published by a law school environmental program.

1994

Professor Rena Steinzor joins Maryland's environmental law faculty as Director of the Environmental Law Clinic. The Maryland Environmental Law Society becomes the first student group to purchase and retire sulfur dioxide emissions allowances at an EPA auction; other student groups soon follow suit.

1995

Representing a group of citizens who live near Aberdeen Proving Ground, Maryland's Environmental Law Clinic wins its lawsuit to require EPA to define when munitions become hazardous waste and to develop a management plan for remediating spent munitions. Working with the

Center for Institutional Reform of the Informal Sector, Professor Percival gives an environmental workshop in Ulan Bator for the new Mongolian government. Program recognized in *U.S. News & World Report's* first rankings of the top ten environmental law programs. MARYLAND LAW REVIEW publishes symposium issue on "Environmental Federalism."

1996

Working under a grant from EPA, Professor Steinzor launches a project to develop a curriculum to teach the scientific principles involved in risk assessment to lay environmental professionals.

1997

Law school creates a Certificate of Concentration in Environmental Law. Environmental symposium on "Lessons from *A Civil Action*" features participants in the toxic tort litigation that became the subject of Jonathan Harr's best-selling book. Enoch Mulembe of Zambia, who later becomes the Director of Zambia's Human Rights Commission, in residence at Maryland as a visiting environmental law scholar.

1998

Environmental Law Clinic represents residents of Wagner's Point, a poor south Baltimore neighborhood surrounded by petrochemical plants, in effort that ultimately results in buyout and relocation of community. Maryland students Todd Hooker and Tanya Greeley argue as student attorneys before the U.S. Court of Appeals for the D.C. Circuit.

1999

Environmental Law Clinic intervenes in permit proceedings for Bethlehem Steel and Westvaco after discovering that both companies were operating under long-expired permits. Working with the ABA's African Law Initiative, Maryland's program conducts a week-long workshop on "Global Environmental Accountability" at Makerere University in Kampala, Uganda. Maryland Environmental Law Society collects one ton of donated law books and ships them to law schools in five African nations.

2001

Maryland law students place first in the Robert R. Merhige, Jr. National Environmental Negotiation Competition. Working with the nonprofit group Search for Common Ground,

Highlights

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Professor Percival helps conduct week-long environmental law workshop at the University of Tehran. Maryland hosts five Iranian environmental law professors on the day after the 9/11 attacks.

2002

Law school moves into new Nathan Patz Law Center. Maryland faculty work with faculty at the University of Chile to establish the Centro de Derecho Ambiental, the first environmental law clinic in South America. Students in the Environmental Law class make short documentary films, beginning an annual tradition.

2003

Professor Steinzor helps found the Center for Progressive Reform. Maryland hosts the annual conference of the National Association of Environmental Law Societies (NAELS) with more than 130 law students from 40 law schools.

2004

Maryland becomes founding member of IUCN Academy of Environmental Law. Maryland law student Sarah Brull places first in the Roscoe Hogan National Environmental Law Essay Competition.

2005

Maryland's Environmental Law Program hosts its first visiting Chinese environmental law scholar, beginning an annual tradition. Professor Bob Percival is named the Robert F. Stanton Professor of Law. Professors Percival and Miranda Schreurs receive the Board of Regents Faculty Award for Collaboration in Teaching for their joint seminar on Comparative Environmental Law and Politics, conducted by videoconferencing with classes in Baltimore and College Park.

2006

Environmental Law Clinic publishes comprehensive audit exposing critical defects in the implementation and enforcement of the Maryland Critical Area Act. Maryland law student Amy Major places first in the Environmental Law Institute's inaugural Endangered Environmental Laws writing competition.

2007

Maryland's Environmental Law Program celebrates its 20th anniversary by hosting a conference on "Globalizing Clinical Education to Protect the World's Health and Environment." Jane F. Barrett becomes the new Director of the Environmental Law Clinic. The Joel D. and Ellen S. Fedder Environmental Fund is established through the gen-

erosity of alum Joel D. Fedder, Esq. '68, and his wife Ellen S. Fedder. Clinic hosts a "Stormwater Summit" focusing on stormwater management in the Chesapeake Bay region.

2008

Professor Steinzor becomes president of the Center for Progressive Reform. Forty-eight students and alums participate in the first spring break environmental tour of China, beginning a biennial tradition. Laura Mrozek retires as Program Coordinator and Suzann Langrall becomes her successor.

2009

Maryland hosts the Atlantic Rounds of the Stetson International Environmental Moot Court Competition. Environmental Law Clinic helps win passage of historic environmental standing legislation in the Maryland General Assembly. Zhang Jingjing, the "Erin Brockovich of China," delivers the first annual Fedder Lecture on "Taking the Long Distance Bus to the Court: A Practitioner's Perspective on Environmental Litigation in China."

2010

Maryland Environmental Law Clinic files federal Clean Water Act citizens suit to address poultry waste pollution of the Chesapeake watershed and wins key ruling that Clean Water Act liability extends beyond poultry farmers to entities that have control over the farms. Maryland law students win the International Finals of the Stetson International Environmental Moot Court Competition. Students in the Global Environmental Law Seminar write the problem used in the Jordanian National Moot Court Competition. William Piermattei becomes Managing Director of the Environmental Law Program.

2011

Maryland hosts the International Finals of Stetson International Environmental Moot Court Competition, which is won by the Law Society of Ireland. The law school becomes the University of Maryland Francis King Carey School of Law after receiving one of the largest gifts in the history of legal education.

2012

Mike Pappas joins UM Carey Law's environmental law faculty. Maryland hosts the Tenth Colloquium of the IUCN Academy of Environmental Law, bringing together more than 200 environmental experts from nearly 100 universities in 34 countries.

NEW FACULTY MEMBER MICHAEL PAPPAS JOINS ENVIRONMENTAL LAW PROGRAM

Beginning this fall, the Environmental Law Program will add Michael Pappas to its full time faculty. Mike comes to the University of Maryland by way of Tulane University Law School where he taught students in legal research and writing and international fisheries law. Mike was also an adjunct at Loyola University New Orleans College of Law where he taught natural resources law and an instructor for the Army Corps of Engineers.

Mike graduated from Stanford Law School with distinction in 2007 where he was co-Editor-in-Chief of the *STANFORD ENVIRONMENTAL LAW JOURNAL*. Thereafter, Mike went on to Clerk for the Honorable James L. Dennis for the United States Court of Appeals for the Fifth Circuit prior to his work at Tulane. Since graduating, Mike has published two law review articles, one on the use of science in administrative law and another on the interface of coastal resource law and water law regarding desalination siting. At this time Mike has another article going to press in the *Louisiana State University Law Review* with co-author Mark Davis which addresses the tension between the Dormant Commerce Clause and traditional powers of states to regulate water use within their borders. This tension is likely to grow as states try to ensure that diminishing water resources are sufficient for growing populations, but such laws would necessarily restrict exporting water to other states.

As Mike enters a new phase in his career, he is eager to teach courses in coastal and natural resources law, food policy, administrative law, and property law. In the Fall, Mike will be teaching Property law and he will teach seminars in Natural Resources Law and Coastal Resources law in the Spring. Mike also hopes to tap into the wide array of disciplines in the University of Maryland system and teach an

interdisciplinary course in the future. Mike will continue his research and writing on numerous subjects where the fields of property law and environmental law intersect: siting renewable energy projects (such as off-shore wind turbines), the interface between government regulation and private rights in managing natural resources, international fishery management, food policy in the United States and Europe, and the nature of food as a natural resource.

When asked why he chose to come to the University of Maryland, Mike said “that’s easy,” noting that Maryland has an established Environmental Law Program with an excellent, established faculty, a body of students who come to the law school to study environmental law, room for the program to expand into natural resources law, and the law school is part of a large university system with a wide array of expertise in many disciplines. After tallying up Maryland’s benefits, Mike rhetorically asked “where else would I want to be?”

The Environmental Law Program is thrilled to have Mike and we look forward to his future research and the energy he will bring to training future generations of environmental lawyers.



Michael Pappas

UM CAREY LAW WELCOMES SCHOLARS FROM NEARLY 100 UNIVERSITIES AND 34 COUNTRIES TO IUCN ENVIRONMENTAL LAW ACADEMY COLLOQUIUM

The year 2012 marks the 40th anniversary of the Stockholm Conference on the Human Environment and the 20th anniversary of the Rio Earth Summit. 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. A schedule and list of presenters begins on page 6.

Special thanks to The Joel D. and Ellen S. Fedder Environmental Law Fund for sponsoring this event.



IUCN COLLOQUIUM SCHEDULE

Saturday, June 30

Ecosystem Services Workshop

8:00 – 8:30 a.m. <i>Atrium</i>	Registration
8:30 - 9:00 a.m. <i>Ceremonial Court Room</i>	Introduction
9:00 – 10:40 a.m. <i>Ceremonial Court Room</i>	Payment for Ecosystem Services
11:10 – 12:25 p.m. <i>Ceremonial Court Room</i>	Ecosystem Services Markets
12:25 – 1:30 p.m. <i>Krongard Board Room</i>	Lunch
1:30 – 2:45 p.m. <i>Ceremonial Court Room</i>	Valuing Ecosystem Services
3:15 – 4:05 p.m. <i>Ceremonial Court Room</i>	Case Studies: Ecosystem Services in the European Union
4:05 – 4:35 p.m.	Closing Remarks

Sunday, July 1

8:00 – 8:30 a.m. <i>Atrium</i>	Registration for Half-day Pre-Colloquium Workshop
8:30 - 11:00 a.m. <i>Ceremonial Court Room</i>	<p><u>Part A: Global Models of Environmental Law Clinics</u> Maria Marquès i Banqué (Universitat Rovira i Virgili, Spain) William Amos (University of Ottawa, Canada)</p> <p><u>Part B: Political Pressure, the Public Interest and Environmental Law Clinical Advocacy</u> Jane F. Barrett (University of Maryland Carey Law, USA) Robert Kuehn (Washington University, USA)</p>
11:30 a.m. <i>Oriole Park at Camden Yards</i>	Optional Informal Opening Reception and Baseball Game
4:00 – 6:00 p.m.	Pre-registration

Monday, July 2

8:00 – 9:00 a.m. <i>Atrium & Westminster Hall</i>	Registration Tea & Coffee
9:00 - 11:00 a.m. <i>Westminster Hall</i>	<u>Opening Plenary Session</u> “What Happened at Rio+20 and Where Do We Go from Here?” Justice Antonio Herman Benjamin (Supreme Constitutional Court of Brazil) Scott Fulton (General Counsel, U.S. Environmental Protection Agency) Nicholas Robinson (Pace University, USA) Jacob Scherr (Natural Resources Defense Council, Washington, D.C.)
11:20-12:40 p.m. <i>Various Locations</i>	Breakout Session 1: Environmental Governance
12:40 - 1:30 p.m. <i>Westminster Hall</i>	Lunch
1:30 - 2:50 p.m. <i>Various Locations</i>	Breakout Session 2: Theoretical Foundations of Environmental Law
3:00 - 4:40 p.m. <i>Various Locations</i>	Breakout Session 3: Biodiversity and Land Use
7:00 - 11:00 p.m. <i>National Aquarium</i>	<u>Keynote Address, Welcoming Dinner and Reception</u> Fedder Lecture: “Global Environmental Law at a Crossroads,” with Distinguished Speaker Edith Brown Weiss (Georgetown Law, Georgetown University, USA) Presentation of Prizes <ul style="list-style-type: none"> • Senior Scholarship Award • Junior Scholarship Award • Best Student Paper Award

Tuesday, July 3

8:30 a.m. <i>Westminster Hall</i>	Tea & Coffee
8:30 - 10:15 a.m. <i>Westminster Hall</i>	<u>Plenary Session: Improving the Effectiveness of Environmental Law</u> Elizabeth Kirk (University of Dundee, School of Law and School of the Environment, UK), <i>Choosing New Paths at Regulatory Crossroads: Helping Regulatory Agencies to Respond to Change</i> Joel Mintz (Nova Southeastern University, Shepard Broad Law Center, USA), <i>Lessons from the U.S. Experience with Environmental Enforcement</i> Alex Wang (Berkeley Law, University of California, USA), <i>In search of sustainable legitimacy: pollution targets and environmental cadre evaluation in China</i> Steve Wolfson (EPA Office of General Counsel, International Environmental Law Practice Group, USA), <i>Promoting Strong Environmental Governance</i>
10:30 - 12:00 p.m. <i>Various Locations</i>	Breakout Session 4: Environmental Enforcement Options and the Limits of the Law

Colloquium

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Tuesday, July 3 (cont'd)

12:00 - 1:00 p.m.	Lunch
1:00 - 2:30 p.m. <i>Ceremonial Court Room</i>	Annual Meeting of the IUCN Academy of Environmental Law
2:40 - 4:20 p.m. <i>Various Locations</i>	Breakout Session 5: Sustainable Development
5:00 - 7:00 p.m. <i>Various Locations</i>	<u>IUCN AEL Committee Meetings</u> Research Committee IUCN AEL Teaching and Capacity-Building Committee Graduate Students Forum
7:00 - 8:00 p.m. <i>Ceremonial Court Room</i>	Environmental Law Film Presentations
8:00 - 10:00 p.m. <i>Westminster Hall</i>	International Wine Tasting and Dessert

Wednesday, July 4

8:00 – 8:30 a.m. <i>Westminster Hall</i>	Tea & Coffee
8:30 - 10:15 a.m. <i>Westminster Hall</i>	<u>Plenary Session: Access to Information and Public Participation</u> <i>A special plenary session in honor of Svitlana Kravchenko.</i> John Bonine (University of Oregon, USA) Jan H. Jans (University of Groningen, Netherlands) Geoffrey Johnson, Oscar Cevile & Isis Marquez (Organization of American States, Department of Sustainable Development, USA)
10:15-12:00 p.m. <i>Various Locations</i>	Breakout Session 6: Climate Change, Energy, Environmental Security and Diplomacy
12:15 - 1:15 p.m. <i>Westminster Hall</i>	Lunch
1:15 - 2:45 p.m. <i>Various Locations</i>	Breakout Session 7: Multidisciplinary Approaches to Environmental Law: Science, Economics and Bridging the Discipline Gap
3:00 - 5:15 p.m. <i>Ceremonial Court Room</i>	<u>Closing Plenary Session: Summary of Colloquium Themes</u> Speakers TBA Trevor Daya-Winterbottom (University of Waikato, New Zealand - 2013 Colloquium Host) Farewell by Conference Organizing Committee
7:00 - 11:00 p.m. <i>Spirit Cruises at Harborplace</i>	Crab Cruise and Independence Day Firework Display

Thursday, July 5

8:00 a.m. <i>Atrium</i>	Buses depart for field trip to the Patuxent Wildlife Research Center
9:00 - 12:00 p.m.	Field trip at the Patuxent Wildlife Research Center in Laurel, Maryland
12:00 p.m.	Buses depart from Patuxent Wildlife Research Center to the World Bank
2:00 - 5:30 p.m. <i>World Bank Preston Auditorium</i>	<p><u>Special Post-Colloquium Program: Environmental Justice, Access to Information and Public Participation – in memory of Svitlana Kravchenko</u></p> <p>Keynote Speaker: Ignacia S. Moreno (Assistant Attorney General, U.S. Department of Justice)</p> <p>Other speakers: Justice Antonio Benjamin (Judge, Superior Court of Justice, Brazil) John Bonine (Professor, University of Oregon Law School, USA) Lalanath Da Silva (Director, The Access Initiative) Leslie Fields, Esq. (Director of Environmental Justice and Community Programs, Sierra Club) Kulsum Ahmed (Sector Manager, World Bank) Robert Percival (Professor, University of Maryland Carey Law)</p>

COLLOQUIUM PRESENTERS

Carla Aceves-Avila (University of Guadalajara, Mexico)
 Natasha Affolder (University of British Columbia, Canada)
 Kulsum Ahmed (Sector Manager, World Bank)
 Afshin Akhtarkhvari (Griffith University, Australia)
 Rhuks Ako (University of Hull, England)
 Shawkat Alam (Macquarie Law School, Australia)
 Sabrina Alzais (University of Ottawa, Canada)
 William Amos (University of Ottawa, Canada)
 Jane F. Barrett (University of Maryland Carey Law, USA)
 Rebecca Bates (Brunel Law School, UK)
 David Beugelmans (Univ. of Maryland Carey School of Law, USA)
 Mekete Bekele Tekle (Addis Ababa University, Ethiopia)
 Todd BenDor (University of North Carolina at Chapel Hill, USA)
 Jamie Benidickson (University of Ottawa, Canada)
 Justice Antonio Herman Benjamin (The High Court of Brazil, STJ)
 Sholam Blustein (Queensland University of Technology, Australia)
 John Bonine (University of Oregon, USA)
 Mathilde Boutonnet (Aix-Marseille University, France)
 Nicky Broeckhoven (Ghent University, Belgium)
 Edith Brown Weiss (Georgetown University Law Center, USA)
 Karen Bubna-Litic (University of South Australia, Australia)

Elizabeth Burleson (Pace University, USA)
 Wil Burns (Johns Hopkins University, USA)
 Mar Campins Ertja (University of Barcelona, Spain)
 Ana Luiza Campos (São Paulo University, Brazil)
 Mingde Cao (China University of Political Science and Law, China)
 Oscar Cevile (Organization of American States, Department of Sustainable Development, USA)
 Nathalie Chalifour (University of Ottawa, Canada)
 Ping Chen (Ghent University, Belgium)
 An Cliquet (Ghent University, Belgium)
 Pierre Cloutier de Repentigny (University of British Columbia, Canada)
 Claudia Colmenarez Ortiz (Ghent University, Belgium)
 Lalanath da Silva (Director, The Access Initiative)
 Solange Teles da Silva (State University of Amazonas/Mackenzie University, Brazil)
 Erin Daly (Widener University School of Law, USA)
 Trevor Daya-Winterbottom (University of Waikato, New Zealand)
 Kars J. de Graaf (University of Groningen, Netherlands)
 Nicole de Moor (Ghent University, Belgium)
 Nijaz Deleut (Croatia)
 John Dernbach (Widener University School of Law, USA)
 Matiu Dickson (University of Waikato, New Zealand)

COLLOQUIUM PRESENTERS CONT'D

Anel du Plessis (North-West University, South Africa)

Willemien du Plessis (North-West University, South Africa)

Maurício Duarte dos Santos (Monte Serrat University Center, Brazil)

Angela Dwyer (University of Technology Sydney, Australia)

Birgitte Egelund Olsen (Copenhagen University, Denmark)

Loretta Feris (University of Cape Town, South Africa)

Leslie Fields, Esq. (Director of Environmental Justice and Community Programs, Sierra Club)

Floor M. Fleurke (Tilburg University, Netherlands)

Jose Augusto Fontoura Costa (São Paulo University and State University of Amazonas, Brazil)

Rob Fowler (Law School, University of South Australia, Australia)

Amy Fraenkel (Regional Director, United Nations Environment Programme)

David Warren Freedman (University of KwaZulu-Natal, South Africa)

Scott Fulton (General Counsel, U.S. Environmental Protection Agency)

Vladimir Garcia Magalhaes (Catholic University of Santos, Brazil)

Markus Gehring (University of Ottawa, Canada & Cambridge University, UK)

Natalya Geyt (Russian Presidential Academy of National Economy and Public Administration, Russia)

Nils Goeteyn (Ghent University, Belgium)

Rafael Gonzalez Ballar (University of Costa Rica, Costa Rica)

José Juan Gonzalez Marquez (Universidad Autonoma Metropolitana, Mexico)

M. Luiza M. Granziera (Catholic University of Santos, Brazil)

Dejin Gu (China)

Lei Guo (Ghent University, Belgium)

Deng Haifeng (Tsinghua University, China)

Jacqueline Hand (University of Detroit Mercy, USA)

Lin Harmon (Pace University, USA)

Miao He (Ghent University, Belgium)

Qin He (Ghent University, Belgium)

Lin Heng Lye (National University of Singapore, Singapore)

Nathalie Herve-Fournereau (University of Rennes, France)

Tracy Hester (Univ. of Houston, USA)

Amy Hindman (University of Amsterdam, Netherlands)

David Hodas (Widener University School of Law, USA)

Elaine Hsiao (University of British Columbia, Canada)

Zhao Huiyu (Shanghai Jiaotong University, School of Law, China)

Choikhand Janchivlamdan (University of Leicester, UK)

Jan H. Jans (University of Groningen, Netherlands)

Jordi Jaria i Manzano (Universitat Rovira i Virgili, Spain)

Geoffrey Johnson (Organization of American States, Dept. of Sustainable Development, USA)

Emmanuel Kasimbazi (Makerere University, Uganda)

Amanda Kennedy (University of New England, Australia)

Koh Kheng-Lian (National University of Singapore, Singapore)

Paul Kibel (Golden Gate University School of Law, USA)

Robert Kibugi (University of Nairobi, Kenya)

Michael Kidd (University of KwaZulu-Natal, College of Law, South Africa)

Elizabeth Kirk (University of Dundee, School of Law and School of the Environment, UK)

John Knox (Florida State University College of Law, USA)

Tiina Korvela (University of Helsinki, Finland)

Louis Kotze (North-West University, South Africa)

Irina Krasnova (Moscow State Academy of Laws, Russia)

Robert Kuehn (Washington University, USA)

Eliamani Laltaika (Tumaini University at Iringa, Tanzania)

Alexandra Langlais (Faculty of Law and Political Science from Rennes, France)

Rene Lefeber (University of Amsterdam, Netherlands)

Maria Leonor Paes (Federal University of Santa Catarina, Brazil)

Ricardo Libel Waldman (Centro Universitário Ritter dos Reis - Laureate International Universities and Pontifical Catholic University of Rio Grande do Sul, Brazil)

Michelle Lim (University of New England, Australia)

Odile Lim Tung (North-West University, South Africa)

Al Lin (University of California, USA)

Andrew Long (Florida Coastal School of Law, USA)

Willem Daniël Lubbe (North-West University, South Africa)

Nicola Lugaresi (University of Trento School of Law, Italy)

Tiza Mafira (University of Indonesia, Indonesia)

Linda Malone (William and Mary Law School, USA)

Danielle de Ouro Mamed (State University of Amazonas/Mackenzie University, Brazil)

Dave Markell (Florida State University College of Law, USA)

Maria Marquès i Banqué (Universitat Rovira i Virgili, Spain)

Isis Marquez (Organization of American States, Department of Sustainable Development, USA)

Paul Martin (University of New England, Australia)

James May (Widener University School of Law, USA)

Morgan McDonald (University of British Columbia, Canada)

Seyed Mohammed Mehdi Hosseini (Vermont Law School, USA)

Joel Mintz (Nova Southeastern University, Shepard Broad Law Center, USA)

Ignacia S. Moreno (Assistant Attorney General, U.S. Department of Justice)

Bradford Morse (University of Waikato, New Zealand)

Albert Mumma (University of Nairobi, Kenya)

Jimena Murillo Chavarro (Ghent University, Belgium)

Tumai Murombo (North-West University, South Africa)

Mostafa Mahmud Naser (Macquarie University, Australia)

Blaise-Pascal Ntirumenyerwa Mihigo (Ghent University, Belgium)

Ana Maria Nusdeo (São Paulo University, Brazil)

Pedro Oliveira Santos Rodriguez (Federal University of Santa Catarina, Brazil)

William Onzivu (Bradford University Law School, UK)

Leroy Paddock (The George Washington University Law School, USA)

Camille Parrod (University of Ottawa, Canada)

Alexander Paterson (University of Cape Town, South Africa)

Laurel Pentelow (University of Ottawa, Canada)

Froukje Maria Platjouw (University of Oslo, Norway)

Melissa Powers (Lewis & Clark Law School, USA)

Ann Powers (Pace University, USA)

Leonie Reins (Germany)

Sophie Riley (University of Technology Sydney, Australia)

Nicholas Robinson (Pace University, USA)

Julien Rochette (Institute for Sustainable Development and International Relations, France)

Svitlana Romanko (Prykarpatsky National University after Vasyl Stefanyk, Ukraine)

Fernanda Salgueiro Borges (MacKenzie University, Brazil)

Jacob Scherr (Natural Resources Defense Council, Washington, D.C.)

Lorenzo Schiano di Pepe (University of Genoa, Italy)

Werner Scholtz (North-West University, South Africa)

Hendrick Schoukens (Ghent University, Belgium)

John Shoaff (EPA Office of Pollution Prevention & Toxics, USA)

These are the Colloquium Presenters as of 15 June 2012. For the most current list, as well as a detailed schedule of sessions, visit www.law.umaryland.edu/iucnael2012

Jessica Silva de Jesus (Federal University of Santa Catarina, Brazil)

Fernanda Sola (São Paulo University and State University of Amazonas, Brazil)

Stephen Stec (Central European University, Hungary)

Ngozi Stewart (University of Leicester, UK)

Natalie Stoianoff (University of Technology Sydney, Australia)

M. Ajisatria Suleiman (University of Indonesia, Indonesia)

Helle Tegner Anker (Copenhagen University, Denmark)

Solange Teles da Silva (São Paulo University and State University of Amazonas, Brazil)

Anastasia Telesetsky (University of Idaho, USA)

Kevin Thompson (York University, Canada)

Douglas Tookey (Willamette University College of Law, USA)

Michelle van der Walt (North-West University, South Africa)

Jonathan Verschuuren (Tilburg University, Netherlands)

Nawneet Vibhaw (National Law University, India)

Alex Wang (Berkeley Law, University of California, USA)

Ceri Warnock (University of Otago, New Zealand)

Nicola Wheen (University of Otago, New Zealand)

M.R. Andri Wibisana (University of Indonesia, Indonesia)

Jacqueline Williams (University of New England, Australia)

Steve Wolfson (EPA Office of General Counsel, USA)

Stepan Wood (York University, Canada)

Wang Xi (Shanghai Jiaotong University, School of Law, China)

Wen Xiang (Ghent University, Belgium)

Gong Xun (China University of Political Science and Law, China)

Zhao Yuhong (The Chinese University of Hong Kong, SAR of China)

Xinxin Zhao (Shandong University of Science and Technology, China)

Li Zhi Ping (Law School of Sun Yat-Sen University, China)

WARD KERSHAW FORUM FOCUSES ON ACCOUNTABILITY IN THE CHESAPEAKE BAY

By Professor Rena Steinzor, Aimee Simpson and Yee Huang

On October 21, 2011, UM Carey Law and the Center for Progressive Reform (CPR) hosted a day-long forum focused on accountability for cleaning up the Chesapeake Bay. Environmental advocates joined senior officials from the EPA, Maryland Department of Environment (MDE), and Maryland General Assembly to explore ways to hold polluters accountable and reinvigorate government oversight and enforcement.

The Problem: Past Failures, Future Promise

Despite billions of dollars spent to study and implement clean-up strategies for the Chesapeake Bay, extensive impairments of water quality remain the same as they were two decades ago. Fully aware of the Bay's precarious state, policymakers, residents, and industries nevertheless remain gridlocked. The reasons are obvious to any objective observer. For more than two decades, the primary Bay states (the District of Columbia, Maryland, Pennsylvania, and Virginia) have engaged in a series of round-robin consultations held under the auspices of the Chesapeake Bay Program. Progress was made in diagnosing the causes and implications of dead zones; diminishing crab and fish populations; algal blooms; and pollution that made rivers, lakes, creeks, and streams unusable for drinking, swimming, and boating. Despite the analyzing, meeting, planning, and talking, the Bay's health remains tenuous, and the Bay states have repeatedly failed to meet the planned and promised pollution-reduction goals. The gist of these failures was not the weakness of the laws and rules written to bring about critical improvements but rather the lack of follow-through and accountability. Quite simply, the states haven't lived up to their commitments, and the EPA hasn't offered any reprimand. Too much pollution flows into the Bay—more than its natural ecology can filter. The disappointing truth is that existing law has not been enforced aggressively enough, and federal and state regulators have not been held accountable for meeting tangible yet adequately stringent goals.

In May 2009, recognizing that action was long overdue, President Barack Obama issued Executive Order 13508, Chesapeake Bay Protection and Restoration. The order ushered in what many hope will be a new era of federal leadership—leadership that has been sorely lacking in the past. Pursuant to the Executive Order, the President mandated the EPA to create a system where states (and ultimately polluters) are held accountable for implementing customized pollution “diets” or Total Maximum Daily Loads (TMDL) for certain pollutants, most notably nitrogen and phosphorous. After exhaustive study, the EPA determined the pollu-

tion reduction needed for a healthy Bay watershed in 2010. Each state must design an implementation plan to achieve the mandated pollution reduction.

Participants at the Forum heard first-hand from Jeff Corbin, the EPA's senior advisor on Chesapeake Bay restoration, and Robert Summers, secretary at the MDE, about how the EPA and Maryland have responded to the reinvigorated TMDL standards. However Maryland and the other Bay states choose to meet these TMDL goals, there are now standards to hold them accountable.

The Way Forward: Ensuring Accountability

In 2010, the EPA at last established a Bay TMDL—a pollution diet for the region which caps the amount of nitrogen, phosphorous, and sediment that can enter the Bay, and allocates the amount of pollution among the Bay states and each sector of pollution sources. The EPA's development of the Bay TMDL, along with other steps taken pursuant to the President's Executive Order on Chesapeake Bay Protection and Restoration, is the most promising development for the Bay in decades because it breaks with past overreliance on voluntary state efforts.

In some ways, Maryland outshines its neighboring states for having passed legislation to provide these stronger protections. Examples include restrictions on development in sensitive areas around the Bay; the state's “flush tax,” which is assessed on sewer and utility bills to help fund water pollution treatment and prevention; and the Healthy Air Act, which reduces air pollution, specifically, nitrous oxide (a significant source of nitrogen pollution in the Bay). Each of these laws, however, was adopted only after huge political battles. As Brian Frosh, a state senator from Maryland, noted at the forum, these laws reflect the intensity of those battles. “They are not as strong as they could be,” he said,



Maryland Senator Brian Frosh addressing the politics of saving the Bay



Prof. Rena Steinzor, President of the Center for Progressive Reform

“or even as strong as they need to be to achieve their ultimate goals.” Frosh went on to characterize today’s political environment as largely informed by self-interest, with the opponents of Bay protection measures claiming that the government is launching “a war on rural Maryland.”

Forum participant Eric Schaeffer, director of the Environmental Integrity Project and a former EPA official, commended the MDE for doing a “pretty good job” of issuing and reviewing minor source permits pursuant to the Clean Water Act, but he also noted that “pretty good is not good enough” to significantly reduce cumulative minor source pollution. “We are not going to trust what we can’t see” and “there is no substitute for the numbers,” Schaeffer explained during the forum. Federal and state authorities need up-to-date and accurate monitoring data to keep tabs on the Bay, and to guide more effective permitting and enforcement actions and allow a robust citizen involvement. Several elements of Maryland’s data-collection program need to be strengthened, including: improved monitoring, developing understandable and user-friendly data, and increasing disclosure and access to data.

If efforts to clean up the Bay over the past 20 years have demonstrated anything, it is that, left to their own devices, the states will make little, if any, progress. Good intentions give way to stern choices and hard politics. So, just as vigorous oversight by the states is critical to keeping polluters’ discharges within acceptable limits, vigorous oversight by the EPA is crucial to making sure the states are holding up their end. Such oversight by the states includes monitoring, reporting, and frequent inspections to ensure permitted facilities are complying with the law. When violations are found by inspectors, enforcement actions must follow in a timely, predictable, and credible manner in order to ensure that such violations do not recur at the violating facility, and to create a deterrent for other, similarly situated facilities. Oversight also involves a layer of review above the state: The EPA must act to ensure that states are carrying out their responsibility to implement the Clean Water Act and the Bay TMDL. A final layer of review involves citizen groups and the public working to make sure that all involved are doing their part.

Once a violation is discovered, enforcing an appropriate punishment is a vital component to future progress in cleaning up the Bay. If it makes economic sense to violate the law and pollute, people will do so. In order to make sure there is no economic motivation to pollute the Bay beyond what the law allows, enforcement actions must seek penalties and disgorgement of polluting profits which would

An expanded version of this article is published in the Abell Foundation’s The Abell Report, Vol. 25, No. 1 (February 2012) available at: <http://www.abell.org/pubsitems/arn212.pdf>

provide powerful economic incentives to comply with the law. Put simply, a violator should not benefit economically from its bad acts nor should it receive a competitive edge over those who comply with the law.

Speakers at the forum noted two important obstacles to effective enforcement: judicial interference with the MDE’s penalty assessments and the permit application shield. Judges generally reduce fines and penalties proposed by MDE, thereby limiting their deterrent effect. The permit application shield is a legal defense that protects a polluter who has disclosed all the pollution it discharges in its permit application. If the polluter gives an inventory of what they’re discharging and it includes such a small amount of something that the MDE doesn’t see the need to write a specific figure into the permit, but later discovers that

the applicant was discharging more than disclosed, the MDE cannot then bring an enforcement action for this excess discharge. The polluter is essentially shielded from enforcement. Loopholes in the enforcement process such as the permit application shield not only encourage large and burdensome applications that may disclose extraneous information, but they may also result in low estimates of discharges.

At the forum, environmental advocates and state regulators agreed that a key part

of accountability for the Bay was criminal enforcement. Professor Jane F. Barrett—a former environmental prosecutor and private counsel, and current Bay litigation advocate—recalled that in her days in private practice, the clients always asked the same question: “Could I go to jail?” Her point was that criminal enforcement offers the greatest opportunity for deterrence. Prof. Barrett clarified that she is not suggesting that state authorities round up every violator and press charges, but that the most severe violators should face the prospect of criminal charges, and possible time in prison. This ensures that potential polluters factor the possibility of prison into the “should I pollute?” equation.

Steve Johnson, Chief Legal Counsel for the MDE, agreed that more criminal enforcement was warranted, but pointed out the unique challenge of using this enforcement tool in



*Prof. Jane F. Barrett, Director of
UM Carey Law’s Environmental
Law Clinic*

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a Maryland state court: most of Maryland's environmental laws do not offer the option to prosecute violations as a felony, limiting the MDE's ability to deter violations with misdemeanor criminal charges. Because of this statutory limitation, Johnson explained that the MDE often works jointly with the EPA to pursue criminal enforcement in federal court for increased deterrent effect. Criminal enforcement at the state level needs to play a greater role in Maryland's environmental enforcement and thus legislators need to revisit the criminal penalties available to state regulators.

In May 2010, the EPA laid out its Chesapeake Bay Compliance and Enforcement Strategy, focusing on the key sectors that are regulated under the Clean Water Act: concentrated animal feeding operations (CAFO) facilities in specific geographic regions; significant wastewater treatment plants; areas where urban runoff is increasing or expected to increase; and sources of air emissions across the Bay watershed. During the forum, Corbin, the EPA's senior advisor on the Bay, highlighted some of the EPA's recent successes in the CAFO and animal agriculture sector, including inspections of 24 dairy operations in Lancaster County, Pennsylvania. The inspections revealed the presence of pathogens and high nitrate levels in wells, and have led to efforts to implement nutrient practices to minimize these problems. More recently, the EPA has required four turkey and chicken operations in West Virginia to apply for CAFO permits after determining that their operations constituted CAFOs.

The last layer of enforcement is the citizen suit. The Clean Water Act (along with many other environmental laws) has provisions to allow citizens to enforce the Clean Water Act when the state or federal government fails to do so. Jon Mueller, an experienced environmental advocate and vice president of litigation for the Chesapeake Bay Foundation, noted the critical role that community enforcement plays in encouraging more robust action for Bay restoration, such as the ongoing litigation to clean up the Sparrows Point steel facility. Mueller also noted that citizen advocacy acted as a "truthing" mechanism for all facts and assessments, even those provided by the government. Despite the difficulties inherent in any civil action, citizen suits promote citizen engagement and participation in the Bay accountability process. Making sure that everyone does his/her part in cleaning up the Bay should not fall solely on underfunded and overworked government entities. Just as citizens and citizens groups need to do their part in conducting environmental studies, organizing clean-up efforts, and raising awareness about the critical role that the Bay plays in the life of the region, they also need to share in the responsibility of ensuring fairness and collaboration in working toward a better Bay.

Moving Toward Solutions

Throughout the forum, a few overarching needs for the Bay repeatedly rose to the top. First, transparency at all levels would make sure that time and resources are used in the most efficient manner. Information transparency not only inspires honest and effective participation from government authorities and regulated entities, but it also allows citizens to share in the accountability and enforcement burden. On the whole, transparency inspires trust while making everyone's jobs a little easier and more efficient. A major problem facing Bay accountability stems from the lack of coherence in pollution data, enforcement data, and general enforcement information.

John Dawes, lead developer of the latest Bay data-transparency tool, provided forum participants with a demonstration of The Chesapeake Commons. This geo-spatial data analysis tool acts as a kind of Google Earth for Bay data, allowing citizens, government officials, and the regulated users to analyze and compare datasets from multiple sources while also creating mapping visuals. The Chesapeake Commons tool offers one example of a significant step toward true transparency; however, the main efforts must come from the authorities in charge of collecting the data and documenting what is being done. Both the MDE and EPA have made strides toward better transparency but more needs to be done to foster a trusting and collaborative accountability program accessible to all interested parties.

During the forum, participants from all backgrounds and positions commented on the communication disconnect surrounding Bay restoration efforts. Instead of sending a message of unity and fairness in an effort to preserve a valuable natural resource, Bay advocates have been struggling to fend off overheated rhetoric about "wars on rural Maryland" and undue regulatory burdens. Bay advocates know that these claims are often attempts by polluters to obscure the fact that all citizens have to do their part in restoring the Bay and controlling the pollution for which they are responsible. The problem is that not enough Bay advocates are speaking up. Those who are, observed Secretary Summers, need to be louder. "Your commissioners, your senators, your delegates need to hear from you," Summers instructed. This means showing up at local and federal meetings concerning Bay issues. It means going beyond local politics and improving the communication among Bay advocates so that the messages presented come across consistently and clearly. This forum was a fine example of this, allowing Bay advocates to touch base, listen, brainstorm, and move forward as a collective unit to ensure that states and polluters live within the EPA's new pollution diet.

ON THE CLINIC DOCKET

AFTER FOUR YEAR ADMINISTRATIVE BATTLE, MDE RELEASES NEW STANDARDS FOR CONSTRUCTION STORMWATER DISCHARGES

By Samantha Perry, 3L

For three years, the Clinic, on behalf of its clients the Waterkeepers Chesapeake of Maryland, engaged in a legal and administrative battle over Maryland's General Discharge Permit for Stormwater Discharge Associated with Construction Activity, and its associated regulations and technical standards. The Permit is part of Maryland Department of the Environment's (MDE) administration of the Clean Water Act and its National Pollution Discharge Elimination System (NPDES) permit, and controls stormwater management at most construction sites between one and one hundred fifty acres. Because of sedimentation issues within the Bay watershed, having an effective Construction Stormwater General Permit (GP) is an important key to ensuring construction point sources are preventing as much runoff from their sites as possible. Part of having an effective GP is ensuring the documents associated with the Permit provide clear and up-to-date compliance standards.

In 2008, when the existing General Permit was scheduled to expire, MDE began the process of updating the permit and its associated regulations, as well as the 1994 Standards and Specifications for Soil Erosion and Sediment Control ("Standards"). These new drafts did not make any substantive changes, and so the Clinic, on behalf of the Waterkeepers, submitted extensive comments as a part of the notice and comment period on the draft GP. This process also involved several public meetings from April to September of 2008, as well as a hearing in November 2008, and MDE's Final Determination to Issue the General Permit. The GP contained very few responses to Waterkeepers' concerns, and so on December 31, 2008 the Clients filed a Petition for a Contested Case Hearing on MDE's Final Determination. In 2009, an administrative proceeding began at the Maryland Office of Administrative Hearings. Three companies involved in the construction industry were also permitted to intervene in the case.

The day before the contested case hearing, MDE provided a proposed settlement agreement to the Clinic. The parties then entered settlement negotiations, and after the intervening companies appeared unwilling to settle, MDE and the Clients executed a settlement agreement on April 30, 2009. The settlement agreement included four major



assurances from MDE: (1) the agency would review and update its technical standards so that the practices in the Handbook would ensure compliance with Maryland's surface water quality standards; (2) reopen the General Permit to incorporate effluent limitation guidelines (ELGs) within three months of EPA issuing new ELGs for construction stormwater discharge; (3) require large sites which discharge to impaired waters to have an individual permit; and (4) allow the public to comment on and receive responses to comments on Notices of Intent for coverage under the Permit. The Settlement Agreement gave MDE until May 31, 2010 to finalize the permit and corresponding regulations and standards.

During the fall of 2009, Clinic staff and clients met technical experts to determine what changes MDE should make to the proposed technical standards, and then discussed these issues with MDE and participated in a public hearing regarding the 2009 Preliminary Draft Standards. In November 2009, the Clinic submitted further written comments on the latest Draft Standards. The comments focused on inadequate standards for perimeter controls, clearing, grubbing, and grading; failure to create enforcement procedures and performance standards; inadequate technology requirements; and failure to implement a numeric effluent limitation for turbidity. Although MDE did not meet its final May 31, 2010 deadline, in August 2010, MDE published the pro-

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posed final Standards. These Standards failed to incorporate or reflect many of the Clinic's comments. On September 27, 2010, MDE held another public meeting. Speakers from environmental NGOs focused on expanding soil stabilization requirements, limiting soil compaction, and incorporating the environmental costs of construction stormwater runoff into cost-benefit analyses. Client Drew Koslow, the Choptank Riverkeeper, focused his comments on adding in a numeric turbidity limitations, and also spoke about fine structures, public access to self-inspection reports, temporary stabilization requirements, and perimeter controls for stockpiles.

In August of 2011, MDE published another draft of the Standards, along with a few updates to the regulations. Major improvements for the Clients included limitations on grading for steep slopes, shorter time frames for site stabilization, and clearer standards for maintaining on-site controls. They also created a twenty-acre grading limit, which requires projects over twenty acres to finish grading in one area before moving on to another section of the project. However, the drafts were still lacking in numeric limitations and provisions for public comments, and were less than clear about protections for waters with total maximum daily loads (TMDLs) and steep slopes.

Based on these revisions, the Clinic and Clients prepared for a public hearing at MDE on September 18, 2011. Environmental Law Clinic Fellow Andrew Keir and I each presented oral comments, which focused on a numeric turbidity limitation, access to self-inspection reports, lack of viable enforcement options, providing more protections for Tier II waters and waters with TMDLs, creating more stringent stabilization requirements more closely linked to average rain events, limiting heavy use to necessary areas, and clarifying requirements for perimeter controls and sediment traps. Waterkeepers Drew Koslow and Theaux LeGardeur also spoke on behalf of environmentally protective regulations and permits. Most of the audience and speakers consisted of industry representatives, whose concerns focused on the limitations on grading, references to ELG, grandfathering in their projects, and more precise language for steep slopes. The Clinic, on behalf of its Clients, sub-

mitted written comments to MDE on September 26, 2011. These comments focused on responding to the construction industry's statements, and explained more thoroughly our oral comments.

Finally, this spring, MDE released its finalized Standards. They conformed in large part to the 2011 Draft, and most of the changes were for language clarity. However, the final Standards were clearly responsive to several concerns raised at the last public meeting. MDE added more background to strengthen the 20-acre grading limit created in the 2011 Draft, modified and clarified the prohibitions on using steep slopes, and explained which projects would be grandfathered under the old Standards and how that transition would be implemented. As expected, because EPA had not yet promulgated its own ELGs for turbidity, MDE did not add those guidelines but, by the terms of the Settlement Agreement, would be required to reopen the permit to do so when EPA does issue a final rule.

Going over the 2011 Draft Standards was my first project with the Clinic, and there was a very sharp learning curve in getting started. In addition to the technical information, I had to understand the structure of state-administered NPDES permits and regulations, as well as how all those documents fit together for this particular Permit. I now know much more about how to construct silt fences and what kinds of grasses work as permanent vegetation than I ever thought there was to know. Through my participation in the process, I was able to see how our Clients' concerns evolved as various drafts of the Standards were issued. I was also able to understand the administrative process firsthand: administrative procedures are often highly frustrating and time consuming, and it takes a lot of engagement (from both attorneys and clients) to demonstrate the gravity of environmental concerns. However, I also saw that, because of these procedures, state agencies can be convinced to respond to those concerns. In the end, if you have done it right, regulators will listen and you get appropriate standards that all engaged parties understand.



The Environmental Law Clinic "Faulkner team" after its January 2012 Maryland Court of Appeals argument concerning a citizen's right to intervene under state law in a Maryland Department of Environment enforcement action concerning coal ash disposal at the Faulkner landfill in Charles County, Maryland.

ENVIRONMENTAL LAW PROGRAM TRAVELS TO CHINA

When Professor Percival taught in China as a Fulbright scholar during his sabbatical in 2008, his Maryland students inquired as to whether they could visit him. This resulted in what has become a biennial tradition for Maryland's Environmental Law Program: a spring break trip to China. In March 2012, Professor Percival led a group of 38 students, alumni, and friends of the Maryland Environmental Law Program on an environmental tour of China. The trip combined visits to some of the most important Chinese cultural sites with visits to Chinese environmental students, professors and professionals.

Joining the group in Beijing were Professor Zhang Shijun from Shandong University, who had been a visiting environmental scholar at Maryland during the 2009-2010 academic year, and Professor Erin Ryan, a former student of Percival's who is now a Lewis & Clark environmental law professor teaching as a Fulbright scholar at Ocean University in Qingdao. On the first day in Beijing the group visited Tiananmen Square, the Forbidden City and the Summer Palace. While posing for a group photo in Tiananmen Square, EPA attorney Mike Walker, who teaches as an adjunct for Maryland's Environmental Law Program, unveiled a banner thanking the trip organizer, Suzann Langrall. This triggered a swift response from the Chinese police who thought the group was engaging in some forbidden political protest at a particularly sensitive location. The confrontation was swiftly defused when the native Chinese speakers in the group explained the banner.

While in Beijing the group met with Huang Jing, who had been a visiting environmental scholar at Maryland in 2010-2011, and Zhang Jingjing, the "Erin Brockovich of China," who now works for the China office of the Public Interest Law Network. The group visited the Great Wall at Badaling and had dinner in a hutong near Beijing's Drum and Bell Towers with the family of a military cook.

On March 12 Professor Percival spoke to a workshop of the All China Environment Federation (ACEF), a government-approved NGO (known in China as a GONGO) comprised of environmental lawyers. ACEF was founded in 2005 and it has brought some of the most significant environmental cases on behalf of communities victimized by pollution. The focus of the workshop was oil spill law. Prof. Percival spoke about U.S. law, the BP spill, the litigation it has spawned and the ensuing partial settlement agreement. A lawyer for the Chinese law firm representing ConocoPhillips spoke about the offshore oil spill that occurred last summer in the Peng-Lai oil field in Bohai Bay. ACEF representatives spoke about the lawsuit they have filed on behalf of 107 fishermen affected by the spill. The Tianjin Maritime Court where the lawsuit was filed last December still has not officially accepted the case to the great frustra-



Maryland group visits the Great Wall at Badaling

tion of the plaintiffs and the ACEF lawyers.

The group also visited the China University of Political Science and Law (CUPL) where they toured the Center for Legal Assistance for Pollution Victims (CLAPV), which operates a hotline to field environmental complaints from all over China. CUPL Professor Wang Canfa, the director of CLAPV, spoke to the group about the CLAPV's work. The tour continued with Bill Piermattei, Mike Walker, and Matthew Gravens judging teams of students from the Beijing Institute of Technology and CUPL moot court arguments as the Chinese teams prepared for the Stetson International Environmental Moot Court Competition. The group also visited the Central University of Finance and Economics where Maryland has a joint exchange program in business law directed by Dan Mitterhoff. The students from the Chinese moot court teams joined the group for some additional discussion of their presentations and pointers on American-style advocacy. At the end of the day the group gathered at the Beijing office of DLA Piper, the world's largest law firm, where they heard presentations from lawyers discussing the challenges of practicing law in China. Zhang Jingjing also addressed the group on public interest litigation in China. She expressed the hope of the public interest community that the National People's Congress will amend the civil code during this session to facilitate public interest litigation.

On March 13 the group flew from Beijing to X'ian, a city in northwest China that has become a tourist attraction due to the buried terra cotta warriors. When Professor Percival first visited China in 1981 only a portion of the buried warriors had been discovered and the Chinese authorities did not permit any photos of the site. Now there are two large structures covering the archaeological sites and photos are permitted.

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China

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The group toured the city of X'ian including a climb to the top of the Big Wild Goose Pagoda. X'ian is in the heart of Shanxi Province where more than a quarter of China's coal is mined, most of it for export. The coal-fired power plants in the province create highly visible pollution, which shocked some of the members of the group, who had thought that the rare clear conditions in Beijing (caused by unusually high winds) indicated that China was making more progress in controlling pollution. On March 14 the group visited the site of the buried terra cotta warriors, which is located approximately an hour east of the city of X'ian. After a raucous night in a karaoke bar in X'ian, the group left at 5:30AM on March 15 for an early morning flight to Shanghai.

After arriving at Pudong International Airport in Shanghai, the group made a brief stop on the Bund where we viewed the incredible Pudong skyline. On March 16, the group visited the Taikan Lu arts district in the French Concession and then stopped at the Shanghai Museum and the Nanjing Road shopping district. One of the highlights of the trip was the group's visit to the DeBund firm, a Chinese law firm ranked 36th out of Shanghai's more than 1,000 law firms. Wei Hu, an associate at the firm, had been one of the young Chinese environmental professionals who had participated in a workshop on U.S. environmental law that we conducted at Maryland last June.

When the group arrived at the firm, a training session was being conducted for young associates on recent developments in patent law. After they made room for the group, an incredibly candid discussion ensued of the status of the "rule of law with Chinese characteristics." The lawyers explained the difficulty of practicing in a legal system where

the courts are "not so independent."

The DeBund law firm specializes in intellectual property law, foreign direct investment and environmental torts. The lawyers seemed frustrated that ConocoPhillips had

received only a fine of 200,000 RMB (roughly \$33,000) for an oil spill in Bohai Bay. While noting that there had yet to be a critical mass of lawyers practicing environmental law in China, the firm has handled some environmental cases. Disputes over siting new chemical plants usually are resolved not based on the law but on political power. Localities eager to attract industry make required environmental assessments a perfunctory exercise and local officials try to pressure lawyers not to bring environmental challenges. Siting decisions for

power plants and new industries usually are made without consulting the public and there is little chance for lawyers

to block them. Occasionally environmentalists win, but it usually is due to their ability to generate sufficient political opposition to a project, rather than due to enforcement of environmental laws.

While in Shanghai the group had a reception at the Maryland China Center, which initially had been established by the state of Maryland to help Maryland companies do business in China. Jim Curtis from the Center noted that the Center now devotes substantial resources to helping Chinese companies create jobs by doing

business in Maryland. Our group heard a presentation from Zhenxi Zhong from Shanghai Root and Shoots, one of the few NGOs officially licensed by the Chinese government. Roots and Shoots, a group initially formed by Jane Goodall, is working in more than 200 schools in the Shanghai area to improve environmental education. After a final day of sightseeing in Shanghai on Saturday, the group flew back to Washington on Sunday March 18.



Prof. Percival speaks at All China Environment Federal Workshop



Chinese moot court teams with judges Matthew Gravens (2L), EPA attorney Mike Walker, and Bill Piermattei

EXPERIENTIAL LEARNING

CONNECTING THE DOTS: HOW TO USE INTERNSHIPS TO JUMP START YOUR CAREER

By David Beugelmans '12

What does being an environmental lawyer mean to me? What do I want to do for the rest of my life? How can I make a difference in the world? I have asked myself these questions almost every day of law school. While most days bring new questions, I am getting closer to finding answers. I decided to devote my legal education to developing our nation's renewable energy resources. In many ways this path is non-traditional. It touches not just law, but policy, finance, and entrepreneurship. It also sits outside the traditional scope of environmental law, which focuses primarily on regulation and litigation.

My goal in this article is to give new law students a snapshot of the pursuit of a career path through various internships. This is also targeted towards students who, like me, came to law school straight from college and are unsure how to proceed. From the start I targeted renewable energy and consistently developed skills to work with these issues both in government and the private sector, either as an advisor, policy expert, or entrepreneur.

I took the Environmental Law Program's course on renewable energy as well as courses in Administrative Law and Government Contracts. During my second year I applied to countless internships. In the summer after my second year of law school I worked in the Department of Energy (DOE) Loan Programs Office. The DOE Loan Program offers loan guarantees to utility-scale renewable energy projects, many of which cost more than \$500 million. Lawyers working in this program are project finance experts who finely-tune thousands of pages of contracts to finance, construct, and operate fields of solar panels and wind turbines. The Loan Program received a substantial sum of stimulus money. However, the money was to end the following September. The office was therefore closing a significant number of deals, offering a unique opportunity to learn the financial and legal dynamics of different types of renewable energy projects.

My time at DOE taught me the art of project finance. I worked on a 150 MW solar project from start to finish and attended key negotiations between DOE, the project sponsor, and outside counsel. This gave me an inside perspective of the dynamics of large financial transactions. I drafted numerous long term monitoring memoranda that summarize key contract terms. Since these projects will operate for 20 years or more, this documentation is essential to ensure parties comply with prearranged agree-



Congressman Ed Markey and David Beugelmans '12

ments. I furthered this experience by reading numerous project finance books as I rode the train between Baltimore and Washington D.C everyday. This additional study was invaluable to maximizing my experience at DOE. This internship taught me an important lesson: without adequate financing, renewable energy development is impossible.

My next internship was with the Maryland Energy Administration, an independent state agency charged with developing and implementing Maryland's energy policy. My work with Assistant Attorney General supervisors at MEA allowed me to explore the regulatory side of energy issues. For instance, I assisted with the state's intervention in the merger between Exelon and Constellation Energy before the Maryland Public Service Commission. As a condition of the merger, the state argued Exelon should commit to developing 420 MW of renewable energy capacity. I drafted a key motion to strike expert testimony attacking this commitment as too costly and helped write cross-examination questions for expert witnesses testifying at the public hearings.

I also worked on renewable energy development and policy issues at MEA. I drafted template contracts for the Jane E. Lawton Conservation Loan Program, which finances energy conservation and renewable energy projects. I used the expertise I developed at the Department of Energy to streamline these documents. I also wrote memoranda on solar grants, the state production tax credit, and the EmPOWER Maryland program. I even explored how to protect

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Internship

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offshore wind developers from change of law risk in the Offshore Wind Energy Act of 2012. It was gratifying when MEA adopted my suggestions into the final legislation. My experience at MEA provided insight into incentives and policies that make renewable energy projects financially viable. MEA develops and implements the policies that make the deals I worked on at DOE possible. In the end, everything fits together.

My final and most recent internship was with the Committee on Natural Resources in the United States House of Representatives. I obtained this internship through Professor Fleischer's Congressional Practicum. In the House, I worked on a wide array of energy and natural resource issues. For instance, I helped compose an oversight letter to the Department of Labor about potential pension fund regulatory issues concerning commodity futures investments. I also helped obtain support for numerous other oversight letters and dissenting views on issues including opening the Strategic Petroleum Reserve and preventing natural gas exports. This experience taught me how to rally support for issues and communicate complex ideas quickly to people with little background knowledge – a valuable skill for any attorney. My experiences at DOE and MEA gave me legal and policy experience in the energy field. My experience in the House allowed me to apply this knowledge in face-to-face interactions to achieve desired results. These three internships align closely with my passion of renewable energy development and spurred my interest to pursue a career in this field.

While everyone's journey in law school will be different, reflecting back on my experiences I do have some advice:

- *Find your passion and target your courses and internships to obtain employment in relevant fields* – It is extremely important to develop a general idea of where you are headed and target that goal. This has a snowball effect. For instance, if you want to work with renewable energy development it is much easier to get an internship in the field if you have taken the Environmental Law Program's course on Energy Development and Finance. Your final destination does not need to be set in stone, but being able to articulate to employers where you are headed and how you fit into their organization will help immensely..
- *Weave together different threads* –Law school can be frustrating because often your required courses seem to have no bearing on your goals. Most of your experiences, it turns out, do fit together. You just need to figure out how. It's important to learn how to weave your past, present, and future experiences into an end

product: you as a lawyer.

- *Ask for work you care about* – At your law school internships, don't be afraid to ask your supervisors for work that interests you and fits into the larger vision of your career. Obviously you need to do the work they ask of you, but you are also there to learn. Most supervisors understand this. Constantly question how the work you're doing fits into your broader vision. If it doesn't, gently push for different work. You only have 3 years to build up relevant work experience. Don't waste it.
- *You don't need to work in a law firm* – In many areas of law new lawyers need to be willing to work in "non-traditional" legal jobs, where a J.D. is helpful but not required. Law students should not be afraid to develop skills that can help them in non-traditional jobs. We have all learned valuable critical thinking skills and the ability to communicate complex ideas simply. Many fields require these skills. Find the field(s) that suit you best.



Congratulations to Beth Totman 3L, Megan Marzec '12 and Gayatri Patel 3L, this year's Pace National Environmental Moot Court Competition Semifinalists.

WORKING ON THE HILL

By Molly Madden '12

I realized my good fortune to see how the Hill worked as I sat among the staff supporting various U.S. senators during an April hearing on wildlife legislation. Well, I realized that and the fact that I was sweltering under the heat from the lights illuminating the senators, who all looked remarkably cool in their wool suits.

I ended up on this bench in a Dickerson Senate Building hearing room through Professor Ruth Fleischer's Spring 2012 Legislative/Congressional Practicum. Each semester, a handful of UM Carey Law students are placed by Professor Fleischer with Congressional offices. Students work in Senators' and Representatives' office, as well as in committee offices. We gain experience preparing for hearings, researching legislative issues, and seeing the role lawyers play in the offices.

I was placed with Senator Ben Cardin's office, where I primarily supported projects related to the Environment and Public Works Committee and the Subcommittee on Water and Wildlife that Senator Cardin chairs. Senator Cardin has an impressive staff who are dedicated, good humored, and very welcoming to interns. Listening to their thoughts on bills and political issues was an education in itself. The staff went out of their way to include me and ensure I worked on interesting topics. The individuals with whom I worked had come to the Hill from diverse professional backgrounds, and each was very open about their thoughts on career paths.

My Hill experience was the perfect cap to the professional development program I had undertaken in law school. As an older student, I saw law school as an opportunity to indulge in the luxury of learning while still exploring a variety of work settings. And, of course, achieve a worthwhile credential at the same time. So I took on internships with the International Union for the Conservation of Nature (IUCN), Department of Justice's Environment and Natural Resources Division, the National Oceanic and Atmospheric Administration's Office of the General Counsel, and the Maryland Attorney General's Office. Each internship proved to be a great learning opportunity. For me, learning about greenhouse gas emissions from ships or the intricacies of CERCLA case law took on greater significance when

applied to practical, real-world problems. Yet despite these great experiences, I also felt that my lack of legislative experience was a gap in my understanding of the public policy process.

My internship with Senator Cardin's office helped me fill this gap, as did Professor Fleischer's associated workshop. While I can in no way be considered an expert in legislative processes, I now have a greater appreciation for how the

process works. Hearing the rationales behind proposed bill amendments from individuals drafting those amendments was an education in both legislative processes and the political passions driving these processes. This perspective, as well as my participation in hearings, briefings, and meetings brought life and dimension to what had previously been two-dimensional political debates.

On the last day of my internship,

I watched a vote from the Senate

gallery. I looked for senators I knew, and those who approached the vote in an idiosyncratic manner. I watched the Senators milling about the floor, where they chatted, joked, voted, and blustered. As I sat there, I thought about the history in the chamber and the current state of politics. I thought of the staff working to support these votes, as well as the attention paid to constituent concerns. Maybe ten years working in Washington D.C. (supplemented by a few too many happy hours with Capitol Hill interns and lobbyists) had made me cynical, but I expected more power hungry goofballs on the Hill. Instead, I was impressed by the hardworking staff I met. Maybe I just had the opportunity to work with some exceptional people. For me, cynicism about the legislative process was pulled away and replaced with respect for those working hard to ensure the legislative process works. And I was glad to have had the chance to be part of that process.

Editor's Note: On the day before graduation Molly and her husband welcomed the birth of their first child, a son named Liam. All are doing well but the unexpectedly early birth precluded Molly from attending graduation events. Congratulations Molly, Dan, and Liam!



*Molly Madden '12 with husband Dan Amon
in San Juan, Puerto Rico*

HELPING THE ENVIRONMENT IN WASHINGTON: MY EXTERNSHIP AT THE USDOJ

By Matthew Gravens 3L

This past spring semester I spent two to three days a week on the MARC train to Washington D.C. commuting to my externship at the United States Department of Justice Environmental and Natural Resources Division (ENRD). My externship was more specifically within the Environmental Enforcement Section of ENRD. The Environmental Enforcement Section (EES) represents the Environmental Protection Agency and other federal agencies in all federal enforcement actions against polluters. ENRD has several distinct and different sections, including Environmental Defense, Wildlife and Marine Resources, Environmental Crimes, Natural Resources, and Appellate. I felt very fortunate to receive the opportunity to work at ENRD because the division usually hires full time interns and the positions are extremely competitive.

When I first got to EES, I really had no idea what to expect. Since applying to Maryland, I had my eye on a career at ENRD. One of my “dream jobs” is to enforce environmental statutes against polluters, particularly those trying to profit from their pollution. I had high expectations to say the least. From the first day everyone was extremely friendly. I noticed those I met really seemed to enjoy what they were doing. The ENRD attorneys asked what I wanted to get out of the experience and what kind of assignments I wanted to receive. I had hoped to get as much litigation experience as possible. Subject matter did not matter to me as much as getting practical experience with witness and cross-exam preparation, depositions, litigation strategy meetings, and drafting pleadings.

I hit the ground running on the first day—an evidence law problem. Not having taken evidence, it was a challenging and rewarding first experience. One of the most surprising things about environmental enforcement cases is how much other aspects of the law factor into a particular case. For example there are large amounts of corporate and bankruptcy law involving who should be sued and, more importantly, who can pay. It had such an impact on me, I am now planning to take more corporate law classes during my third year.

By far the most rewarding experience I had was developing an enforcement approach to a case, rather than just

doing a research project on a piece of the case. The EPA provided the case referral and I was encouraged to express my opinions about the case and the strategy to pursue moving forward. At the same time I learned a lot about the relationship and dynamic between Department of Justice attorneys and their counterparts at EPA regional offices across the country.

While I did not get as much practical experience as I would have liked, I think that was because of my part-time schedule. I often found that attorneys would have depositions or meetings toward the end of the week when I was not in the office. I found the discussions with ENRD attorneys about their day-to-day work and what their jobs meant to them to be an informative and rewarding experience. I enjoyed my work at ENRD and would recommend it to any student who is thinking about environmental litigation. To get the most out of the experience, I would recommend that a student set aside a semester and work full time – you will get a much more complete experience and participate in litigation working with outstanding attorneys. In addition, DOJ prefers full time clerks so the chances of acceptance increase.

Ultimately, my externship with the Department of Justice reinforced my career goal to work on environmental litigation. My experience at the Department of Justice is an extremely important step in my career development because it allowed me to see how ENRD attorneys craft enforcement strategies and get a view of the real nuts and bolts of environmental litigation which will inform and shape my third year of law school and beyond.



Matthew Gravens 3L

ALUMNI NEWS

FIGHTING FOR A CLEAN ENVIRONMENT AND WORKER'S RIGHTS IN THE U.S. AND ACROSS THE GLOBE

Yvette Pena Lopes has been with the BlueGreen Alliance since early 2009, first as the Senior Director of Legislation and Government Affairs, and now as its Deputy Director. The BlueGreen Alliance (BGA) is an organization made up of fourteen of the largest U.S. environmental groups and labor unions. Its mission is to advocate for growth in the number and quality of jobs in the clean economy by expanding a broad range of industries, including renewable energy, energy efficiency, green chemistry, modern transportation systems, advanced vehicle technology, domestic manufacturing, high-speed Internet, “smart grid” electricity, green schools and public buildings, water infrastructure, recycling, and sustainable agriculture. They are united to solve our biggest economic and environmental problems, including climate change, in ways that create a fairer global economy, improve the rights of workers, and strengthen environmental protections and public health.

Yvette was instrumental in establishing a presence in Washington, DC for BGA. When she started working with BGA, it was during the climate legislation debate. While legislation passed in the House, it unfortunately died in the Senate. But the opportunities that came from advocating for passage of the bill were tremendous: from testifying before Congress to participating in press conferences to working with many organizations that are at the forefront of developing a clean economy. With passage of climate legislation now on hold, Yvette has been working on EPA regulations, Café standards, and BGA’s “Jobs 21” campaign which is a 21st Century clean energy jobs plan. As Deputy Director, Yvette literally must balance job growth with environmental stewardship—a difficult, but important balancing act.

While Yvette was in law school, she participated at the University of Maryland School of Law’s Environmental Law Clinic. Yvette worked closely with Professor Steinzor in the clinic representing a local Baltimore community surrounded by industrial plants, and on cases where families were exposed to lead paint. This work helped mold her current interests in green chemistry, environmental justice, and provided “passion and inspiration” to continue working to ensure that our communities are healthy, safe, and more efficient. “The University of Maryland’s Environmental Law Program, under the leadership of Professors Percival and Steinzor, not only prepared me for my career through



Yvette Pena Lopes '99 speaks at a rally at the U.S. Capitol

the exceptional education and clinical experience I received, but also by example through the commitment they both have to the students and environmental issues. Their dedication and example have always been an inspiration to me, and I try to bring that dedication to my work every day.”

After graduation, Yvette went to work on Capitol Hill, first as Press Secretary and Legislative Assistant for Texas Congressman Silvestre Reyes (1999 – 2001) and then as a Legislative Assistant for Connecticut U.S. Senator Chris Dodd (2001-05). Yvette worked on economic policy, trade, tax, social security, and pension issues with Senator Dodd, and also worked on an array of issues for Congressman Reyes as his liaison to the Congressional Hispanic Caucus. Working with the Latino community has always been important to Yvette. While in law school, Yvette was President of the Latino Law Students Association, and she currently sits on the Board of the prestigious Congressional Hispanic Caucus Institute. While working for Senator Dodd, the Trade Promotion Authority legislation was being considered. Senator Dodd championed the worker’s rights amendment to the bill, which ensured that countries entering into a trade agreement with the U.S. under fast track procedures would have to abide by the Core International Labor Organization standards, which Yvette worked on for the Senator. This work led to Yvette working closely with the AFL-CIO, which soon thereafter, led to an exciting opportunity to represent workers on Capitol Hill for the International Brotherhood of Teamsters (IBT).

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Worker's Rights

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As Legislative Representative for the IBT, Yvette worked on numerous trade issues focused on ensuring that international trade agreements contain minimum basic standards for workers as well as protections for workers in other countries to organize. Yvette also worked on the IBT's "Clean Trucks/Clean Ports" campaign in which environmentalists and unions worked together to clean up ports and improve working conditions for truck drivers and port workers. Yvette's environmental education, labor experience, and Hill background was a perfect fit for the BlueGreen Alliance.

As Senior Director of Policy and Government Affairs, and now Deputy Director of BGA, Yvette has spearheaded numerous legislative initiatives including a climate bill, the light duty vehicle fuel efficiency rule, renewable energy, energy efficiency, modernizing utilities, and retrofitting schools and public buildings to increase energy efficiency.

Yvette's work has led her to international climate change conferences in Copenhagen, Cancun, Bonn, and recently in Durban, leading union delegations to international union conferences and speaking at forums while there.

All along the way, Yvette has continued to keep her juggling act going: balancing the needs for job growth with environmental protection. Common core values have remained consistent throughout her work: the importance of quality of life for workers and their families; sustainable investments in communities; and the transition of workers and society to a cleaner, greener future. Yvette has spent her career ensuring that international treaties, agreements, and obligations include these core values. We look forward to Yvette's future work in these areas and hope to have her back to the law school to provide an update of her work during the 2012-13 school year.

The Blue Green Alliance includes: The United Steelworkers, Communication Workers of America, Service Employees International Union, Utility Workers Union of America, America Federation of Teachers, Amalgamated Transit Workers, United Auto Workers, United Food and Commercial Workers International Union, Sierra Club, National Resources Defense Council, National Wildlife Federation, and Union of Concerned Scientists. For more information about the BlueGreen Alliance, see: <http://www.bluegreenalliance.org/about>

AMI GRACE-TARDY '05, ATTORNEY ADVISOR FOR THE DEPARTMENT OF ENERGY GENERAL COUNSEL

Ami began her law school career knowing that she wanted to pursue environmental law. Prior to entering law school, Ami worked as the grassroots director of the Clean Water Network, a project of the Natural Resource Defense Council. While at the University of Maryland law school, Ami obtained a variety of experiences that shaped her career. She was a member of the moot court board, did an Asper fellowship at the U.S. District Court in Maryland, interned with the Department of Justice's Civil Rights Division, participated in the environmental law clinic and was a summer associate with Beveridge & Diamond, a national environmental law firm.

Upon graduation, Ami began her career with Beveridge & Diamond. During her five years at the firm, Ami's practice included regulatory work, compliance counseling and litigation primarily focused on Superfund, the Clean Water Act, and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Ami's work with Beveridge & Diamond



Ami Grace-Tardy '05

representing the regulated community in a variety of regulatory and statutory frameworks provided invaluable experience for her work as a government lawyer.

In 2010, Ami decided to make a career change: "Having gained considerable environmental regulatory experience in the non-profit and private sectors, I was eager to apply my skills and expertise to affect change through government work." She obtained an attorney-advisor position with the U.S. Department of Energy (DOE), Office of the General Counsel

advising the Department on a variety of energy efficiency issues. She works on energy efficiency standards for appliances and industrial equipment where she often works closely with American manufacturers and energy efficiency advocates to strengthen and enforce energy efficiency standards.

Ami also counsels DOE's Federal Energy Management Program (FEMP) on regulations to implement programs that require federal agencies to conserve water and en-

ergy at federal facilities. In that realm, Ami works on two regulations that are currently under review at the Office of Management and Budget. One rule would establish sustainable design standards, including water conservation and renewable energy requirements, for new federal buildings and major renovations of existing facilities. The other rule would require new federal buildings to significantly reduce fossil fuel consumption so that buildings designed in 2015 must reduce fossil fuel consumption by 65% and buildings

designed in 2030 and beyond cannot use any fossil fuels.

Ami is enjoying her new career with the Department of Energy and working on the environmental issues that brought her to the University of Maryland's Environmental Law Program a decade ago: "Maryland's Environmental Law Program is a unique place – while it is a nurturing place to explore environmental law, it challenges you with real-life experiences that resonate throughout your legal career."

JOMAR MALDONADO '03, ENVIRONMENTAL SPECIALIST WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

When Jomar went to college at the University of Puerto Rico, he knew he eventually wanted to work within a "cutting edge" field. His love for nature and public service led him to Environmental Science. This field allowed him to take a multi-disciplinary approach to his education, supplementing his hard science education with courses in economics, geography, public policy, and law and exposed Jomar to the policy and legal aspects of environmental studies. At the end of his bachelor's education he knew he wanted to pursue a career in environmental law and applied to the University of Maryland among others. Ultimately, Jomar chose Maryland because it had a strong Environmental Law Program, offered a dual degree in law and public policy, he received strong personal recruiting from Professor Percival and Associate Dean José Bahamonde-González, and Maryland was less expensive compared with competing law schools he was considering.

Jomar took advantage of the University of Maryland's varied offerings while obtaining his JD/MPM dual degree. Jomar went to law school his first year, attended classes at Maryland's College Park campus his second year, and split his coursework between the two campuses during his last year. Along the way, Jomar worked in the Environmental Law Clinic, competed in the Pace National Environmental Law Moot Court Competition and Stetson International Environmental Law Moot Court Competition. In the summer after his first year of law school, Jomar worked at the Environmental Protection Agency's (EPA) Office of Enforcement and Compliance Assurance through a paid internship with the National Network for Environmental Management Studies. The following year Jomar worked for EPA's Office of Policy. In addition, Jomar also worked for the White House Council on Environmental Quality as legal intern during his third year. Jomar's work with these government offices provided him crucial contacts and letters of reference for his professional career.



Boots on the ground: Jomar Maldonado '03 at work in Mississippi after Katrina

Jomar graduated in 2003 and went to work as a contract attorney for the Federal Motor Carrier Safety Administration within the Department of Transportation, focusing on a major National Environmental Policy Act (NEPA) project. He worked on the Environmental Impact Statement (EIS) of a rule proposal that would allow trucks from Canada and Mexico to cross into the United States more freely under the North American Free Trade Agreement (NAFTA). The issue ultimately made its way to the Supreme Court, who ruled that the government did not have to do an EIS. His work and the relationships he built helped him land his next job as an Environmental Specialist with the Federal Emergency Management Agency (FEMA).

Since 2005, Jomar has addressed numerous environmental issues for FEMA. He began his career at FEMA working on federal environmental requirements for the agency's response to Hurricane Katrina. He has worked extensively in the areas of NEPA, Endangered Species Act, floodplain management, environmental justice, Coastal Zone Man-

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FEMA

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agement Act, Coastal Barriers Resources Act, and disaster assistance. In 2007, Jomar was promoted to Environmental Officer and has served as the senior environmental policy officer for the Agency. Jomar has travelled extensively across the country as part of his duties. He has provided technical support for senior agency officials; environmental planning training for more than 200 employees and emergency management personnel; training and support to FEMA's general counsel; litigation support to FEMA, DHS, and DOJ attorneys; and legal advice on the Agency's environmental responsibilities.

In sum, Jomar focuses on balancing fast action with environmental stewardship. He has worked to cultivate a "stewardship culture" at FEMA, emphasizing the need for better planning which will yield better results. These values and experiences have helped Jomar land his next job as a Senior Attorney Advisor to the Federal Highways Administration. Jomar has found his experience at the University

of Maryland invaluable for his career development: "The support I received from Bob, Rena, and Laura Mrozek was critical in my career. I owe my success to the Environmental Law program and the school. I have a lot of gratitude to Dean José and Bob for steering me to the right law school and to great mentors such as Karen Rothenberg, Gordon Young, and Alice Brumbaugh for their advice."

While Jomar's path to his current position is unique, his experience is not. Virtually every major federal government office or department requires environmental law expertise and counsel, yet few environmental law students focus on such organizations as the Departments of Transportation, Commerce, Agriculture, Homeland Security, Housing and Urban Development, Veterans Affairs and the myriad of offices and agencies in each. Many environmental law positions throughout the federal government are open to those willing to venture down the path less taken.



The Environmental Law Program welcomes Professor Zhao Huiyu, Associate Professor at Shanghai Jiaotong University Faculty of Law, as the 2012-13 visiting environmental law scholar. Prof. Huiyu graduated from Wuhan University where she majored in environmental and energy law and then went on to obtain her LL.M. in economic

law. Prof. Huiyu was also a Deputy chief procurator of the Minhang District in Shanghai while on leave from Shanghai Jiaotong University.



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2011-2012 ENVIRONMENTAL LAW PROGRAM

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Environmental Law Clinic Fellows

Erin Doran, JD

Andrew Keir, JD

Matthew Peters, JD

21 STUDENTS GRADUATE WITH CERTIFICATE OF CONCENTRATION IN ENVIRONMENTAL LAW

On May 18, 2012, 21 students graduated from the University of Maryland Francis King Carey School of Law with a certificate of concentration in environmental law. A total of 288 students have now graduated from Maryland with the environmental law certificate, which the school first offered in 1998.



Dean Phoebe Haddon, Professors Robert Percival, Rena Steinzor and Jane F. Barrett, environmental program Managing Director William Piermattei, Program Coordinator Suzann Langrall, and Clinic staff Andrew Keir, Matthew Peters and Erin Doran with some of the environmental law concentration recipients from the Class of 2012.



“Wine – Nature’s Thanks for Preserving the Earth.” (left) Tom Blonkowski 2L pours for a wine tasting attendee at the 20th Annual Environmental Law Winetasting where alumni, students, professors, and friends of the Environmental Law Program gathered to celebrate environmental conservation efforts, catch up with old friends, and meet new ones. (center) Beth Totman 3L with Helena Mastrogianis ’11.

*Comments and letters should be
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