

2019

THE YEAR IN REVIEW

UNIVERSITY OF OREGON SCHOOL OF LAW

Environmental and Natural Resources Law Center



TAKING ON CLIMATE CHANGE

Providing Practical Experience and Innovative Solutions
to Today's Most Challenging Environmental Issues



UNIVERSITY OF
OREGON

School of Law

2019 THE YEAR IN REVIEW

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Director's Message	1
Donors and Sponsors	9
Faculty Updates	11
Interdisciplinary Research Projects	17
Clinics and Externships	46
Graduate Programs and Events	48
PIELC 2019	50

CONTENTS



Cover Story:
Taking on Climate Change

4



The ENR Center Welcomes Three
New Faculty Members

10



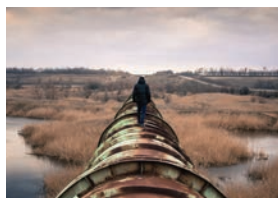
State Authority to Regulate Mobile
Source Greenhouse Gas Emissions:
History and Current Challenge

22



Atmospheric Recovery Plan:
A Bold Outline for the Global
Climate Crisis

31



Tribal Tools and Legal Levers for Halting
Fossil Fuel Transport and Exports
Through the Pacific Northwest

35



Study Offers New Approach for
Willamette River Drought Fixes

39



Matching the Speed of Technology
with the Speed of Local Government

46

From the Director



Heather Brinton

The University of Oregon's Environmental and Natural Resources Law (ENR) Center continues to explore new and innovative means of meeting its mission - to engage the law to support sustainability on Earth.

And we are all keenly aware that our ecological and economic circumstances are driving an evolution in environmental law, how we practice it, and how we teach it.

When ENR launched its Interdisciplinary Research Projects and Fellows Program more than a decade ago, it was inspired by a vision of teaming student energy with faculty expertise to meet community needs. It was rooted in our belief that a modern environmental legal education needed to be serious about innovative curricular offerings that are both interdisciplinary in nature while focusing on practical skills development that stretches between the lawyer's work in law-making and law-applying. We needed new and creative solutions rooted in deep theoretical thinking about the law and its role in finding meaningful solutions to our serious environmental problems. We needed to focus on keeping law school affordable, providing a way for students to minimize their debt load. Most important, we needed to support programs that inspired our students to embrace the role of the lawyer in a democracy, to focus on our obligation to advance the common good.

As you read about our year-in-review, you will see how we continually strive to reach these goals, and you will understand why I feel privileged to serve as director of Oregon's Environmental and Natural Resources Law Center.

Each year since its inception, the ENR Center's programmatic vision has been confirmed by increasing success. We are thrilled to welcome three new faculty members whose legal expertise includes environmental, ocean and coastal, land use, urban redevelopment, and Indian law. Additionally, ENR continues to grow and expand its Interdisciplinary Research

Projects and Fellows Program through increased financial support of law student fellows, researchers, and faculty. This ramp up increases ENR's capacity to perform legal and interdisciplinary policy analysis needed to find real solutions that make a real difference on the ground.

Our faculty, alumni, and students contribute enormous advancements in their respective fields. Their commitment to making a difference on environmental issues is nothing short of inspiring.

Motivated and inspired by our achievements and our shared aspirations, the ENR community is committed to our path ahead.

Heather Brinton, Director
Environmental and Natural Resources Law Center



PIONEERS AND VISIONARIES IN ENVIRONMENTAL LAW

#8

U.S. News and
World Report (2019)

#4

Among Public
Research Universities

#2

In the Pacific
Northwest

A+

PreLaw Magazine
(2019)

At Oregon Law, we never take our eyes off the horizon. We collaborate, innovate and find better ways to tackle environmental issues around the globe.

- Pioneered courses in public interest environmental law
- First environmental law clinic in the United States
- Home of the oldest and largest Public Interest Environmental Law Conference (PIELC) in the world
- Created Interdisciplinary Research Projects to tackle climate change



TAKING ON CLIMATE CHANGE

By Rayna Jackson

For more than fifty years, the University of Oregon School of Law has been a national leader in public interest environmental law. Building off of this legacy, the ENR Center continues to launch innovative research projects to assist our communities while preparing students for leadership in the rapidly changing world of environmental policy. Through coursework and dynamic interdisciplinary research, the ENR Center is bringing every resource to bear to finding solutions to the major environmental challenges of our day.

Follow the stories of several ENR faculty who are using their expertise not only to teach the next generation of lawyers, but to influence environmental law and policy. Staffed by law student Fellows, ENR's seven interdisciplinary research projects focus on public trust theory, green energy, food resiliency, native environmental sovereignty, environmental and climate justice, oceans, coasts and watersheds, transportation, and sustainable land use laws. Each in their own way is taking on climate change and looking to solve environmental problems in Oregon, the nation, and around the world.

Water: In Search of Innovative Climate Solutions

Many, if not all, governmental entities around the world are facing tough and controversial questions involving water demand and consumption.

A report done in 2018 by the United Nations shows that currently 2 billion people live in countries experiencing high water stress. Another report done in 2013 by the Global Water Institute estimates that nearly 700 million people worldwide could be displaced by intense water scarcity by 2030.

Here in the United States the impacts from changes to climate and weather patterns in various areas of the country will cause changes to precipitation patterns, drought cycles, storm events, snow pack and spring melt, among other hydrologic changes.

The western United States, in particular, faces an increase in population and development pressure that will only continue and compound water resource issues.

Due to increased awareness of these complex interactions among social and ecological systems, both the public and private sectors have increasingly turned to scientific, quantitative methods to inform land and water policy and decision making in the presence of uncertainty.

Adell Amos, Clayton R. Hess Professor of Law & Associate Dean for Academic Affairs, has dedicated her career to finding solutions. As a recognized national expert in water resources law and policy, her research emphasizes the jurisdictional governance structures that are deployed for water resource management both domestically and internationally.

COVER STORY *continued*

Amos' latest research published in the journal *Nature Sustainability*, looks at drought through an interdisciplinary lens. Led by Oregon State University economist William Jaeger, a six-member team from five institutions, including the University of Oregon School of Law, found that timing and location are vital considerations in managing drought risks that are appearing along Oregon's Willamette River because of a changing climate.

"Our research team found that efforts to provide for agricultural, urban and environmental needs along the river could be enhanced if they are implemented upstream in advance of projected water shortages," said Amos.

Amos' work with six Oregon Law Fellows from the Oceans, Coasts and Watersheds Project, focused on the integration of water law and policy for comprehensive modeling that pulls from both human and natural systems.

She notes that the impacts of climate change and increased drought cycles in the Western United States will inevitably drive many of the reform efforts in the area of water resources over the next decade. This research gives them options.

"We live in an interesting time. There is water scarcity and yet there is a new interest in expanding water supply capacity," said Amos. "A common thread through all of my research is how we can help governments look at water resources from a comprehensive planning approach," said Amos.

Local Solutions with Global Implications

While countries grapple with the reality of water scarcity and the demands for water increase, the report done by Amos and her team can offer solutions.

Their findings are broadly applicable in regional contexts, including the Western United States and Mediterranean climate zones worldwide, where the impacts of climate change are expected to involve more severe drought events.

Amos believes that in order to meet growing water demands, governments at all levels need good adaptation and resiliency strategies that will account for the need to allocate and share natural resources – like water – among all the members of their communities.

"One piece of any resiliency strategy concerns the role of freshwater protection and conservation," said Amos. "With increased pressure on the hydrologic system, freshwater conservation can easily fall to the wayside as communities try to adapt to change."

Amos says that if countries are not careful about how they adapt, they may inadvertently and with good intentions, compound the very problems they set out to address.

"Ultimately, the goal is to ensure in the face of climate change and increased demand on our natural resources that we make

our communities and ecosystems resilient and able to deal with change," said Amos.

➤ *Read more about the study, "Scope and limitations of drought management within complex human-natural systems" on page 39*

Food: On the Forefront of Inclusive Conversations About Climate Change

As the changing climate transforms the way we think about water, it also brings about changes in the way we look at food.

Extreme weather conditions like floods, fires, and droughts bring shortages in food. And because of the new weather patterns, it's harder to farm, hunt, and fish – all of which exasperates the world's current problem with hunger.

Associate Professor Michael Fakhri, an expert in food sovereignty and agroecology understands the issues and their possible solutions. As he investigates international government and food systems he makes connections in law and policy that may be used to increase biodiversity through food-making practices. This is especially critical in our current climate crisis.

"We're seeing a significant rise in hunger across the world but there has not been significant legal and political responses to these changes," said Fakhri.

821.6 million people are chronically undernourished globally.

- The Hunger Project

Fakhri agrees with leading scientists that the world needs to see food become more resilient, productive, and sustainable – but he notes that it also needs to be more inclusive and equitable as well.

"When climate disasters happen, food prices skyrocket and it is harder for people to eat," said Fakhri. "What typically happens is that peasants, hunters, pastoralists, and fisherfolk – the world's principal food producers either don't have access to the food they produce or can't afford to eat."

Fakhri's research indicates that when we look at the imbalance in food production through the agroecology lens, both the climate and the most vulnerable and poor communities mutually benefit.

"Agroecological practices depend on using less carbon intense sources of energy, and finds efficiencies in natural resources," said Fakhri. "At the same time, it takes into account the micro-scale

and what is appropriate for each community and considers both human and non-human life.”

Fakhri sees it as the duty of legal scholars and students to highlight how the law structures the allocation of power and wealth when it comes to food production, distribution, and consumption. He notes that it’s easy to get caught up in putting forward technical solutions to climate change and pushing for the political will to implement a plan. But no solution is sustainable, he says, if it doesn’t empower the people most vulnerable to climate change.

“Any long-term solution has to enable people to determine their own future and give them the tools they need to solve the problems within their own communities,” said Fakhri. “In other words, social justice is not something you tack-on at the end but rather a core part of an ecologically sound future.”

How to Prepare for the Unknown

Fakhri emphasizes that there has always been a constant change and back and forth with the biosphere and that agroecology practices are not entirely new.

“We’ve always had to adapt to environments,” said Fakhri. “The idea of agroecology is that we are in a constant dialogue with nature. However, now due to new patterns in the climate, this adaptation needs to happen much faster, and at an unprecedented scale.”

This rapid change, highlighted in Fakhri’s research, finds that people are living in new biospheres without moving locations. He discovered wine growers in Oregon that are now able to grow grapes that were once only compatible with the environment in Northern California.

These changes are happening globally and Fakhri points out that given the opportunity, small-scale farmers, farm workers, pastoralists, hunters, and fishers have the know-how necessary to develop new practices.

“This group of people are on the front line and experience ecological changes on a day-to-day basis,” said Fakhri. “What we see in the international arena is these people organizing themselves through social movements around concepts like food sovereignty and agroecology. It is because of them that agroecology and peasant rights are even on the international agenda.”

➤ *Learn more about Fakhri’s work with students through the Food Resiliency Project on page 27*

Built Environment: Creating a Climate Resilient Future

Sarah Adams-Schoen may be new to Oregon Law, but she is no stranger to the critical work needed to tackle climate change. An expert in climate resilience law and policy with a focus on coastal and inland flood plains, Adams-Schoen comes to the school of law ready to continue her extensive research on climate resiliency.

Adams-Schoen is dissecting barriers to climate resilience at the local level. Although many tout local government action in this area, Adams-Schoen’s research reveals that most local governments face intractable obstacles to climate resilience planning and implementation. She saw this first-hand when she experienced Superstorm Sandy in New York.

“I was living on Long Island at the time and witnessed the social and environmental devastation of a major flood event in developed areas,” said Adams-Schoen. “Following Sandy, I worked closely with local governments, the State of New York, the Federal Emergency Management Agency, and others to analyze and propose amendments to state and local law and policy to increase the resilience of Long Island communities to sea level rise, flooding, and increasingly intense storms.”

What she found was that many US communities continue to employ land use planning and zoning practices that, at best, fail to mitigate climate risks, and, at worst, actually increase local vulnerability.

Adams-Schoen notes that even localities that have implemented otherwise robust climate adaptation plans tend to focus almost entirely on strategies to accommodate development in floodplains such as, for example, elevating structures.



COVER STORY *continued*

“While these accommodation strategies are appropriate in some areas, they facilitate development in floodplains, which in many areas puts residents, first responders, buildings and infrastructure, and ecosystems at risk,” said Adams-Schoen.

Local governments face tremendous obstacles to robust resilience, Adams-Schoen points out. She identifies, through her research, socio-political and economic pressures that make amending local laws to restrict new development in high-risk areas virtually impossible for many local governments.

At the local level, governments also have a critical need for financial, technical, and legal support from state and federal governments. However, there is another problem: the real and perceived risks of liability by government bodies for regulatory takings of private property in restricting development - even when doing so is necessary to prevent harm to the property owner and others.

Finding Solutions Through “Team-based” Learning

These are the problems that Adams-Schoen will delve deeper into while at Oregon Law. She says that the school of law’s interdisciplinary, sustainability-focused programs provide an opportunity for her to enrich her teaching and scholarship, and to engage students in creating more sustainable communities by tackling real-world problems facing law- and policy-makers in Oregon and beyond.

“I am thrilled at the opportunity to work with law fellows from the Environmental and Natural Resources Law Center’s Ocean, Coasts and Watersheds Project and Sustainable Land Use Project,” said Adams-Schoen. “As a native Oregonian, I also look forward to working closely with the university’s Sustainable Cities Institute—an internationally renowned program that involves faculty and students across the university in research and problem solving focused on increasing the sustainability of Oregon communities.”

As Adams-Schoen continues her research at Oregon Law, she is committed to ensuring that students are engaged at each step of the process.

They will learn from each other as they help develop laws, policies, and decision-support tools to help communities respond to present and future climate-related hazards, Adams-Schoen says. With students, she will continue to examine how making changes in land use and other systems can achieve and maintain standards of public health and safety; equitable access to food, economic opportunity, and other resources; a functioning, participatory democratic government; and healthy ecosystems and natural areas.

“We need to think outside the box to prepare law students to tackle the barriers to climate resilience,” said Adams-Schoen.



"Traditional approaches to solving these problems don't work. And traditional approaches to teaching won't adequately prepare the next generation of leaders. By involving students in on-the-ground problem solving and using research-based collaborative and team-based learning methods, students increase not only their individual capacities, but also their ability to harness the culturally and cognitively diverse attributes of a team to create solutions that no single team member could create on their own."

➤ [Learn more about the Sustainable Land Use Project on page 43](#)

Energy: Using Legal Research to Inform Policy and Cut Carbon Pollution

Assistant Professor Greg Dotson understands that time is of the essence when it comes to heat-trapping carbon pollution that is warming the planet. There is an urgent need to cut pollution, and local, state, and federal government must adopt the environmental laws and policies needed to accomplish that goal. Dotson focuses his research on issues that can inform policymakers wrestling with how to tackle global warming. A recent project has been to focus on state and federal auto emissions policies.

Each year, cars and trucks in the United States emit more than one billion tons of carbon pollution. Dotson, an expert in energy and environmental law - believes we are at a seminal moment to chart an effective path in reducing these emissions.

Dotson's current research with fellows from the Energy and Policy Project, looks in-depth at the federal laws and policies that help or inhibit efforts to reduce carbon pollution from the transportation sector. He has examined more than 40 years of legislative and regulatory history to inform today's important debate over the future of the nation's cars and trucks.

In 2018, the National Highway Transportation Safety Administration and the U.S. Environmental Protection Agency proposed to upend the regulatory structure that has systematically improved the nation's cars and trucks for decades. These agencies are proposing to eliminate the historic state role in regulating emissions from cars and trucks when it comes to climate change.

The U.S. approach to controlling and reducing car and truck pollution has been effective historically. Air quality has improved significantly and the U.S. automobile sector has led the world in innovation. Dotson's research reveals the analytic approach used by the agencies and fostered by Congress that has promoted innovation at the state level, innovation which is then often subsequently reflected at the federal level. He says that the state of California is central in this approach.

"If finalized, the regulations would relax federal greenhouse gas tailpipe standards and fuel economy standards that are currently on the books," said Dotson. "At the same time, the regulations would preempt emissions standards put in place by California and adopted

by other states. It would also preempt California's zero emission vehicle (ZEV) requirement." California has had federally-recognized authority to regulate vehicle emissions since the 1960's.

Although California is at the center of this debate, Dotson says that what happens there has implications for the entire nation. "Current law allows California to experiment with bringing to market innovative and advanced automotive technology which quickly spreads throughout the country and the world," said Dotson. "More immediately, the law allows other states to adopt the California approach and this has directly benefited a dozen other states, including Oregon."

Dotson says that this promises to be one of the most consequential climate change-related policy fights seen to date. "The resolution of this debate will determine the emissions profile of the nation's vehicle fleet in the years to come and whether the United States will continue to lead the world on vehicle technology innovation," said Dotson.

From Congress to the State House

In addition to a deep-look at policy that guides the automotive industry, Dotson has also brought a research lens to economy-wide policies for addressing climate change. Carbon pricing in its various forms has been used by state and national governments to drive emissions reductions necessary to address climate change.

"As long as the costs of climate change are externalized we lose the opportunity to systematically encourage market participants to seek out effective approaches for curbing pollution," said Dotson. "Carbon pricing isn't a cure-all, but it can shine a light on a path toward decarbonization of the economy."

Dotson has written about the institutional hurdles for carbon pricing in the U.S. Congress and has testified about legislation at the state level. In the summer of 2019, a popular climate change proposal in Oregon failed to become law when a small minority of legislators was able to deprive the state senate of a working quorum.

"As recent events in Oregon demonstrate, even when a governing majority in government wishes to address climate change, strong minority opposition is difficult to overcome because of the many institutional obstacles that exist," said Dotson. "Putting a price on carbon at any governmental level, with the policy elements that are often contemplated, will require a great deal of agreement or complaisance among lawmakers."

Despite the recent setback with the Oregon legislation, he remains hopeful that there can and will be effective and sensible policy that can mitigate greenhouse gas emissions.

"Climate change is a challenge we cannot afford to ignore. There are many legislators, scientists and advocates who are pushing for solutions. I just hope that the research we do in the Energy Law and Policy Project can help inform the policies they develop and their chances for success."

➤ [Learn more about the work being done by the Energy and Policy Project on page 22](#)

Atmosphere: Reclaiming Climate Balance Through Sky Cleanup

When an oil spill happens, government agencies jump to action, and the public focuses its attention on the companies liable for creating the mess. Morally, ethically, and legally, oil companies are responsible for covering the costs of clean-up.

Now, turn the world upside down and look at our most vital resource above the land and sea—the air.

Uncontrolled greenhouse gas emissions have turned our sky into a hazardous waste dump, resulting in severe climate instability. While policy solutions like cap-and-trade and the Paris Climate Accords could, if implemented, limit production of air pollution, there has not been a comprehensive framework to fund and implement effective clean-up measures – until now.

The Lesser Known Climate Imperative

“Drawdown is the other climate imperative. It’s not enough to decarbonize – we have to also clean the atmosphere of the excess carbon that is causing the heating and havoc we see now,” said Dr. James E. Hansen, former chief climate scientist at NASA’s Goddard Institute for Space Studies. In 2011, as the United States’ top climate scientist, Hansen convened a scientific team to develop a climate prescription for the planet. It called for both de-carbonization and drawdown.

To address the critical issues of drawdown, environmental law Professor Mary C. Wood, working with law fellows in the Conservation Trust Project and Global Environmental Democracy Project, has developed a “three gear” strategy to catalyze recovery of our carbon-flooded atmosphere, which she argues is the air air-equivalent of an oil spill.

These interlocking gears include 1) Atmospheric Recovery Plan, 2) Natural Resource Damage Litigation and, 3) Sky Trust.

This approach, says Wood, aims to promote scientifically grounded, natural remediation efforts to clean the atmosphere, while legal actions hold the fossil fuel industry companies accountable for the costs of drawdown.

This work builds off of Wood’s revolutionary legal theory, Atmospheric Trust Litigation, which focused on the first part of Hansen’s prescription- de-carbonization. The non-profit organization Our Children’s Trust used Wood’s scholarship to launch a global atmospheric trust litigation campaign consisting of several cases in the U.S. and abroad on behalf of youth seeking emissions reduction. That campaign, gaining significant momentum, received an important victory in the Juliana v. United States case when the federal district court of Oregon allowed a case asserting constitutional right to a stable climate system to move forward.

➤ *Learn more about work being done with the Conservation Trust Project on page 19*

Oregon Alumni at Oregon Children’s Trust (OTC)

ENR Center alumni work to protect our environment and society through their work at OTC, a non profit organization based in Eugene. Meet three alumni who work every day at local, state and international levels to elevate the voice of youth to secure the legal right to a healthy atmosphere and stable climate.



Elizabeth Brown '13

Staff Attorney
Global Program Manager



Andrew Welle '13

Staff Attorney



Nate Bellinger '14

Staff Attorney
State Program Manager

➤ *Find out more about OTC and the “Biggest Case on the Planet” on page 19*

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THANK YOU DONORS!

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CONTACT

If you have any questions about giving, please contact Jessica Merkner at 541-346-1558 or jmerkner@uoregon.edu.

Dear Alumni and Friends,

Through the work of its faculty, alumni, and students, the Environmental and Natural Resources Law Center makes incredible contributions to our community by providing innovative solutions to challenging environmental problems that affect all of us. My priority is to ask you to start thinking about the future and how you can make a positive difference in the work of the Center and in the lives of our students.

By supporting the Environmental and Natural Resources Law Center with a gift, you are supporting future lawyers, policy makers, and leaders who are today dreaming about how they can make a lasting difference in this world. Their stories, and commitment to creating meaningful change, may not be dissimilar from your own, except today the urgency for their pursuit is more important than ever before. Our collective investment in their success is critical.

Please consider investing in the ENR Center today by making a donation to the Sustaining Fund for Environmental Law online at: law.uoregon.edu/explore/invest-in-ENR.

Jessica Merkner, JD
Director of Development
University of Oregon School of Law



UNIVERSITY OF
OREGON

School of Law

The ENR Center Welcomes Three New Faculty Members

Three outstanding scholars and teachers join Oregon Law's faculty for the 2019-20 academic year. To learn more about their expertise, accomplishments and backgrounds, visit their individual pages.



Sarah Adams-Schoen

Assistant Professor

Courses: Local Government Law, Ocean and Coastal Law, Land Use Law

Page: 41



Angela Addae

Assistant Professor

Courses: Civil Rights Law, Social Enterprise Law, Race and the Law

Page: 44



Howard Arnett

Professor of Practice

Courses: Indian Law, Tribal Courts and Tribal Law, Comparative Law of Indigenous Peoples, Contemporary Issues in American Indian Law

Page: 34



FACULTY UPDATES



**Sarah
Adams-
Schoen**

Presentations

"Retreat" Standards: An Opportunity to Fulfill the NFIP's Promise of "Guiding Development Away" from Flood Hazards," Work in Progress Panel, Natural Resources Law Teachers Institute, Missoula, MT, (May 2019).

"Using Zoning and Other Local Laws to Increase Community Resilience to Climate- and Weather related Threats," Panelist, ABA State & Local Government Law Section Spring Meeting, Baltimore, MD, (April 2019).

Publications

"Planning and Zoning Within the Coastal Zone" in *American Law of Zoning*, 6th Edition, ed. Patricia Selkin, West (2017).

"Beyond Localism: Harnessing State Adaptation Lawmaking to Facilitate Local Climate Resilience," *Michigan Journal of Environmental and Administrative Law* L185 (2018).

"The WUI, the Waterfront, and the Wicked Problem of Planning and Zoning for Climate Resilience," 41 *Zoning & Planning Law Reports* 1 (Oct. 2018).



**Adell
Amos**

Presentations

"The Role of Law and Policy in Interdisciplinary Research," Keynote, Oregon Climate Change Research Institute's 10th Anniversary Symposium, Oregon State University, Corvallis, Oregon (May 20, 2019).

Participant, "Interdisciplinary Social-Environmental Research Symposium,"

University of Oregon, Eugene, Oregon (May 20, 2019).

"The Food Energy Water Nexus in Oregon State Law," Keynote, Environmental Caucus of the Oregon State Legislature, Salem, Oregon (May 13, 2019).

"Drought in the American West: A Look at the Interrelationship Between Law, Policy, and Science," Keynote, Environmental Studies Spring Knight Distinguished Lecture Series, Washington University, St. Louis, Missouri (March 27, 2019).

"Maximizing Instream Flows Via Oregon Water Law," Poster presentation with Doug Quirke, INFEWS Stakeholder Meeting, Salem, Oregon (November 13, 2018).

"Enforcing Sustained Yield Requirement in Land Management Laws to Provide for Future Generations," Invited Speaker, Keeping the Public in Public Lands: Exploring New Litigation Theories, sponsored by the NorthLight Foundation, Telluride, Colorado (invited presentation) (October 10, 2018).

Publications

"Scope and Limitations of Drought Management within Complex Human-Natural Systems" co-authored with William K. Jaeger, David Conklin, Christian Langpap, Kathleen Moore, and Andrew Plantinga, 2 *Nature Sustainability* 710 (peer reviewed) (2019).

"Redrawing Our Urban Waters: Merging Design, Law, and Policy in Advancing Distributed Water Systems" co-authored with Brook Muller, Josh Cerra, Chingwen Chen, David Feldman, Tatum Lau, Noelwah Netusil, and Erik Porse (forthcoming).

"Scarcity Amid Abundance: Water, Climate Change, and the Policy Role of Regional System Models," co-authored with William K. Jaeger, Daniel P. Bigelow, Heejun Chang, David R. Conklin, Roy Haggerty, Christian Langpap, Kathleen Moore, Philip W. Mote, Anne Nolin, Andrew J. Plantinga, Cynthia Schwartz, Desiree Tullios, and David T. Turner, (Willamette Water 2100 Project) *Proceedings of the National Academy of Sciences* (peer reviewed) (October 23, 2017).



**John
Bonine**

Presentations

Participated in a meeting of the Environmental Law Alliance Worldwide, a network of lawyers in 80 countries that he co-founded 30 years ago (February 2019).

Gave brief remarks at the Public Interest Environmental Law Conference, an annual event that he co-founded 36 years ago (March 2019).



**Dean
Marcilynn
Burke**

Presentations

Plenary Speaker, "Anything New Under the Sun? Ballot Measures Regulating Extractive Industries" 65th Annual Rocky Mountain Mineral Law Institute, General Session, (July 2019).

Keynote Speaker, Oil and Gas, Natural Resources, and Energy Journal Symposium, University of Oklahoma College of Law, (April 2019).

Panelist, "The Changing Landscape of Public Lands" Martz Public Lands Symposium, Colorado Law School, (March 2019).

Publications

"Anything New Under the Sun? When Voters Directly Regulate Energy and Mineral Development," 65 *Rocky Mountain Mineral Law Institute*, 2-1 (2019).

"Streamlining or Steamrolling: Oil and Gas Leasing Reform on Federal Public Lands in the Trump Administration", 91 *Colorado Law Review* (forthcoming 2019).

FACULTY UPDATES *continued*



**Greg
Dotson**

Presentations

"Responding to Climate Change," Association of Professional Energy Managers, (September 13, 2019).

"Climate Change Mitigation and Adaptation: Perspectives from the West," presented at the Environmental Law Institute and Stoel Rives LLP Co-Sponsored Master Class, (June 2019).

"How Oregon and the Nation are Responding to Climate Change," Osher Lifelong Learning Institute, University of Oregon, Central Oregon, (April 12, 2019).

"Cap and Trade: How and Why," Oregon 2019 Legislature Mid-Session CLE, Oregon State Bar Energy, Telecommunication and Utilities Section at Stoel Rives, (March 15, 2019).

Joint Committee on Carbon Reduction, Oregon Legislature, (February 22, 2019).

"Oregon's 2019 Legislative Session: Carbon Reductions on the Agenda," Journal of Environmental Law and Litigation Symposium, University of Oregon, Portland, (January 18, 2019).

Publications

"State Authority to Regulate Mobile Source Greenhouse Gas Emissions, Part 1: History and Current Challenge" 2019 Environmental Law Reporter (forthcoming).

"State Authority to Regulate Mobile Source Greenhouse Gas Emissions, Part 2: A Legislative and Statutory History Assessment" Georgetown Environmental Law Review (forthcoming).

"Oregon May Join the Western Climate Initiative: What About Gasoline Prices?," Legal Planet, (January 11, 2019).

"How Congressional Oversight Can Help Address Climate Change" with Phillip S. Barnett, Climate Law Blog, Sabin Center for Climate Change Law (Nov. 8, 2018). blogs.law.columbia.edu/climatechange/2018/11/08/how-congressional-oversight-can-help-address-climate-change/

Comments, Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule, (October 26, 2018).



**Michael
Fakhri**

Presentations

"Seal Hunting, Arctic Sovereignty, and Indigenous Rights," Law and Society Annual Meeting, Toronto, Canada, (June 2018).

"Eating is an Ecological Act," Third World Approaches to International Law Conference, National University of Singapore, (July 2018).

Co-organized Academy of Food Law and Policy inaugural conference, Harvard Law School, (October 5, 2018).

Publications

"Third World Sovereignty, Indigenous Sovereignty, and Food Sovereignty" in 9 Transnational Legal Theory 218 (2018).

Contributing editor and writer, European Journal of International Law blog, areas of focus include: international agriculture and the right to food.



**Susan
Gary**

Presentations

"Fiduciary Duties and ESG Investing." Net Impact (Lundquist School of Business, University of Oregon), Eugene, Oregon, (February 20, 2019).

"The Oregon Stewardship Trust: A New Type of Purpose Trust that Enables Stewardship of a Business" University of Cincinnati Law Review (forthcoming 2019).

Publications

"Best Interests in the Long Term: Fiduciary Duties and ESG Integration," 90 University of Colorado Law Review 731 (2019).

Helped draft Oregon legislation to create a new form of trust—a stewardship trust—as

a tool for a mission-driven business that wants protection from acquisition by owners who might want to reduce its non-economic purposes. The legislature has approved the legislation and it awaits the Governor's signature.



**Richard
Hildreth**

Publications

Editorial advisory boards of the international peer-reviewed journals Ocean Development and International Law and the Australian Journal of Maritime and Coastal Law.

Peer reviewer of the ocean chapters in the forthcoming 3d edition of Eagle and Hsu's casebook "Coastal and Ocean Law."



**Tom
Lininger**

Presentations

"Green Ethics for Judges," Faculty Colloquium, Pace Law School, (November 1, 2018).

"Green Ethics for Judges," Symposium, Vanderbilt Law School, (March 25, 2019).

"No Privilege to Pollute: Expanding the Crime-Fraud Exception to the Attorney-Client Privilege," Vermont Law School Environmental Scholarship Colloquium, (September 21, 2019).

"Recent and Foreseeable Reforms to Ethical Rules for Lawyers and Judges," annual conference of American Public Power Association, (October 22, 2019).

Publications

"Green Ethics for Judges," 85 George Washington Law Review 711 (2018), selected by the Environmental Law and Policy Annual

UO Sustainability Award 2019

Mary Wood, Philip H. Knight Professor and Faculty Director of the Environmental and Natural Resources Law Center was named recipient of the 2019 UO Sustainability Research Innovation Awards.

Sponsored by the Office of the Vice President for Research and Innovation, the award recognizes a University of Oregon project whose innovations were developed in the course of UO research and are now offered as publicly available products or services that improve sustainability.

Wood was selected for developing a legal pathway called Atmospheric Legal Trust Litigation. This new legal theory applies the public trust principal to the current climate emergency – and also makes way for a litigation pathway where citizens can sue their government to force the protection of the vital climate system that supports survival.

Charles Williams, the Associate Vice President for Innovation, referenced a quote from William Rodgers, Professor Emeritus of Law, of the University of Washington School of Law when presenting the award.

“You never will win if you don’t ask,” said Rodgers. “So, what are you going to do? Are they going to say no? Giving the system a try is important. You can never stop asking. In many ways, if you just build on the record, they say ‘no’ seven times but each time it gets harder to explain. So, I’m really happy to see these things that have happened with the Public Trust Doctrine.”

Wood says that the approach that UO Law takes to climate change differentiates it from other law schools. “We’re not focused on one small thing here or another small thing there,” said Wood. “We’ve got the complete global vision of what scientists say is necessary to save our climate system.”

➤ [Watch Professor Wood’s Interview at,
youtu.be/7MlnwzxyVOA](https://youtu.be/7MlnwzxyVOA)

Review (ELPAR) as one of the top five environmental law articles published in 2018.

“Reforming Judicial Ethics to Promote Environmental Protection,” 49 Environmental Law Reporter 10789 (2019).



Roberta Mann

Presentations

“Sustainable Taxation—Global Challenges and Legal Solutions,” Workshop, University College of Gavle Sweden, (April 2019).

The abstract “Targeting Plastic Pollution with Taxes” was accepted for presentation at the Global Conference on Environmental Taxation, Cyprus, Greece, (September 2019).

“Do corporate tax rates affect environmental Social responsibility?” at the 31st Annual Australasian Tax Teachers’ Association Conference in Perth, Australia, (January 17th, 2019).

Publications

“Saving the Planet by Cutting Corporate Taxes,” (co-authored with Fiona Martin and Bill Butcher), Florida Tax Review, (forthcoming Fall 2019).

Tax Law and the Environment (co-edited with Tracey Roberts), (Lexington Books, 2018).



Mary Wood

Presentations

“The Public Trust in the 21st Century: Driving an Atmospheric Recovery Plan to Respond to Climate Disruption,” The George Washington University Law School Symposium, Washington, DC, (April 13, 2018).

“Atmospheric Recovery Litigation,” Bedrock Lecture Series, Oregon State University, Corvallis, Oregon, (May 23, 2018).

Radio: The Thom Hartmann Program, (October, 2018).

“Climate Change and Public Trust Litigation,” Oregon State Bar Annual CLE, Portland, Oregon, (October 11, 2018).

“Atmospheric Trust Litigation and Juliana v. United States”, Willamette University, Salem, Oregon, (October 16, 2018).

Radio: On the Media WNYC Studio, Interview with Brooke Gladstone, (November, 2018).

“Juliana v. United States: Using Constitutional Rights to Force Climate Recovery,” University of Washington Higher Education Sustainability Conference (2019).

“Juliana v. United States Using Constitutional Rights to Force Climate Recovery,” University of Washington Higher Education Sustainability Conference, (February 25-27, 2019).

Publications

“Debating the Fundamentals of the Fundamental Right to a Sustainable Environment”, 45 Florida State Law Review Online 1 , (2018).”

“Tribal Tools & Legal Levers for Halting Fossil Fuel Transports & Exports Through the Pacific Northwest”, (co-authored with Anna Elza Brady and Brendan Keenan), American Indian Law Journal, Volume 7, Issue 1, Article 5 (2018).

“Atmospheric Trust Litigation: Securing a Constitutional Right to a Stable Climate System”, 29 Colorado Natural Resources, Energy & Environmental Law Review 101 (2018).

“The Public Trust Doctrine: A Constitutional Key to Unlocking American Democracy and Securing Ecological Survival in the 21st Century,” The State of the American Democracy (David Orr, ed.) (forthcoming 2019).

“Gaining Climate Damage Awards against the Fossil Fuel Industry to Fund Natural Carbon Drawdown Solutions,” in Handbook on Loss and Damage (Edward Elgar, forthcoming 2019).

AUTHOR IN QUESTION



Professor Roberta Mann

“Climate change is a critical global issue. Solving it will take ‘all hands on deck.’ Taxes are an important tool that can be used to help the environment.”

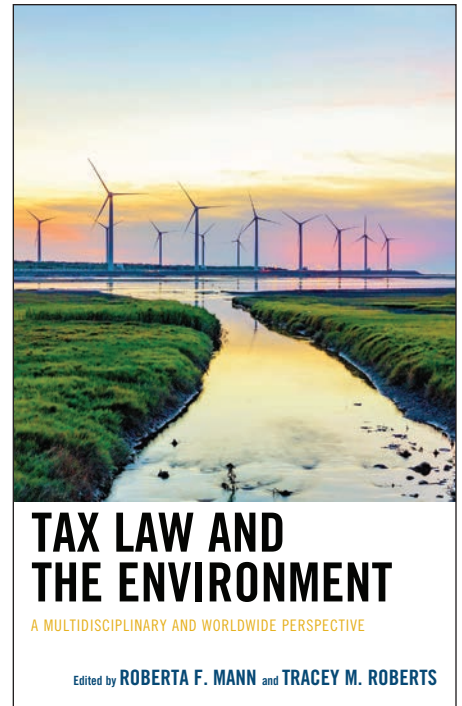
Professor **Roberta Mann's** new book, *Tax Law and the Environment: A Multidisciplinary and Worldwide Perspective*, is an edited volume with co-editor Tracey M. Roberts of Samford University. This book takes a multidisciplinary approach to explore the ways in which tax policy can be used to solve environmental problems throughout the world. This 308-page book, available both digitally and in hardcover, was published by Lexington Books in 2018.

What inspired you to write a book on this topic?

I've written about the impact of tax law and the environment for 20 years, so I was thinking about an edited volume on the topic when a colleague, Tracey Roberts at Samford School of Law, wrote me to ask if I would co-edit a volume on tax law and the environment with her. Almost every year since 2002, I have attended the Global Conference on Environmental Taxation and I know many international scholars who write in the area. With this strong network, it was easy to find experts who could contribute to the book.

What is environmental taxation?

Environmental taxation encompasses policies like carbon taxes and tax credits for renewable energy, which encourage environmentally friendly activity. It could include policies like motor fuel taxes, which arguably have purposes other than improving the environment. A.C. Pigou, an economist from the early 20th century, argued that pollution generating activities constitute a market failure. That is, the market price of commodities such as coal does not reflect its true cost to society in terms of human health and environmental degradation. Pollution is thus an “external” cost, not borne by the industries who profit from the activity. Taxing pollution corrects that market failure by internalizing the social costs to the polluting industry.



Tax Law and the Environment: A Multidisciplinary and Worldwide Perspective

This book provides a detailed analysis of environmental taxation from around the world. What are the major similarities and differences that you found?

What we found is that countries around the world are imposing costs on polluting activities. For example, Canada, Europe and certain Asian countries are taking serious action to reduce carbon emissions. The U.S. and Australia are lagging. Australia had a carbon tax, but it was repealed in 2014. The U.S. has never put a price on carbon, although we do provide some subsidies for renewable energy through tax credits. Tax credits for renewable energy are less efficient from an economic standpoint than carbon taxes for a variety of reasons. First, the tax credits are technology-specific – e.g. for electricity generated by solar, wind, biomass, etc. A carbon tax would be technology neutral, thereby leaving it to the market to determine the most efficient way to reduce carbon emissions. Second, tax credits may be awarded to behavior that would happen anyway. Finally, renewable energy



tax credits, as currently structured in the U.S., may only be used by businesses with tax liability. As some renewable energy developers, particularly in the early stages of business development, do not have profits and therefore no tax liability, the use of the credit requires complex partnership structures.

In what ways does this book explore the taxation and subsidization of both fossil fuels and renewable energy?

In this book we explore how subsidies for fossil energy exacerbate the problem of free-riding pollution. Initially, petroleum was a miracle product which transformed the economy. The government considered incentives for exploration and production essential to this transformation. Now, fossil fuels are a mature industry and climate change requires a new economic

transformation. We found that subsidizing fossil fuels is counterproductive to the goal of controlling climate change. Nonetheless, the subsidies for fossil energy continue, fiercely defended by industry interests.

What are a few common misconceptions about this area of law?

People tend to think of taxes as simply a means of generating government revenue. Few consider the impact of tax policy on the environment. I tell students that if they really want to help the environment, they should study tax law.

What are some of the key things that you would like readers to take away from your book?

As energy use is a major cause of environmental harm, the book explores

the taxation of both fossil and renewable energy. Its analysis of both the past, the present and the future potential of environmental taxation will help policy-makers move economies towards sustainability, as well as informing students, academics, and citizens about tax solutions for pressing environmental issues.

What differentiates your book from other tax law titles on the market?

The book takes a multidisciplinary and multijurisdictional approach to tax law and the environment. It also provides a more detailed definition of environmental taxation, with examples from around the world.

➤ Book Review

"True to its title, this volume is interdisciplinary and global, as it must be. The authors and the editors collectively do a magnificent job of covering the geographic and policy landscapes, and do so with the first-hand knowledge that comes only with serious and sustained engagement with the world of tax law and its environmental effects. This book is essential to anyone interested in environmental taxation and the other myriad of tax laws that have environmental consequences, sometimes foreseeable, sometimes not."

Shi-Ling Hsu, Florida State University College of Law

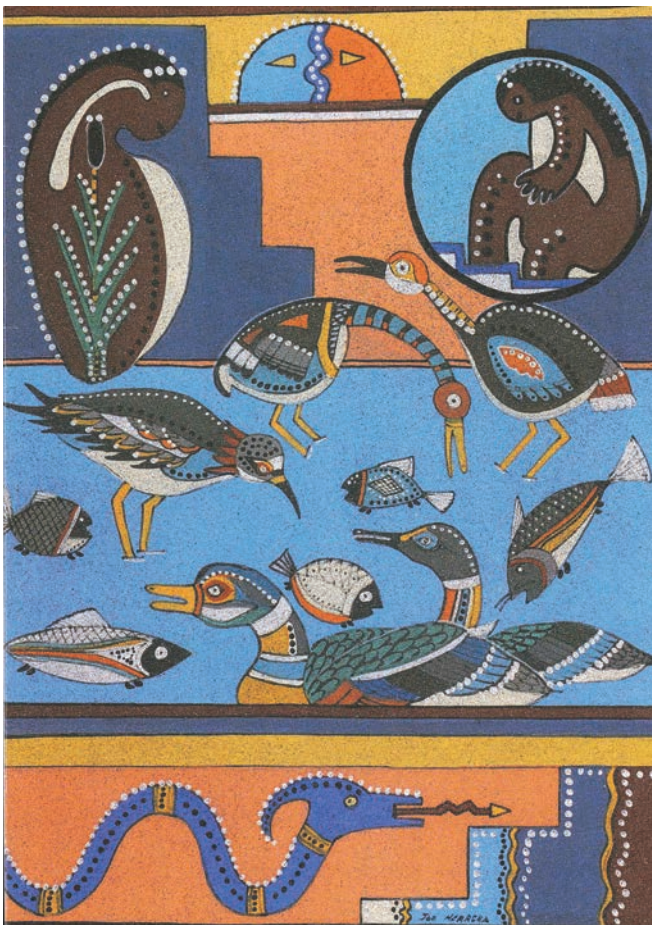
ENR Center Welcomes New Research Associate Michelle Smith



Michelle Smith is the newest Environmental and Natural Resources (ENR) Research Associate for the University of Oregon School of Law. This position focuses on externally funded research through the ENR Center's Interdisciplinary Research Projects and Fellows Program. Working out of the White Stag Building at UO Portland campus, Smith assesses how existing legal tools and policies can answer environmental problems, and how new policies, frameworks and partnerships can be implemented to support conservation goals.

Smith graduated from the University of Colorado with a Bachelor's Degree in Arts. She received her JD from Lewis and Clark Law School in 2008. After graduating from law school, Smith clerked for Justice

Gregory J. Hobbs, Jr., Colorado Supreme Court. She has practiced in both public and private settings and in a variety of practice areas, including Assistant Attorney General for the Oregon Department of Justice, Civil Enforcement Division and Trial Division, Associate Attorney, in the Environmental and Natural Resources Group at Davis Wright Tremaine, and as Counsel to the Firm at Lane Powell. Additionally, she has performed pro bono projects for, or otherwise served, a number of non-profit entities including Coalition of Oregon Land Trusts, ACLU of Oregon, Oregon Sustainable Agriculture Land Trust, Clackamas Soil and Water Conservation District and McKenzie River Trust.



THIRTEENTH ANNUAL RENNARD STRICKLAND LECTURE
Honoring the former UO Law School Dean and Native American scholar

Tribal Sovereignty: The True Origins of Environmental Law

Tuesday, November 12, 2019, 6 P.M.
110 Knight Law Center
Free and open to the public
Reception at the Many Nations Longhouse to follow



Mary Kathryn Nagle

Mary Kathryn Nagle is a playwright and a partner at Pipestem Law, a firm specializing in tribal sovereignty of Native nations and peoples. Mary Kathryn has significant experience in briefing issues of constitutional law related to federal Indian law, as well as cases that implicate statutory rights under Indian rights laws. She is a frequent speaker at law schools and symposia on issues related to restoration of tribal sovereignty, tribal self-determination, Indian civil and constitutional rights, and safety of Native Women. She also represents the National Indigenous Women's Resource Center (NIWRC) in support of the NIWRC's work to end violence against Native Women.

Sponsored by the Native Environmental Sovereignty Program of the Environmental and Natural Resources Law Center and the Wayne Morse Center for Law and Politics.



UNIVERSITY OF OREGON
School of Law

The UO is an equal-opportunity, affirmative-action institution committed to cultural diversity and compliance with the Americans with Disabilities Act. The Four Worlds, by Joe Hilario Herrera, is used courtesy of the Fred Jones Jr. Museum of Art, University of Oklahoma, gift of Rennard Strickland.



ENVIRONMENTAL AND NATURAL RESOURCES LAW CENTER'S **INTERDISCIPLINARY RESEARCH PROJECTS**

To further the ENR Center's mission of "engaging the law to support sustainability on earth," the ENR Center has developed seven theme-based projects that draw upon existing faculty strengths and provide synergistic opportunities for promoting student experience, providing service to the community, and bringing intellectual energy to bear on some of the most challenging and cutting-edge environmental issues of our day.



Conservation Trust Project

Focusing on public trust theory and private property tools to achieve landscape conservation

Faculty Leaders: Professors Adell Amos, Susan Gary, and Mary Wood



Energy Law and Policy Project

Exploring innovative law and policy to promote a green energy future

Faculty Leaders: Professors Greg Dotson and Roberta Mann



Food Resiliency Project

Probing key law and policy issues to ensure resilient, sustainable food systems

Faculty Leaders: Professors Michael Fakhri and Mary Wood



Global Environmental Democracy Project

Preparing students to be advocates for global change

Faculty Leaders: Professors John Bonine, Mary Wood, and Tom Lininger



Native Environmental Sovereignty Project

Examining emerging tribal roles in co-managing lands and resources

Faculty Leaders: Professors Howie Arnett and Mary Wood



Oceans, Coasts, and Watersheds Project

Engaging the law to promote sustainability for ocean, coastal, and freshwater resources

Faculty Leaders: Sarah Adams-Shoen, Adell Amos, and Richard Hildreth



Sustainable Land Use Project

Evaluating land use laws, theories, and practices to ensure sustainable development in our communities

Faculty Leaders: Professors Sarah Adams-Shoen and Mary Wood.



Thank You 2018-2019 ENR Fellows

Conservation Trust Project

Catherine Pratt (Bowerman Fellow)
Erin Yoder Logue (Bowerman Fellow)

Energy Law and Policy Project

John Watson (Bowerman Fellow)

Food Resiliency Project

Zoe Grant (Bowerman Fellow)
Amy Hoover (Bowerman Fellow)
Madeline Lorang (Dean's Distinguished Environmental Law Fellow)
Claire Regenstreif (Dean's Distinguished Environmental Law Fellow)

Global Environmental Democracy Project

Callan Barrett (Bowerman Fellow)
Doyle Canning (Bowerman Fellow)

Native Environmental Sovereignty Project

Whitman Koch (Bowerman Fellow)
Maggie Massey (Bowerman Fellow)
Ambriel Sandone (Bowerman Fellow)

Oceans, Coasts, and Watersheds Project

Matthias Fostvedt (Bowerman Fellow)
Lindsey Hutchison (Dean's Distinguished Environmental Law Fellow)
Corinne Milinovich (Bowerman Fellow)
Marika Sitz (Chapin Clark Fellow)

Sustainable Land Use Project

Christopher Groesbeck (Bowerman Fellow)
Benjamin Molloy (Sustainable Cities Initiative/Urbanism Next Fellow)
John Quinto (Bowerman Fellow)

Conservation Trust Project

Focusing on public trust theory and private property tools to achieve landscape conservation



Project Highlights

2018-2019 Research:

- *Researched and outlined a chapter focusing on Atmospheric Trust Litigation for a handbook on Loss and Damage*
- *Research regarding current climate litigation, including Juliana v. U.S.*

2019-2020 Research:

- *Public Trust Doctrine and Atmospheric Trust Litigation*
- *Landscape Carbon Sequestration for Atmospheric Recovery*

The “Biggest Case on the Planet”: An Inside Look at Juliana v. U.S.

By Apollonia R. Goeckner

The landmark climate case, *Juliana v. U.S.*, was back in the courtroom on June 4, 2019 when Ninth Circuit heard oral arguments about whether the case should proceed to trial. The 21 youth plaintiffs argue that they have a constitutional right to a healthy climate system and that the U.S. government is responsible for protecting that right. Many of the legal theories that the case is built upon come from the work and research on the Public Trust Doctrine by Professor Mary Christina Wood.

“I took concepts from the leading public-trust cases and wove them together, applying them to the climate system,” Professor Wood explained in an interview with The Sun in February 2019. “For example, one court might apply the public

trust to groundwater, another to wildlife, yet both use the same reasoning. I extended that reasoning to argue that the public trust should apply to nature as a whole, including the atmosphere.”

“The very survival of humanity now depends on our government upholding the public trust that’s embedded in the social contract citizens have with their governments. Our survival has never been at stake the way it is now with climate disruption.”

Mary Wood

Juliana was scheduled to begin trial on October 28, 2018. On October 18 of that same year, the federal government filed a second writ of mandamus and an

application for stay with the U.S. Supreme Court. The Supreme Court issued an administrative stay while it deliberated. Meanwhile, thousands of community members and students rallied at the U.S. Federal courthouse in Eugene and around the world. The Supreme Court denied the application for stay but held that the federal government could still be granted relief from the Ninth Circuit. On November 8, 2018, the Ninth Circuit granted in part the federal government's motion for temporary stay, however trial preparations continue. The federal government petitioned for interlocutory appeal, which was then granted by the district court.

“A “trust” occurs when wealth is managed by one person for the benefit of another, and the “public trust” means that our government must manage the natural wealth for the people. The people own the natural resources, and the government is entrusted with protecting those resources for future generations.”

Mary Wood, The Sun, February 2019

Oral arguments on the interlocutory appeal were heard on June 4, 2019. Julia Olson, Executive Director and chief legal counsel of Our Children's Trust, argued on behalf of the youth plaintiffs and Assistant Attorney General Jeffrey Clark argued on behalf of the federal government before Judges Mary H. Murguia, Andrew D. Hurwitz, and Josephine L. Stanton. Key issues asked by the panel of judges focused on standing, especially whether the courts have the authority to craft an appropriate remedy and if that remedy would provide redressability for the youth plaintiffs. These issues hinge on the court's ability to recognize a constitutional right to a healthy environment in the form of a fundamental right to life and liberty.



Alumni Focus:

Kat Moore, JD '06

Moore is the Conservation Projects Manager at the Recreation and Conservation Office in Washington State. She works with grant programs that create outdoor recreation opportunities, protect wildlife habitat and farmland, and help recover salmon populations.

While at Oregon Law, Moore completed a dual degree program receiving both a JD and a masters in environmental studies. She was a Fellow for the Conservation Trust Project, and helped write chapters on conservation easements for Professor Wood's textbook.

“Without the support and guidance from ENR faculty to explore non-traditional legal issues, I wouldn't have the career I have today.”

During law school, Moore was PIELC Conference co-director, as well as a director of the Public Interest and Public Service Law student organization. She also worked as a graduate teaching fellow in biology and geography, the Oregon Watershed Enhancement Board (OWEB), and as a research assistant for Professor Wood.



Student Focus:

Robert Mellinger, JD '21

Sponsored by the Oregon Law Students Public Interest Fund (OLSPIF), **Mellinger** was able to spend the summer of 2019 working with Our Children's Trust (OCT) in Eugene, Oregon. Mellinger assisted attorneys in their efforts on behalf of youth. He also worked with experts; conducted legal and evidentiary research; and drafted legal memoranda, ordinances, and petitions for rulemaking. Mellinger also assisted with all aspects of litigation in the constitutional and public trust climate case, *Juliana v. US*.

“Working with OCT was an opportunity to dig into the law at its most fundamental level, inquiring about our fundamental rights under the Constitution as historical circumstances change and learning how to formulate such inquiries for the courts. That process showed me how a legal career puts you in direct conversation with important questions for our society that affect many lives.”

Professor Susan Gary Receives Orlando John Hollis Outstanding Faculty Teaching Award

Susan Gary, the Orlando J. and Marian H. Hollis Professor at the University of Oregon School of Law, joined the UO law faculty in 1978.

Professor Gary has spent the last four decades teaching about trusts and estates, estate planning, nonprofit organizations, and an undergraduate course on law and families. She also is a Faculty Co-leader of the Conservation Trust Project through the School of Law's Environmental and Natural Resources Center (ENR).

Heather Brinton, director of the ENR Center says that Gary plays an integral role bringing ENR faculty and fellows together to focus on public trust theory and private property tools to achieve landscape conservation.

"As a faculty leader of the Conservation Trust Project, Professor Gary's research work has really furthered our collective understanding of environmental, social and corporate governance and incentives for sustainable practices" said Brinton.

Upon receiving the award Professor Gary said that she is passionate about the law and that drives her to help students to find careers that they love and to discover what they are passionate about.

"If you love what you do you will be able to do good in the world." Gary said to the Class of 2019. "You have made this the best job in the world."



Conservation Trust Project Publications

Susan Gary, "Best Interests in the Long Term: Fiduciary Duties and ESG Integration," 90 University of Colorado Law Review 731 (2019).

Mary Wood and Michael Blumm, "Climate Change and the Public Trust Doctrine in Oregon: A Law Professors' Amicus Brief" (July 16, 2019).

Mary Wood and Michael Blumm, "The Planet's Future on the Judicial Docket, The Oregonian (June 2, 2019).

Mary Wood and Michael Blumm "Two Cases That Would Protect the Public's Right to a Stable Climate," Eugene Register-Guard (June 2, 2019).

Mary Wood, (David Orr, ed.), "The Public Trust Doctrine: A Constitutional Key to Unlocking American Democracy and Securing Ecological Survival in the 21st Century," chapter in The State of American democracy (forthcoming 2019).

Joe Sax, Mary Wood, (Jan Laitos and John Nagle, eds.), "Pioneering Public Trust Law, Pioneers in Environmental Law" (forthcoming 2019, Twelve Table Press).

Mary Wood, "Atmospheric Trust Litigation: Securing a Constitutional Right to a Stable Climate System," 29 Colorado Natural Resources, Energy & Environmental Law Review 101 (2018).

Mary Wood and Michael Blumm, "These Kids and Young Adults Want Their Day in Court on Climate Change," The Conversation (October 23, 2018).

Adrian Treves, Mary Wood, et al., "Intergenerational Equity Can Secure the Future of the Atmosphere and Biodiversity," 2 Nature Ecology & Evolution 204 (January 18, 2018).

Energy Law and Policy Project

Exploring innovative law and policy to promote a green energy future



Project Highlights

2018-2019 Research:

- *Researched Transportation Network companies in California and Oregon and how they are reducing emissions*
- *Research supporting comments for EPA's proposed rulemaking for mobile vehicles*
- *Organized the panel "Protecting Our Environmental Law in the Trump Era" for the 2019 Public Interest Environmental Law Conference*

2019-2020 Research:

- *Efforts to Increase Electrified Transportation*
- *Carbon Policy in Oregon*

State Authority to Regulate Mobile Source Greenhouse Gas Emissions: History and Current Challenge

By Assistant Professor Greg Dotson

The following is a brief excerpt from a forthcoming piece in the Environmental Law Reporter. The Energy Law and Policy Project has engaged in focused research regarding state and federal efforts to reduce transportation related emissions.

Vehicles powered by internal combustion engines emit pollution and consume fuel. These impacts – multiplied by each mile driven and each vehicle in service – amount to serious local, national and global externalities. In 2017, internal combustion engines in the United States consumed more than 8.9 billion gallons of gasoline and were responsible for more than one billion metric tons of carbon dioxide emissions. As large as these numbers are, they would be even higher had federal and state governments not acted to require better performing vehicles to be manufactured over the years.

The working relationship between state and federal automobile emissions standards began in the 1960s. California had already begun regulating emissions, when in 1965, the federal government enacted what would become the Clean Air Act. Then in 1975, Congress established a separate program to improve fuel economy in the nation's vehicles with enactment of the Energy Policy and Conservation Act (EPCA). Although both laws have been significantly amended over the years, they remain today as two principal domestic federal laws that govern pollution and fuel economy.

For the last decade, automakers have been guided in reducing greenhouse gas emissions and improving fuel economy by rules collaboratively developed by California, the National Highway Traffic Safety Administration (NHTSA) and the U.S. Environmental Protection Agency (EPA) pursuant to the Clean Air Act, EPCA and state law. In 2018, NHTSA and EPA proposed to abandon this successful approach by adopting a new interpretation of EPCA that would deny California's authority to set greenhouse gas emission standards for vehicles. The agencies claim that EPCA preempts California's authority because limiting greenhouse gas emissions is tantamount to regulating fuel economy.

This article argues that the agencies' proposed interpretation is impermissible because the agencies have failed to provide a coherent and defensible interpretation of

EPCA's preemption language. For most of its existence, NHTSA has been deferential to California when implementing EPCA – even when the State's emissions standards have had significant effects on fuel economy. The research in this article demonstrates that NHTSA began factoring in the fuel economy impacts of California emissions standards in 1977 and have done so as recently as 2006. Despite California emissions standards affecting fuel economy by as much as 28 percent in specific models of vehicles, NHTSA merely built those impacts into their implementation of fuel economy standards, rather than determining that California was preempted by federal law. In their 2018 proposal, NHTSA and EPA say, without justification, that this approach was "appropriate" in the past but that now if a state regulation has any impact on petroleum consumption the regulation is preempted.

The agencies further confuse matters by introducing a number of interpretations not found in statute, case law or legislative history. For instance, in a never-before-contemplated expansion of preemption, the agencies imply that state regulations governing the use of vehicles could be preempted in addition to regulations governing the performance of new vehicles. The agencies also introduce a test for preemption that focuses on "functional equivalence" to federal fuel economy standards but then propose regulatory text to preempt state requirements that are "particularly" different from federal fuel economy standards. These issues will likely be litigated should the Trump Administration pursue its unprecedented proposal.

Oregon's Legislative Session: Carbon Reductions on the Agenda

Journal of Environmental Law and Litigation hosts annual symposium

On Friday January 18, 2019, key policymakers and experts met at UO Portland, the White Stag Block, to discuss carbon pollution. There were two panels "Experience with State and Provincial Programs" and "The 2019 Oregon Legislative Session." Here are some notable quotes from the event.

> [Watch the video here: https://youtu.be/vz3df9PolVI](https://youtu.be/vz3df9PolVI)



"Cap and trade offered flexibility for both the government and emitters... It gave us the opportunity to be part of a global solution for a global problem."

Elizabeth MacKay

Quebec Government Representative



"In Oregon we are seeing the impact of wildfire smoke, we are seeing this impact basic necessities like drinking water. We are ready for this program in the state. We are ready for this program nationally."

Karin Power

Oregon State Representative for House District 41, Co-Chair, Joint Committee on Carbon Reduction



"There is no problem more important to the state of Oregon than climate change, and there is no problem with more opportunities for solutions."

Kristen Sheeran

Energy and Climate Change Policy Advisor to Gov. Kate Brown, Director, Carbon Policy Office

Journal of Environmental Law and Litigation Publications

Volume 34, 2019 | Articles

Vinita Banthia, "Establishing an International Climate Court," 34 Journal of Environmental Law and Litigation 111 (2019).

Azaufa Takunjuh Ngundem Betaah; Eike Albrecht; Terence Onang Egute, "The Human Right to a Healthy Environment in Cameroon: An Environmental Constitutionalism Perspective," 34 Journal of Environmental Law and Litigation 61 (2019).

Myanna Dellinger, "Trophy Hunting – A Relic of the Past," 34 Journal of Environmental Law and Litigation 25 (2019).

Hemen Philip Faga; Uguru Uchechukwu, "Oil Exploration, Environmental Degradation, and Future Generations in the Niger Delta: Options for Enforcement of Intergenerational Rights and Sustainable Development Through Legal and Judicial Activism," 34 Journal of Environmental Law and Litigation 185 (2019).

Richard Grosso, "A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215," 34 Journal of Environmental Law and Litigation 128 (2019).

Aaron Haynes, "Up in Smoke: The Looming Insolvency of Oregon Marijuana Growers and the Case for Chapter 12 Bankruptcy Relief," 34 Journal of Environmental Law and Litigation, 287 (2019).

Emily Hajarizadeh, "Growing with Water Hazards in California: State and Local Leadership for Climate Adaptation in comprehensive General Land- Use Plans" 34 Journal of Environmental Law and Litigation, 253 (2019).

Justine S. Hastings; Michael A. Williams, "Market Share Liability: Lessons from New Hampshire v. Exxon Mobil," 34 Journal of Environmental Law and Litigation 219 (2019).

Vanessa Ramirez, "An Attempt at Clearing the Muddied Waters of the United States," 34 Journal of Environmental Law and Litigation 161 (2019).

Gary Svirsky; Janine Panchok-Berry; Jacob Elin; Yong Bum Lee, "Current Trends in Application of the Absolute Pollution Exclusion in CGL Policies: Cross-Border Comparison Between New York and Canadian Laws," 34 Journal of Environmental Law and Litigation 97 (2019).

Samuel R. Wiseman, Hannah J. Wiseman, "Food Labeling and the Environment," 34 Journal of Environmental Law and Litigation 1 (2019).



Student Focus: John Watson, JD '20 Bowerman Fellow

Watson grew up in Reno, Nevada. It was there he developed a strong appreciation of nature. He attended the University of Nevada, where he double majored in political science and philosophy and received a minor in renewable energy policy. Thus far John has worked on projects ranging from desalination's dependence on solar power to transmission lines and energy efficiency.

"The ELPP Fellowship program has provided me extensive experience in the research of statutory and legislative history of major federal environmental laws. It has also introduced me to a multitude of people in the energy community in Oregon and nationally, which has greatly expanded my network for the future."

Innovative Oregon: Building a Climate for Success

The Green Business Initiative's hosts annual symposium



Oregon has long been admired for its natural resources and the state's economy has been dependent upon these resources since the start of statehood. As a result, Oregon is well positioned to be a model for natural resource conservation, renewable energy expansion, and carbon reduction policy.

On April 5, 2019, state lawmakers, agencies, businesses, and attorneys came together to learn about how Oregon is paving the way in these fields. Panel topics covered water conservation policy, business trusts, prospective growth in renewable energy, and reducing transportation emissions.

> To learn more, visit:
law.uoregon.edu/exploreinnovative-oregon-building-a-climate-for-success

Noah Montgomery, Reece Petrik, Geoffrey Ivaska, Kathryn Pitcher, Suzanne Patton O'Halloran, Elle Mattson, Erin Yoder Logue, Brent Rouchleu, Leo Fletes

Alumni Focus: Ariel Stavitsky, JD '17

"The Energy Law and Policy Project at the ENR Law Center gave me the opportunity to apply what I was learning in class in a practical setting, publish while in law school, and work with practitioners in a specialized area of law that isn't always covered in the curriculum. It gave me insight into the environmental legal arena in practical terms, and it helped me forge valuable connections across the field that I maintain today."

Ariel Stavitsky is an associate in Stoel Rives' Environment, Land Use and Natural Resources group. As an associate, Stavitsky specializes in Agribusiness, Energy and Infrastructure, Real Estate, Renewable Energy, Timber and Forest Products, and Utilities.

While at Oregon Law, Stavitsky graduated Order of the Coif, and served as Executive Editor of the Oregon Law Review (2016-2017). She was also a Bowerman Fellow for the Energy Law and Policy Project (2015-2017).



Energy Law and Policy Project Publications

Greg Dotson, State Authority to Regulate Mobile Source Greenhouse Gas Emissions, Part 1: History and Current Challenges 2019 Environmental Law Reporter (forthcoming).

Greg Dotson, State Authority to Regulate Mobile Source Greenhouse Gas Emissions, Part 2: A Legislative and Statutory History Assessment, Georgetown Environmental Law Review (forthcoming).

Barnett Philip S. and Greg Dotson, "How Congressional Oversight Can Help Address Climate Change," Climate Law Blog, Sabin Center for Climate Change Law (Nov. 8, 2018), blogs.law.columbia.edu/climatechange/2018/11/08/how-congressional-oversight-can-help-address-climate-change/

Greg Dotson, Comment: Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule, (October 26, 2018).

Food Resiliency Project

Probing key law and policy issues to ensure resilient, sustainable food systems



When Honeybees Hit the Road: The Role of Federal, State, and Local Laws in Regulating Honey Bee Transportation

A white paper of the University of Oregon School of Law Environmental and Natural Resources Law Center Food Resiliency Project

Authors:

*Deborah Mailander, Department Manager, University of Oregon Labor Education and Research Center, Contract Researcher for the UO ENR Law Center
Zoe Grant, a 3L Environmental and Natural Resources Law Fellow*

Each year, millions of honey bees travel thousands of miles—not on their wings but via the highway or a postal service. Beekeepers frequently source new queens in mailed packages that are sent from across the country.

Commercial beekeepers transport bees and hives in tightly packed trucks that are driven throughout a multistate region to start new colonies or provide pollination services. Devastating bee diseases and pests, which can weaken or kill entire colonies, may be unwittingly transported with the bees.

This problem raises the questions of what actions are necessary to preserve bee health, and who is responsible for identifying, implementing, and enforcing these practices. The answer is that federal,

state, and local laws each play a role in the regulation of beekeeping. While the federal government regulates bee imports into the United States, individual states bear primary responsibility for establishing and enforcing the interstate and intrastate controls for hive health and bee transport.

This report analyzes the regulatory framework governing bees that are purchased and shipped between states and communities. Some of the most rigorous—and most anemic—regulatory efforts to control the associated risks are identified.

It turns out that few states have created and maintained well-funded and integrated programs of inspections and transportation controls. Most states, however, lack robust controls, funding, and enforcement in their

apriary laws. Some states do not regulate beekeeping at all.

Due to the gaps and inconsistencies in regulation, more responsibility is placed on individual beekeepers, university extension programs, and beekeeping associations to prevent the spread of disease and pests and maintain healthy colonies. This report therefore also highlights actions by some beekeeping associations and communities to promote beekeeping best practices, small scale backyard beekeeping, and natural beekeeping opportunities.

Finally, the report raises questions for further investigation including the role of pollinator health laws that many states are enacting, and consideration of best practices in other countries.



Project Highlights

2018-2019 Research:

- *Published “When Honey Bees Hit the Road: The Role of Federal, state, and local Laws in Regulating Honey Bee Transportation” for the Preservation Beekeeping council in Camas, WA*
- *Researched United Nations Declaration on the Rights of Indigenous People*
- *Prepared model legislation for home cooks, compiled regulatory information from California, Iowa, and Texas*
- *Organized a panel entitled “Farmworker Environmental Justice” for the 2019 Public Interest Environmental Law Conference in conjunction with the Global Environmental Democracy Project*

2019-2020 Research:

- *Research regarding regulations concerning home cooking and the sale of raw milk*

The Future of Food Law

Q&A with Michael Fakhri, faculty co-leader, Food Resiliency Project

How did the Food Resiliency Project come about at Oregon Law?

Students at Oregon Law were one of the first in the country to organize themselves around food. Oregon law students understood that if our climate is changing in unprecedented ways then we need to be able to share and talk about food in new ways. At its core, the Food Resiliency Project was and is part of a burgeoning movement of farmers, consumers, students, lawyers and other activists who are challenging the status quo and working to create a new, more resilient, and sustainable food system.

Our task as legal scholars is to highlight how law structures the allocation of power and wealth when it comes to food production, distribution, and consumption. We treat law as something that might make a food system more equitable among different communities and individuals.

What have you done over the last few years to “challenge the status quo” when it comes to food law?

For the first few years of the project, we spent researched the rich history of the right to food. This meant studying things like the food sovereignty movement, international trade, and agroecology. We have learned a lot by studying transnational social movements trying to change the global food system. But the Food Resiliency Project is not just about solving problems or developing specialized knowledge. It’s about creating new practices. So, we as a research group work in a way that ensures students have a significant amount of authority and autonomy to direct the nature of the work. We try and be as democratic and egalitarian as we can in our own work and relationships.

What lies ahead for the project - what new food law practices are being created?

Since we now have a strong foundation in the right to food, we are looking to provide legal analysis to community members

that are committed to using food-making practices to make the world a fairer and more biodiverse place. If you look at how agricultural extension programs help local farmers and gardeners by openly sharing ecological knowledge, we are doing the same with legal knowledge. We partner with people, communities, legislators, companies, whomever... and work with them to think about their particular issue and provide legal research. We also make sure that the research is publicly available.

What is the future of food law?

I think to build a better future, people need a deeper understanding of the past. The U.S. used and continues to use agriculture, fishing, and hunting laws to displace and discipline indigenous people. It has done the same to reduce the value of people’s labor, whether it be through slavery or citizenship status. To create a new way of thinking about food law, requires tackling some of this country’s and the world’s most fundamental issues.





Senator Ron Wyden Talks Hemp

Oregon Law alum Senator **Ron Wyden** JD '74, came back to the University of Oregon to speak about the hemp industry and its connection with the 2018 Farm Bill. Wyden sought feedback from UO Law and UO College of Design faculty, and other stakeholders from around Oregon on the topic.

"For too long, the outrageous and outdated ban on growing hemp has hamstrung farmers in Oregon and across the country. Hemp products are made in America, sold in America, and consumed in America. Now, hemp will be able to be legally grown in America, to the economic benefit of consumers and farmers in Oregon and nationwide."



Student Focus:

Amy Hoover, JD '20

Bowerman Fellow

Hoover grew up outside Boston, Massachusetts. She earned a bachelor's in biology with a focus on neurobiology from Yale University, then promptly turned her focus to food systems. She spent six years working in nonprofits at the intersection of food and social justice. After working as a community organizer, restaurant cook/intern wrangler, and grant writer, she now engages with food systems from a legal perspective. Hoover's work with the Food Resiliency Project has addressed the power of trust, regulation, and consumer choice in food markets. While at Oregon Law, Hoover has worked for the Harvard Law School Food Law and Policy Clinic since summer 2018 on homemade food laws and other food policy topics.

Food Resiliency Project Publications

Deborah Mailander and Zoe Grant, "When Honey Bees Hit the Road: The Role of Federal, State, and Local Laws in Regulating Honey Bee Transportation", ENR Center publication (2019).

Michael Fakhri, "Third World Sovereignty, Indigenous Sovereignty, and Food Sovereignty" in 9 Transnational Legal Theory 218 (2018).



Marissa Zarate, JD '11
Executive Director,
Huerto de la Familia
Eugene, OR

Alumni Focus: Marissa Zarate, JD '11

By Jennifer Geller, Managing Director, Public Law and Policy

Oregon Law alumni-led Huerto de la Familia [The Family Garden] offers Latinx families the opportunity to overcome systemic barriers to accessing healthy food.

Zarate recently began her fifth year as Executive Director for Huerto de La Familia, a Lane County nonprofit providing Latino immigrant families with the opportunity to grow their own organic food in community gardens.

While in law school, Zarate took Human Rights and the Environment and she realized that the California neighborhood she grew up in was a toxic hotspot. The daughter of a Costa Rican immigrant mother and Mexican-American father, Zarate

began her professional career working on environmental justice issues within the Latino community in Southeast Los Angeles. Prior to joining Huerto de la Familia, Zarate worked as an attorney in the Columbia Gorge practicing immigration law and landlord-tenant law protecting tenant rights. Her current work, while different in focus, is still tied to her desire to see communities achieve equal access to opportunities for health.

“A garden can be a physical manifestation of a community’s commitment to welcoming immigrant families.”

➤ [Learn more at: huertodelafamilia.org](https://www.huertodelafamilia.org)

➤ [Watch Zarate’s TEDxUOregon talk, “How Community Gardens Preserve Culture and Grow Hope” here: https://youtu.be/8bB6jtGylsI](https://youtu.be/8bB6jtGylsI)

Impact of Giving

“ENR students work with professors to develop cutting edge, real life solutions to meet the demands of the global climate change challenges. With your help, our students are rising to meet society’s need.”

Marcilynn A. Burke
Dean and Dave Frohnmayer Chair in
Leadership and Law



DRIVE CHANGE AND SUPPORT TOMORROW'S ENVIRONMENTAL LAW LEADERS



UNIVERSITY OF
OREGON

School of Law

Global Environmental Democracy Project

Preparing students to be advocates for global change

Project Highlights

2018-2019 Research

- › Gave a TedX Talk at the University of Oregon on the importance of the Green New Deal
- › Researched, compiled, and annotated a bibliography of Environmental Justice articles
- › Researched the different forms a “sky trust” might take based on existing legal frameworks
- › Organized the panel “The Fight for a Green New Deal: Just Transition in the Next Twelve Years” at the 2019 Public Interest Environmental Law Conference

2019-2020 Research:

- › Landscape Sequestration for Atmospheric Recovery



Atmospheric Recovery Plan: A Bold Outline for the Global Climate Crisis

By Apollonia R. Goeckner

Professor Mary Wood's new research focuses on developing three interlocking efforts that will work together to rapidly reduce greenhouse gas emissions and remove carbon from the atmosphere through ecologically sound carbon sequestration projects.

#1: An Atmospheric Recovery Plan, based in best management practices to reduce carbon emissions and facilitate carbon drawdown.

There are five major categories of soil-based carbon sequestration projects: 1) reforestation; 2) regenerative (non-chemical) agricultural processes; 3) mangrove and wetlands restoration; 4) regenerative grazing practices; and 5) food forest enhancements in the tropics. Landscape projects could be developed to advance an Atmospheric Recovery Plan. The Atmospheric Recovery Plan would set forth a strategy for the atmosphere, with a function similar to cleanup plans for oil spills.

#2: Natural Resource Damage (NRD) litigation, pursued by sovereign co-trustees (states, tribes, foreign nations) against the fossil fuel industry, in order to fund the Atmospheric Recovery Plan.

Most of the historic carbon dioxide emissions can be traced to emissions produced by about 90 fossil fuel entities. These “carbon majors” are responsible for the majority of the legacy carbon in the atmosphere. Atmospheric Recovery Litigation aims to hold carbon majors liable for funding natural drawdown. Damages from these cases would help fund the Atmospheric Recovery Plan.

#3: A trust must be formed, which is a financial and administrative institution designed to receive NRD damage awards from U.S. courts, and to administer such funds in accordance with the parameters established in the Atmospheric Recovery Plan.

The trust will carry out two roles: 1) receive and fiscally manage the Natural Resource Damage monetary awards from court judgments, dispersing such money into qualifying drawdown projects; and 2) administratively implements the projects to carry out the Atmospheric Recovery Plan.



TEDxUOregon

Bold ideas and achievable solutions for a Green New Deal

On March 9, 2019, ENR Fellow **Doyle Canning** (JD '19) presented at TedX UOregon. Doyle's talk highlighted three main goals that a Green New Deal must achieve: rapid reductions of greenhouse gas emissions, a phaseout of fossil fuel extraction and a just transition for workers and communities who rely on fossil fuels, and cleaning up the atmosphere to cool the planet. She compared the Green New Deal to the original New Deal under President Franklin D. Roosevelt's administration, and presented the concept of having major carbon polluters paying to clean up the atmosphere.

"The green new deal is more than a climate policy - it is a pledge that no matter where you live or where you work, how much money you make, what color your skin is, or what language you speak - you will have clean water to drink, clean air to breath and the right to a stable climate system."





Student Focus: Callan Barrett, JD '20 Bowerman Fellow

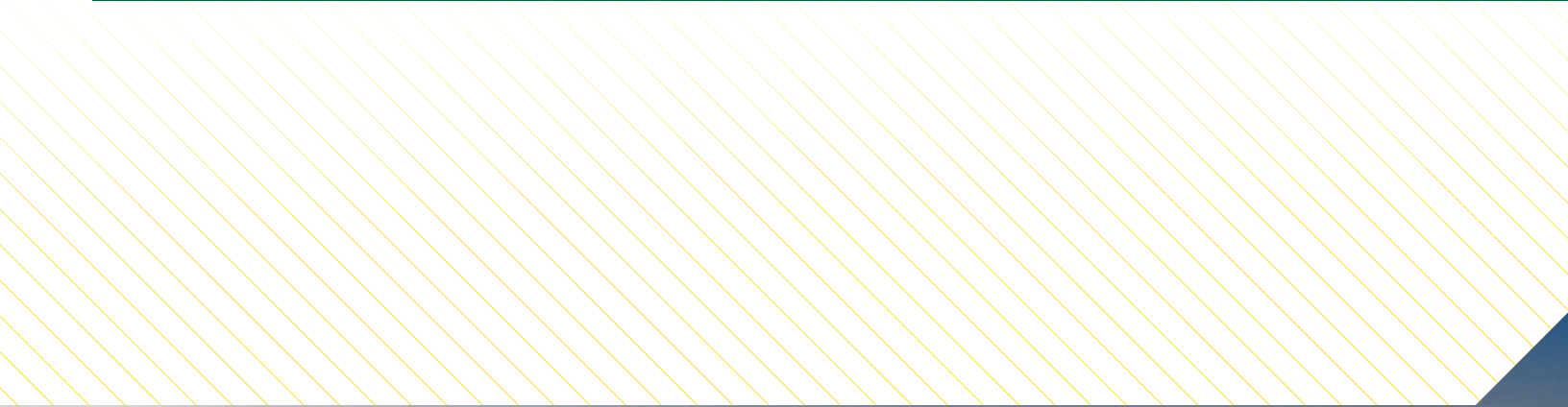
Barrett was born and raised in the Green Mountains of rural Vermont, where she developed a lifelong appreciation for natural spaces. She earned her bachelor's degrees in Political Science and Latin American Studies at the University of Vermont. She has spent considerable time in South America: conducting public health research

in Salvador, Brazil; working on organic farms throughout Chile; and traveling by bus around Argentina. Barrett interned with the Legal Aid Services of Oregon Farmworker Program during her 1L summer, working on employment law, housing issues, and naturalization for Latin American migrants in Marion County. After graduating next spring, Barrett aims to pursue a career in public interest law with a concentration on how humans and the environment impact each other.

Global Environmental Democracy Project Publication

Mary Wood, "Atmospheric Recovery Litigation Around the World, Gaining Natural Resource Damages Against Carbon Majors to Fund A Sky Cleanup for Climate Restoration" focusing on Atmospheric Trust Litigation for a handbook on Loss and Damage, (forthcoming 2020).

Mary Wood, "Florida State University Law Review Rehearing: Debating the Fundamentals of the Fundamental Right to a Sustainable Environment," Florida State University Law Review (2018).



Native Environmental Sovereignty Project

Examining emerging tribal roles in co-managing lands and resources

Oregon Law Welcomes Alum Howard Arnett as Professor of Practice Teaching Indian Law

Project Highlights

2018-2019 Research:

- › Published "Tribal Tools and Legal Levers for Halting Fossil Fuel Transport & Exports Through the Pacific Northwest" in the *American Indian Law Journal* as well as a white paper on the same subject matter
- › Created an explanatory infographic to accompany the white paper
- › Authored "Alaska Native Allotments and Federal Reserved Water Rights"
- › Organized the panel "Protecting 'Tizhik Gwats'an Gwandaii Goodlit': The Sacred Place Where Life Begins" for the 2019 Public Interest Environmental Law Conference

2019-2020 Research:

- › *Tribes and Landscape Sequestration*

Howard Arnett is a distinguished alum of Oregon Law. Having received his JD in 1977, he now assumes the position of Professor of Practice.

He will teach American Indian Law, Contemporary Issues in American Indian Law, and Comparative Law of Indigenous Peoples. He has been a pro tem instructor at the law school for ten years and has devoted countless hours outside of the classroom to coach and mentor our students and graduates.

A partner at Karnopp Petersen LLP in Bend, Oregon, Arnett has concentrated his practice in the area of Federal Indian law, especially with the representation of the Confederated Tribes of the Warm Springs Reservation of Oregon and other tribes on matters involving treaty rights, tribal sovereignty, tribal law development, government-to-government relations, water rights, and gaming.

Arnett is admitted to practice in: the state and federal district courts of Oregon and Arizona, Court of Federal Claims, Ninth Circuit Court of Appeals, Federal Circuit Court of Appeals, United States Supreme Court, and the Navajo Nation Supreme Court.

Arnett earned his M.Sc., with distinction, from the London School of Economics. He received his BA, with distinction, from Stanford University.



Arnett is the 2019 recipient of the High Desert Museum's prestigious Twanat Award for his nearly 40 years as an attorney for The Confederated Tribes of the Warm Springs Reservation of Oregon.

"Twanat" originates from the Ichishkiin Language of the Warm Springs Tribe meaning "following the traditions of our ancestors."



Tribal Tools and Legal Levers for Halting Fossil Fuel Transport and Exports Through the Pacific Northwest

By Mary Christina Wood, Anna Elza Brady, JD '18 and Brendan Keenan Jr., JD '18

In recent years, the Pacific Northwest has seen an increase in tribes addressing fossil fuel projects by major oil companies. The Native Environmental Sovereignty Project has been working on research pertaining to fossil fuel infrastructure in the Pacific Northwest and the different tools tribes have to address such infrastructure.

As a key link in a global market scheme, the fossil fuel industry has pushed for massive expansion in in the Pacific Northwest. The coastal region sits as a proposed gateway for huge export facilities transporting coal, oil, and natural gas from interior lands of the United States to Asian market.

Projected carbon emissions as well as transport of fossil fuels, present risks to both tribal and non-Indian local communities. The sudden derailment and horrific explosion of a Union Pacific oil train carrying Bakken oil which spilled an estimated 47,000 gallons in Mosier, Oregon in June, 2016, is an example of the tangible threats.

Since the Bakken Oil Spill, citizens have vocalized opposition to transportation proposals in local, state, and federal permitting processes. Their efforts in creating a barrier to proposals for fossil fuel infrastructure is called "The Thin Green Line." Tribes have emerged as key players and powerful leaders in this resistance, staunchly defending their homelands and calling on the government to recognize Indian and US treaties signed before many states were formed.

As the region's original sovereigns and now co-trustees of essential natural resources, tribes hold several key legal levers that may prevent the onslaught of fossil fuel infrastructure projects, both on and off their reservations.

"The Native Environmental Sovereignty Project researched legal mechanisms, held a workshop where tribal leaders and attorneys from across the region were able to hear findings and give feedback. Tribal Tools and Legal Levers for Halting Fossil Fuel Transports and Exports Through the Pacific Northwest" was published in the American Indian Law Journal in 2018. A white paper will soon be available, and information disseminated to tribes across the Pacific Northwest."

Tribal legal mechanisms on-reservation fall into two areas: 1) property rights that may provide the basis for tribes to refuse or restrict rights-of-way access across their reservations; and 2) the authority to regulate dangerous activities on their own lands. Off the reservation, tribes possess legal tools as well, positioned to assert the Federal Indian Trust responsibility and tribal treaty fishing rights in a complex matrix of federal, state, and local permitting schemes.

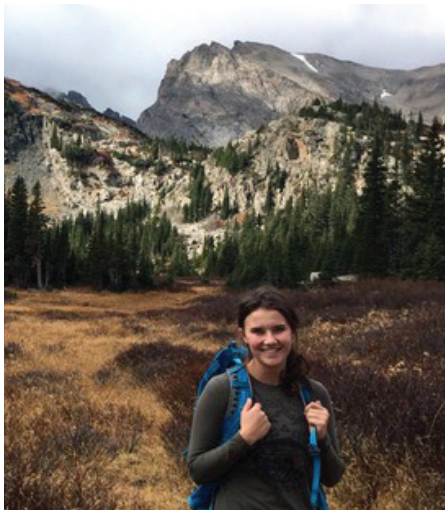
The existing case law and the statutory landscape surrounding all of these legal mechanisms is complicated and interwoven. This article highlights strategic legal avenues available to tribes in both on- and off-reservation contexts. Building on case studies of successful tribal resistance, this article presents a sort of handbook for tribal advocates, each section providing an explanation of the current legal landscape and the ways in which tribes may exercise their sovereign power to protect their own communities and regional landscapes. Ultimately, this article provides critical information to Native Nations facing fossil fuel projects across the Pacific Northwest.



Alumni Focus: Brendan Keenan, JD '18

Keenan is currently a Staff Attorney at the Office of Legal Counsel for the Confederated Tribes and Bands of the Yakama Nation. During his time at Oregon Law Keenan was a fellow with the Native Environmental Sovereignty Project. He spent his first summer a law clerk at Dinébe'íiná Náhiilna be Agha'diit'ahii, or DNA, People's Legal Services on the Navajo Nation. His second summer was spent as a legal intern for the Natural Resources Department of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians ("CTCLUSI") on the Oregon coast. It was in this role that Keenan assisted the tribe in applying for "treatment as a state" under the Clean Water Act and responding to a proposal for a liquified natural gas terminal in their ancestral territory.

"One of my most memorable experiences during my time at Oregon Law was my canoe trip with the CTCLUSI on their ancestral rivers as part of a Culture Camp that the tribe holds for its youth every summer. This experience solidified my desire to work for a tribal government in that it put me in paddle-deep in the sacred places that a tribal lawyer advocates protection for."



Student Focus: Ambriel Sandone, JD '20 Bowerman Fellow

Sandone grew up hiking, camping, and fishing in Southcentral Alaska. From the moment she left home, she was inspired to return to Alaska to help build stronger communities and protect Alaska's wild spaces. After receiving a B.A. in Economics from Colorado State University, the big trees and loving people drew Ambriel to the University of Oregon.

Native Environmental Sovereignty Project Publications

Mary Wood, Anna Elza Brady, and Brendan Keenan Jr., "Tribal Tools and Legal Levers for Halting Fossil Fuel Transport & Exports Through the Pacific Northwest". 7 American Indian Law Journal, Issue 1, Article 5 (2018).

Maggie Massey, "Alaska Native Allotments and Federal Reserved Water Rights," ENR Center publications (2019).



(from left) Heather Brinton, Gerald Torres, Marcilynn Burke, and Mary Wood

“Treaty Rights after Washington v. US.”

12th Annual Rennard Strickland Lecture brings Gerald Torres to UO Law

Gerald Torres is the Jane M.G. Foster Professor of Law at Cornell Law School. He is an authority on critical race theory, environmental law, and federal Indian Law. The former president of the Association of American Law Schools (AALS), Torres also served as deputy assistant attorney general for the Environment and Natural Resources Division of the U.S. Department of Justice in Washington, D.C., and as counsel to then U.S. Attorney General Janet Reno.

On October 29, 2018, the Environmental and Natural Resources Law Center and the Wayne Morse Center for Law and Politics hosted the 12th Annual Rennard Strickland Lecture.

Gerald Torres, the Jane M.G. Foster Professor of Law at Cornell Law School, addressed the University of Oregon Law community with a robust discussion of “Treaty Rights after Washington v. US.”

Torres noted that tribal sovereignty has been under attack by the states since the earliest treaties were signed.

“Conflicts over resources have been common,” said Torres. “In fact, the basic engine of western expansion has displaced natives from their land, abuse of treaty guarantees have also been common.”

Explaining the issue further, Torres also pointed out that state jurisdiction often results in the reduction of Indian treaty rights.

“It may not appear as violent,” said Torres. “But it has as a matter of fact materially reduced the power of tribes to exercise the rights that were guaranteed to them and negotiated in the treaties.”

Looking at the future of tribal sovereignty and land resource rights, Torres pointed out that tribal rights are not abstract and have preexisted many current laws and policies. He remarked that it is important for the government to articulate the obligations as one sovereign to another.

Equally important to Torres was how governments need to understand that treaties created in the 19th century must be used and considered with the environmental circumstances of the 21st century.

➤ *Watch the lecture:* youtu.be/ESgbHtS_ktU

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**Native Environmental Sovereignty Project
Whitman Koch, JD '20, Bowerman Fellow**

Whit grew up in Boston, Massachusetts and arrived in Oregon by way of Washington, DC. He cultivated his passion for indigenous rights while spending a year living in New Zealand and working on Māori rights and title advocacy. Because of his fellowship, Whit says he has a deeper understanding of how sovereignty relates to the environmental justice. His work on the "Tribal Tools" expanded his view on how tribes can impact other sovereigns into making environmental conscious choices.



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Jessica Merkner, Director of Development | 541-346-1558 | jmerkner@uoregon.edu

Oceans, Coasts and Watersheds Project

Engaging the law to promote sustainability for ocean, coastal, and freshwater resources

Project Highlights

2018-2019 Research:

- › *Worked on the innovations at the Nexus of Food, energy, and water systems including looking at legally mandated minimum perennial flows*
- › *Researched on in situ groundwater issues*
- › *Presentation on presentation on voluntary agreements between groundwater users under ORS 537.745*
- › *Created a handout with an overview of ORS 536.220, the enabling authority for the Integrated Water Resources Strategy Program*
- › *Organized the panel "Place based natural resource planning in Oregon" for the 2019 public interest environmental law conference*
- › *Organized the panel "Effects of agricultural runoff on surface water" for the 2019 public interest environmental law conference*

2019-2020 Research:

- › *Instream Flow in the Willamette River Basin*
- › *INFEWS: The Energy, Water, and Food Nexus*
- › *Approaches to Protect Surface Water and Groundwater*
- › *Ocean Warming*
- › *Public Trust Principles in State Water Law*



Study Offers New Approach for Willamette River Drought Fixes

By Rayna Jackson

Timing and location are vital considerations in managing drought risks that are rising along Oregon's Willamette River because of a changing climate, researchers conclude in a newly published study.

Efforts to provide for agricultural, urban and environmental needs along the river could be enhanced if they are implemented upstream in advance of projected water shortages,

a six-member team from five institutions, including the University of Oregon, reported in the July 15 issue of the journal *Nature Sustainability*.

For the study – led by Oregon State University economist William Jaeger – Adell Amos, the UO's Clayton R. Hess Professor of Law and associate dean for academic affairs in the UO School of Law, focused on the integration of water law and policy for comprehensive modeling that pulls from both human and natural systems.

Using a simulated model based on conditions similar to those that occurred in 2015, the researchers evaluated the effectiveness of potential state and federal water



conservation policies for meeting water demands for cities and farms, and for meeting the minimum water flow required for threatened and endangered fish species.

While the range of policies studied would help conserve water, they would fall short of mitigating most of the shortages because they begin in the wrong months or downstream of trouble spots, Jaeger said. The findings should have relevance in other basins that will face droughts and will want to anticipate their mitigation options, he added.

As part of her contributions, Amos worked with a team of six law fellows from the UD's Environmental and Natural Resources Law Center. The project provided hands-on experience for the students, said Amos, a professor of water law and federal administrative law.

"The work of the legal research team was an important piece of this study, and the students were excited to be a part of the process," she said. "We helped develop a model that could be responsive to changes in the exercise of discretionary authorities that state and federal agencies have to respond to water scarcity."

The research team used a computer model called Willamette Envision, an integrative tool that helps identify water systems of

communities and ecosystems that are vulnerable to shortages and specifies how they can best be adapted.

The approach allows the simulation of processes that affect the distribution, movement, supply and demand for water in the basin. In this case, researchers included 189 landscape attributes from economics, land use, law, hydrology, climate and vegetation in their analysis.



"In this combined larger effort, the research team highlighted the importance of deploying policy interventions in a thoughtful and proactive way rather than as a reactionary response to increasing cycles of drought," Amos said.

The modeling, she said, provides the capacity to evaluate discretionary agency authority.

"Now decisionmakers have a tool to help them address problems before they arise, rather than as a reaction to drought

conditions, by highlighting when and where interventions are most effective," she said.

The project, Amos added, allowed her students to see the relationship between changes to law and policy and the resulting effect on the hydrologic dynamics in the Willamette River Basin.

"People often criticize the legal academy for not doing work that directly impacts people's lives," said Marcilynn A. Burke, dean and Dave Frohnmayer Chair in Leadership and Law. "Our faculty and our students, conduct research on real-world problems. This research by associate dean Amos is a perfect example of how the UD's School of Law is pushing research forward to help find better ways to drive change in society."

Co-authors with Jaeger and Amos were David R. Conklin of Oregon Freshwater Simulations in Portland; Christian Langpap of Oregon State University; Kathleen Moore of the University of Washington, Seattle; and Andrew J. Plantinga of the University of California, Santa Barbara.

The National Science Foundation and National Oceanic and Atmospheric Administration supported the research.



Climate Resilience Expert Sarah Adams-Schoen Joins Oregon Law

Sarah Adams-Schoen comes to Oregon Law from the University of Arkansas at Little Rock William H. Bowen School of Law. She is a leading expert on climate resilience in the coastal and inland flood plains and wildland-urban interface.

As part of the Environmental and Natural Resources Law Center, she brings to her teaching a love of the theory and practice of law, grounded in more than a decade of law practice experience.

Adams-Schoen says that one reason she came to Oregon is that it stands out as one of the few law schools throughout the country to offer courses, research projects, and service opportunities that recognize that local law is a key component of an environmental program.

“Joining Oregon Law not only gives me the opportunity to collaborate with an incredibly talented and engaged group of scholars and educators, but also to contribute my expertise in land use law, coastal law, and local law to the environmentally and sustainability focused UO Law curriculum,” said Adams-Schoen.

The expertise that Adams-Schoen brings to Oregon Law is extensive. She has been called on by state and national bar committees, private foundations, and government agencies, to provide guidance related to coastal resilience. She was a principal investigator (PI) on a New York Sea Grant to increase coastal resilience and the PI on a grant to draft an annotated model zoning code to facilitate small- and medium-scale wind energy development.

Adams-Schoen is admitted to practice in Oregon and the U.S. District Court for the District of Oregon. Prior to embarking on her legal career, Adams-Schoen received her BA from Sarah Lawrence College and a master’s degree in economics at the London School of Economics. She earned her JD from Lewis and Clark Law School.





Student Focus: Marika Sitz, JD '21 Bowerman Fellow

Sitz was born and raised in Eastern Oregon surrounded by farms and forests. She attended Stanford University and graduated in 2015 with a degree in Human Biology, concentrating in Food and Agriculture Systems.

During the Summer of 2019, Sitz completed a Wayne Morse Fellowship with US Representative Greg Walden. One of her

main projects addressed Oregon water rights issues and forestry management as part of Walden's push for bipartisan climate change solutions. She says that her experience expanded her understanding of the legislative branch and allowed her to work on water and forestry issues through the federal lens.

After graduating, Sitz hopes to practice law in Oregon focusing on water and natural resources issues.

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Oceans, Coasts, and Watersheds Project Publications

Adell Amos, Brook Muller, Josh Cerra, Chingwen Chen, et. al, "Redrawing Our Urban Waters: Merging Design, Law, Policy in Advancing Distributed Water Systems" (forthcoming).

William K. Jager, Adell Amos, Devid R. Conklin, et. al, "Scope and limitations of drought management within complex human-natural systems", *Nature Sustainability* (2018).

Sustainable Land Use Project

Evaluating land use laws, theories, and practices to ensure sustainable development in our communities



Project Highlights

2018-2019 Research:

- *Published: "Prescribed fire Policy Barriers and Opportunities: A Diversity of Challenges and Strategies Across the West" (2018)*
- *Organized and presented "Utopia or Dystopia?: Cities in the New Mobility Drivers Seat" at the 2019 Public Interest Environmental Law Conference*
- *Researched "Matching the Speed of Technology with the Speed of Local Government". Participated in in-class discussion on multidisciplinary approaches to transportation with Representative Peter DeFazio*

2019-2020 Research:

- *Effects of technological advances on cities, focusing on issues such as land use, regulatory structures, employment, sustainability, and housing affordability*

Matching the Speed of Technology with the Speed of Local Government: Developing flexible codes and policies related to the possible impacts of autonomous vehicles on cities

Principal Investigator: Marc Schlossberg, UO School of Planning, Public Policy and Management Co-investigator: Heather Brinton, ENR Director

Forthcoming: *December 3, 2019 National Institute for Transportation and Communities*

Advances in technology such as the advent of electric and autonomous vehicles (AV's), the rise of E-commerce, and the proliferation of the sharing economy are having profound effects not only on how we live, move, and spend our time in cities, but also on urban form and development itself. These new technologies are changing the systems of transport, the layout of cities, and the places we spend our time. In turn, these changes will have profound effects on land use, street design, parking, equity, municipal finance, and fundamental issues related to equity, urban density, sprawl, vitality and the economic viability and sustainability of communities of all sizes.

While there has been a focused effort of research on the technological aspects of autonomous vehicles and systems themselves, there has been a shortage of systematic exploration on the wider secondary effects on all other forms of transportation (transit, walking, and biking), as well as city development, form, and design, with implications for equity, the environment, the economy, and governance.

These technological changes are being introduced much faster than how local government code and policy can typically react, especially because the issues at play and their possible impact remain almost

entirely outside the knowledge base or skill set of the vast majority of city staff or leadership.

Led by Professor Schlossberg (PPPM), Co-Director, Sustainable Cities Institute, and ENR Center Director Heather Brinton, this project is aimed at helping local communities ensure their local values and goals are sustained through this coming transportation disruption by matching the speed of local decision-making with the speed of technological transformation. The goal of the project is to develop a set of model policy and code that cities can largely adapt and adopt quickly that includes flexible 'triggers' such that when certain new realities exist (i.e. 25% of trips are by shared vehicle), local decision-making can quickly adapt (i.e. minimum parking requirements are reduced).



Angela Addae Brings New Expertise to ENR Center

Prior to joining Oregon Law, **Angela Addae** was a litigation attorney with Schwabe, Williamson and Wyatt in Portland, Oregon. She litigated for businesses, both large and small, in federal court.

As an assistant professor, Addae brings a wealth of scholarship and research on how municipal redevelopment policies affect neighborhood institutions in urban settings. This year she will teach in the areas of Civil Rights Law, Social Enterprise Law, and Race and the Law.

Addae is admitted to practice in Oregon state courts, the U.S. District Court for the District of Oregon, and the United States Court of Appeals for the Federal Circuit. Before practicing law, Addae was the recipient of a number of research grants and selected for several fellowships. She also taught courses in sociology at the University of Arizona.

She earned her JD from the University of Arizona James E. Rogers College of Law and her doctorate from the University of Arizona School of Sociology. She is also an alumna of Fisk University, where she received her BA in Sociology.



DeFazio Talks Transportation with UO Students and Researchers

Professor Marc Schlossberg's Bicycle Transportation course was transformed into a high-level policy discussion when they were joined by U.S. House of Representative Peter DeFazio, the chairman of the House Transportation Committee. On Earth Day, DeFazio and interdisciplinary faculty leaders, including ENR Center Director Heather Brinton, joined Professor Schlossberg's class. The class highlighted the multidisciplinary approaches to transportation that the University of Oregon is exploring. Faculty members were able to discuss transportation through the lens of their own research, ranging from computer science to civil engineering to environmental law.



Student Focus: John Quinto, JD '20 Bowerman Fellow

Quinto is an accomplished road cyclist, rock climber, and downhill skier. His passion for cycling forgotten roads, climbing isolated areas, and skiing first tracks has led him to explore the western United States. Throughout his adventures, he observed how cities of different sizes have invested in their infrastructure to promote sustainable land use while protecting their cultural identity. Quinto is an accountant and acquired his accounting degree from the University of Nevada, Las Vegas.

"This fellowship has given me a new lens on how stakeholders should address and anticipate technological innovation. After graduation, I'm interested in using my law degree to develop sustainable business practices through transactional drafting."



Clinics and Externships



Defending the Environment: Law Clinic Offers Students Hands-on Experience

By Brian Sweeny, Communications Director for WELC

Established in 1978, the Environmental Law Clinic at Oregon Law was the first of its kind in the nation. For nearly 30 years, the Clinic has partnered with the Western Environmental Law Center (WELC), offering students the opportunity to defend wildlands, protect wildlife and safeguard the climate.

Part of what makes the collaboration with WELC's so successful is the high caliber legal work that first and second-year law students engage in.

WELC's Executive Director Erik Schlenker-Goodrich JD '99, says that Oregon law students have helped endangered species, protected clean water and public lands, and advanced important climate and energy work.

"Not only has this work provided students with experience necessary to serve as valued members of the environmental law community," said Schlenker-Goodrich. "It has helped WELC further its mission of aiding the public interest and protecting the Western public lands, wildlife, and communities we treasure."

Student projects

Mari Galloway, JD '20 Galloway researched state and tribal regulations for bobcat trapping to determine whether legal trapping may harm Endangered Species Act-listed Canada lynx. Her research led to a revised federal incidental take statement for bobcat trapping in lynx habitat in the lower 48 states.

Niki Vetter JD '20 Vetter researched whether grizzlies are being shot and killed at black bear baiting stations in Idaho and Wyoming, and if so in which state game management units. Her research and data led to WELC filing a lawsuit challenging bear baiting in those states this June.

Corinne Milinovich JD '19 Milinovich worked on issues concerning the marbled murrelet, leading to a WELC lawsuit seeking to overturn a decision denying a petition to uplist the bird to endangered under Oregon state law.

Matt DePaolis JD '20 DePaolis' research and writing were instrumental to a WELC lawsuit challenging a forest plan on the Flathead National Forest, bordering Glacier National Park. Matt drafted sections of the complaint, which aims to protect animals there, including grizzlies, wolves, lynx, wolverine, and bull trout.

Externships: Providing Real-world Experience for Future Lawyers

ENR students work with a variety of governmental, nonprofit, and tribal entities all over the globe. Recent placements include:

1,000 Friends of Oregon

Beyond Toxics

Blue River Law

Cascadia Wildlands

Center for Biological Diversity

Center for Ocean Solutions

Crag Law Center

Delaware Riverkeeper Network

Delegation of the European Union to the United States - Trade Section

Environmental Protection Information Center

Earthjustice

Earth Island Institute

Environmental Law Alliance Worldwide

Hells Canyon Preservation Council

Humane Society of the United States

Idaho Water Users Association

Institute of Man and Environment of the Amazon

Iowa Natural Heritage Foundation

Klamath-Siskiyou Wildland Center

Lincoln County Counsel

Midwest Environmental Advocates

National Law Center for the Inter-American Free Trade

Oregon Citizens Utility Board

Oregon Department of Environmental Quality

Oregon Department of Justice, Environmental and Natural Resources Division

Oregon Office of the Legislative Counsel

Oregon Public Utility Commission

Our Children's Trust

Swinomish Indian Tribal Community

Trustees for Alaska

U.S. Army Corps of Engineers

U.S. Department of the Interior Solicitor's Office

U.S. Department of Justice, Environmental and Natural Resources Division

U.S. Environmental Protection Agency

WildEarth Guardians

One Student's Journey to Influence Food Law and Policy in the Marketplace

Sharath Patil JD '18, is the Research Director at Public Citizen's Global Trade Watch, where he engages in research on international trade law and policy. While at Oregon Law, he was interested in international trade, commercial diplomacy, and sustainable production. He was a fellow for the Food Resiliency Project and completed several externships - including working as an Agricultural Trade Policy Extern, as part of the Delegation of the European Union to the United States in Washington, DC.



Sharath Patil, Class of 2018 (LEFT), Michael Fakhri (RIGHT), Associate Professor

"As an agricultural trade policy intern at the European Union (EU) delegation, I learned about the impact of geographical indicators on trade, dug deep into trade statistics, participated in interesting discussions with various EU and U.S. industry associations, and tracked policy and legislative developments by attending congressional hearings and think-tank events."

Graduate Programs and Events

UO Law Offers Three New Specializations in Environmental Conflict

Three new specializations in water, climate change and land use conflict will be offered to graduate students just in time for the 2019–20 academic year.

Now, students pursuing their Master's, PhD or professional graduate degrees will get a deeper understanding of the participatory processes, decision-making constraints, and tools to address environmental disputes.

Each specialization provides additional context on water-related disputes, resources disputes arising from climate change, and land use disputes, respectively.

There are eleven UO programs and departments that sponsor the specializations – including the School of Law and the school's Conflict Resolution and Dispute Resolution (CRES) Master's Program.

➤ Learn more at: bit.ly/2kXu0kx

JOHN BONINE-SVITLANA KRAVCHENKO ENVIRONMENTAL PROTECTION SCHOLARSHIP FUND

The John Bonine- Svitlana Kravchenko Environmental Protection Scholarship Fund promotes public interest in environmental protection through the encouragement in Environmental and Natural Resources Law.

“BECAUSE THIS FUND EVOLVED FROM A PASSION ABOUT THE ENVIRONMENT AND THE LAW, IT SHOULD BE AWARDED TO THOSE WHO PUT PASSION FOR THE ENVIRONMENT BEFORE A LUCRATIVE LEGAL CAREER.”

John Bonine, Bernard B. Kliks Professor

Preparing students for success

LLM Graduate Law Program



Environmental and Natural Resources Law concentration



Integrating experience in a collaborative setting



Education on topics of current environmental concerns



Learn more today. law.uoregon.edu/programs/LLM



UO Talk Connects Gender and Climate Change

On November 30, 2018 at the University of Oregon School of Law, Joane Nagel, a University Distinguished Professor of Sociology & Chair of the Anthropology Department at the University of Kansas, came to the School of Law to speak on the topic of Gender and Climate Change.

Her work focuses on ethnicities, genders, sexualities in the US and in the global system, and the militarization of gender, science, and global climate change. Nagel's talk viewed climate change through the lens of gender, and discusses the disparity that environmental events, climate change, and environmental degradation have on women and men.

First-time Competitors Represent Oregon Law at Environmental Moot Court

This year, two Oregon Law students, Niki Vetter and Erin Yoder-Logue, attended at the Jeffrey G. Miller National Environmental Moot Court Competition (NELMCC) at Pace University in White Plains, New York.

The competition is the largest interschool moot court competition under one roof, with over 200 competitors. Vetter and Yoder-Logue, both first-time competitors advanced to the quarterfinals. Individually, Yoder-Logue won best oralist in the first and third rounds.



Earth Day 2020

From wolves to the warning to humanity: Facing the environmental crisis through science

On April 22, 2019, Oregon Law's Earth Day event featured Oregon State University's Dr. Bill Ripple, distinguished professor of ecology and founder of the Alliance of World Scientists.

Ripple spoke on how the far-reaching impacts of wolves are affecting the ecosystem in Yellowstone National Park. His work with the federal government opened the door to study wildlife in other regions of the world and look more in depth at the benefits of wild large predators and the costs of their elimination around the globe.



PIELC 2019



Land Air Water Conference co-directors and leadership team

Legal Minds from Around the World Come to Oregon to Find “Common Ground”

The 36th annual conference was held February 28 - March 3, 2019 at the University of Oregon School of Law

Organized by Oregon Law’s “Land, Air, Water” students, PIELC brought together over 1,500 activists, attorneys, students, scientists, and community members from over 50 countries to share their ideas, experience, and expertise. Conference co-directors Tom Housel, Grace Brahler, Mari Galloway, Renee Seacor and Shawn Rivera said in a statement that PIELC was a way to find common interests and constructively and effectively work toward a healthy environment.

“The political divide felt throughout the United States and the world is more acute than ever,” said PIELC organizers. “This polarizing trend is not only alienating cultures, races, families, and organizations with differing views, it is estranging groups

within movements that have similar values and goals.”

At the same time, the students noted that there are also alliances being formed across the nation in recognition of common interests. “Ranchers and indigenous communities are protesting against pipelines while environmentalists and farmers are working to conserve water,” they added.

Inspired by this progress being made it was their goal to see “Common Ground” as the 2019 theme.

Thursday

The conference began with panel discussions on watershed restoration,

regulatory rollbacks, and natural resource planning. Keynote speaker Eric Descheenie, founding co-chair of the Bears Ears Inter-Tribal Coalition, spoke on the topic of “Understand Indigenous connections with the landscape of the Bears Ears National Monument.”

Descheenie described his experience working to establish Bears Ears as a national monument and living in a Western world that struggles to understand natural resources using the indigenous lens.

Friday

Activities included a variety of panels and workshops. Panelists discussed fish and wildlife harm across the West caused by dams



Keynote Speaker and founder and president of the Center for Environment, Commerce and Energy, Norris McDonald, speaking with a PIELC attendee



The Raging Grannies

and oil and gas production; developments in Clean Water Act regulation; groundwater management; deep decarbonization; and the role of civil disobedience to protect life from the threat of climate change.

Workshops throughout the day addressed wolf and grizzly recovery, and carbon sequestration through forest protection. For the first time an “Open Space” session was held to allow conference participants to discuss issues and topics freely, providing an opportunity to collaborate moving forward.

The Raging Grannies, who hailed from Eugene, Corvallis, and Portland, gave a lively post-lunch performance, “People Interested in Eliminating Loser Conversations.” Their skit showed the importance of finding common ground in tough conversations and collaborating to resolve major problems our planet is facing today.

The conference welcomed Norris McDonald, founder and president of the Center for Environment, Commerce & Energy and

its outreach arm, the African American Environmentalist Association, for the afternoon keynote. McDonald addressed the continuing crisis of pollution that disproportionately affects the poor and communities of color.

“Our strategy is to conduct cutting-edge research on the causes and consequences of air, water, and land pollution. We seek to change public policy and regulations at the federal, state, and local levels to better protect vulnerable individuals and communities.”

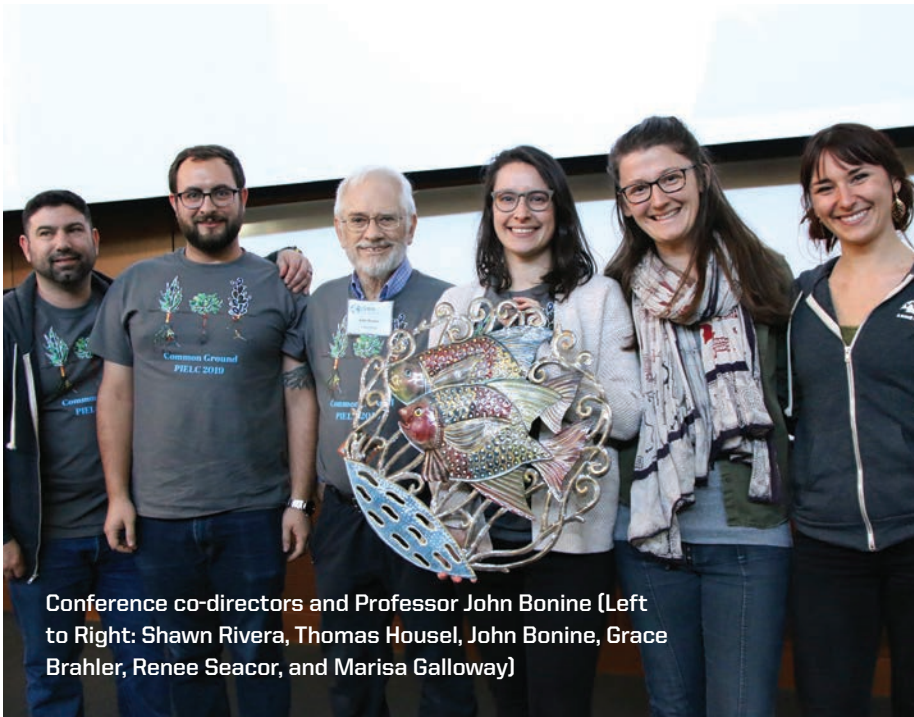
Norris McDonald

The evening keynote speaker for Friday was Dr. Dominique Bachelet, a professor at Oregon State University and renowned fire ecologist. Bachelet discussed climate change impacts on vegetation and wildfires across the West.

Saturday

The conference continued with exciting panels covering a wide range of issues including environmental justice, indigenous rights, forestry practices, the transition to clean energy, climate action, and salmon and steelhead recovery.

The early afternoon keynote address was given by Dr. Richard McLaughlin. McLaughlin is the Endowed Chair and Professor for Coastal and Marine Policy and Law at the Harte Research Institute for Gulf of Mexico Studies (HRI) at Texas A&M University - Corpus Christi. His keynote address spoke to the tension in balancing the international community’s freedom to engage in maritime research with the sovereign rights of



Conference co-directors and Professor John Bonine (Left to Right: Shawn Rivera, Thomas Housel, John Bonine, Grace Brahler, Renee Seacor, and Marisa Galloway)

coastal states to control foreign exploration and exploitation of natural resources in the context of tagging marine animals with tracking devices.

Vickie Patton, General Counsel for the Environmental Defense Fund, ended the night with a riveting keynote address that discussed climate action in light of the disruptions caused by the Trump administration.

Sunday

The conference wound down with panels updating attendees on the status of the Northwest's most imperiled species, mitigating climate change through sustainable agriculture practices and diet decisions, the Jordan Cove pipeline, and export terminal threatening Oregon's southern coast.

UO alumna Amy Cordalis, who is staff attorney for the Yurok Tribe, closed the conference. She discussed the issues present in the Klamath River Basin from a tribal, environmental, and legal perspective.

Final Thoughts

Looking back over the conference, PIELC organizers say that they achieved their goal of providing a platform for difficult conversation and reflection, connecting policy-makers, community organizers, students, and attorneys from all over the county, and setting the stage for progressive environmental change.

"We want to thank everyone who made this such a huge success," said PIELC organizers. "Thank you to the dedicated students of 'Land Air Water', our rock-solid crew of volunteers, supportive University of Oregon faculty and staff members, passionate Eugene community, and the thousands of folks who braved the snow to attend this year's Public Interest Environmental Law Conference."



Conference attendees have a discussion after a PIELC panel.

SAVE THE DATE FOR PIELC March 5-8, 2020

Bower, Rydberg, and Kravchenko Award Winners 2019

Each year, outstanding environmental activists are recognized at the Public Interest Environmental Law Conference through the following awards:



David Brower Lifetime Achievement Award

Awardee: Manesh Chandra Mehta

Presented to an attorney or activist who has had a life dedicated to environmental activism while exemplifying the values of environmentalist and founder of many environmental organizations, David Brower.

Since 1984, Mehta, who is a public interest attorney from India, has single-handedly won about 40 landmark judgements from India's Supreme Court against polluters. His success has introduced lead-free gasoline to India, and reduced the industrial pollution contaminating the Ganges River and eroding the Taj Mahal. His legal work has initiated new environmental policies and has brought environmental protection into India's constitutional framework.

He currently works with the M.C. Mehta Environmental Foundation, a non-governmental organization that provides training programs for aspiring environmental attorneys and runs numerous environmental justice campaigns.



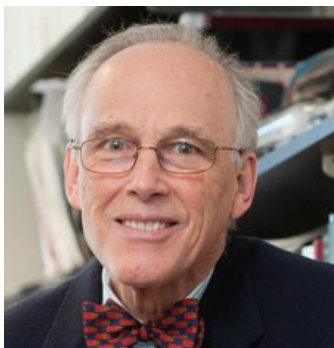
Kerry Rydberg Environmental Activism Award

Awardee: Tim Bechtold

Presented to an advocate who embodies 1987 Oregon Alumnus Kerry Rydberg's courage, self-reliance, commitment, and talent, and who embraces a dedication to representing citizens at the grassroots level of environmental matters.

Bechtold has a solo practice in Missoula Montana that focuses on toxic torts and environmental law. He has handled cases involving contamination of property through poisonous gasoline, diesel, and other hazardous substance spills. He represents various clients in litigation under laws such as the Clean Water Act, Endangered Species Act, National Environmental Policy Act, and the National Forest Management Act.

Bechtold is currently Vice President of the Montana Trial Lawyers Association and serves on the Board of Directors for Missoula Parks.



The Svitlana Kravchenko Environmental Rights Award

Awardee: Zygmunt J. B. Plater

Presented to individuals who carry on the spirit of Svitlana Kravchenko. This award is given to an individual with exquisite qualities of both head and heart, mixing academic rigor with spirited activism, and speaking truth to power while exhibiting kindness to all. The award also seeks to recognize those who make a broad impact in law while working to support local communities.

Plater is a Professor of Law at Boston College Law School. He has worked over 30 years on a number of environmental protection issues that have impacted the nation and world.

Articles Professor Plater has published include analyses of environmental law issues, private and public rights in land and resources, equitable discretion, administrative law, and related fields. Several of his articles have been cited in Supreme Court decisions.

Plater has taught on seven law faculties. While teaching public law in the national university of Ethiopia, he redrafted the laws protecting parks and refuges, assisted in publication of the Consolidated Laws of Ethiopia, and helped organize the first United Nations Conference on Individual Rights in Africa.



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