

VERMONT LAW SCHOOL

Environmental Law Center *Where the Earth Comes First*



FALL 2010

B U L L E T I N

in this issue...

- From the Director 2
- Environmental Clinic 2
- Environmental Colloquium 3
- New Land Use Clinic 4
- China Partnership 4
- Takings Conference 4
- Smart Grid Grant 5
- Taxation and Climate Change 5
- Student in the Spotlight 5
- Environmental Faculty News 6
- Summer Session Faculty News 7
- BP Oil Disaster 8

ENVIRONMENTAL LAW CENTER

Environmental and Natural Resources Law Clinic

Environmental Tax Policy Institute

Institute for Energy and the Environment

Land Use Clinic

U.S.-China Partnership for Environmental Law

Summer Session

www.vermontlaw.edu/elc

EPA Fellows Kick Off Minority Outreach Program

Five North Carolina Central University Law School students attended VLS's 2010 Summer Session to kick off the U.S. EPA's efforts to increase outreach to minority and underserved communities. VLS and the EPA signed a memorandum of understanding last year to improve the flow of information between the EPA and minority communities and further the teaching of environmental issues at VLS. The MOU is part of the EPA's first organized effort to train more lawyers to handle environmental justice issues in minority and low-income communities, which bear a disproportionate amount of health and environmental impacts from pollution.

In addition to the EPA summer fellowships, VLS will employ distance learning technology to give a wider range of students from minority academic institutions access to its environmental law program.

The NCCU students, Ilesanmi Adaramola, Justin Anderson, Wendell Fortson, Chimezie Okobi, and



Mark Washburn

NCCU Professor Kevin Foy, Chimezie Okobi. Back: Justin Anderson, Ilesanmi Adaramola, VLS Dean Jeff Shields, Jennifer Perez, Wendell Fortson

Jennifer Perez, said their summer experience made them realize how much environmental issues affect a community's quality of life.

(continued on page 3)

VLS Opens China's First Public Interest Environmental Law Firm



VLS's U.S.-China Partnership for Environmental Law has received a \$1.5 million federal grant to establish China's first public interest environmental law firm and expand a university-based legal clinic. The goal of the "green litigation" is to help ordinary citizens

force polluting factories and mines and unresponsive local officials to follow the law. VLS will provide training in environmental governance to lawyers, judges, and others to help China enforce environmental laws and regulations that have been widely ignored.

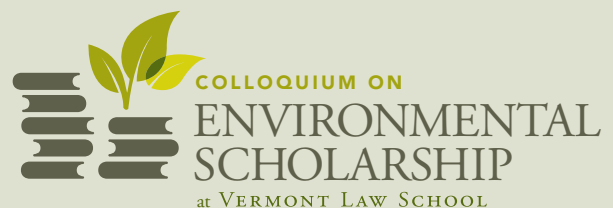
The grant from the U.S. State Department's Bureau of Democracy, Human Rights and Labor (DRL) will expand the use of civil lawsuits as an enforcement method. Chinese prosecutors currently focus on criminal prosecutions in environmental cases.

(continued on page 3)

VLS HOSTS FIRST NATIONAL ENVIRONMENTAL LAW SCHOLARSHIP COLLOQUIUM

Vermont Law School will host the first annual Colloquium on Environmental Scholarship on October 22, 2010. The colloquium offers the opportunity for environmental law scholars to present their works-in-progress and recent scholarship, to get feedback from their colleagues,

(continued on page 3)





Greetings from the Environmental Law Center

The fall season and Vermont's famously colorful foliage are a sign

to some that it's nearly time to hunker down and wait for spring. But here at Vermont Law School, the fall semester is a time for new opportunities for our students to learn environmental law and policy. Among the exciting new offerings for students at VLS this fall are a Land Use Clinic and classes on Environmentalism in America and New Frontiers in Environmental Policy.

Opportunities abound for faculty as well, most notably the first annual Colloquium on Environmental Scholarship taking place in October, which will bring scholars from across the country to VLS to discuss their works in progress.

Some of our faculty are pursuing opportunities outside of Vermont this fall. David Mears is spending the year as a Fulbright scholar in Guangzhou, China, helping to develop environmental law clinics there. Tseming Yang is on a leave of absence from VLS since being appointed by President Obama to serve as deputy general counsel for international affairs at EPA.

Enjoy reading about the activities of the environmental faculty and students at Vermont Law School.

Sincerely,

Marc Mihaly

Environmental Clinic Inspects Former Coal Mine Site

The Environmental and Natural Resources Law Clinic (ENRLC) is working with the Environmental Integrity Project and Residents Against the Power Plant on issues relating to the Beech Hollow Coal Refuse Disposal Area, a huge former coal mining site in Washington, Pennsylvania. The Beech Hollow site includes a 500-acre "gob" (waste coal tailings) pile—the largest east of the Mississippi River. Because it has been sitting idle for many years, it is now encapsulated with trees and vegetation and appears at first glance to be a mountain. But, upon closer inspection, patches of black coal show that the entire ridgeline is a manmade waste pile. The site is not being managed well and is leaking acid mine drainage into the surrounding environment from multiple locations.



Skye Borden '11 at the Beech Hollow site inspection

In order to manage stormwater runoff and seepage from the site, Champion Processing Inc., the owners of the site, operates an acid mine drainage (AMD) collection and treatment system, which consists of a series of collection ponds that surround the gob pile. AMD water is pumped from pond to pond and eventually to the treatment plant at Pond 6, where treated water is discharged from a single permitted outfall into an unnamed tributary of the Little Raccoon Run.

The site currently operates under a combined Coal Refuse Disposal permit and National Pollution Discharge Elimination System permit. Under Pennsylvania law, citizens may demand the right to accompany Pennsylvania Department of Environmental Protection officials on a site inspection if they can demonstrate actual or potential violations occurring at the site.

Over the past year, students in the ENRLC gathered and reviewed records and drafted a letter requesting a site inspection. In April 2010, they received a response from the DEP agreeing to allow them and their clients to attend a site inspection. Also, in response to the letter, the agency issued a field citation ordering Champion to undertake measures to correct the listed violations.

It became clear during the June 2010 inspection, however, that the problems are more serious than originally thought. Champion was only beginning to undertake corrective action at a few sites, and despite their efforts, leakage was still occurring. In addition, many other areas with obvious ongoing leakage problems were not being addressed at all.

"The trip to Beech Hollow was a powerful experience for me," said clinician Skye Borden '11. "Seeing the site and the community made me acutely aware of the social, political, and environmental hurdles that our clients face every day; no amount of desk work could have imparted such a comprehensive awareness."

The ENRLC and its clients are waiting to see what follow-up actions the Pennsylvania DEP will take, and considering their next steps. 🍁

PUBLICATION INFORMATION

This is a publication of the Environmental Law Center. We welcome your questions, comments, corrections, article proposals, and updates.

Environmental Law Center

Vermont Law School
164 Chelsea Street, PO Box 96
South Royalton, VT 05068
800-227-1395 ext. 1201 | 802-763-2940 fax
www.vermontlaw.edu/elc

The mission of the Environmental Law Center is to educate for stewardship, to teach an awareness of underlying environmental issues and values, to provide a solid knowledge of environmental law, and to develop skills to administer and improve environmental policy.

Marc B. Mihaly
Director
mmihaly@vermontlaw.edu

Anne Mansfield
Associate Director
amansfield@vermontlaw.edu

Courtney Collins
Assistant Director
ccollins@vermontlaw.edu

Jane D'Antonio
Events Manager
jdantonio@vermontlaw.edu

Ginny Burnham
Administrative Assistant
gburnham@vermontlaw.edu

Jett Vaden
Environmental Programs Coordinator
jvaden@vermontlaw.edu

(continued from page 1)

EPA Fellows Kick Off Minority Outreach Program

“Coming to Vermont Law School has been a great experience and a whirlwind of good opportunities to meet people and learn about critical issues,” Perez said. Perez, who is a hospital social worker, said she’s gaining a greater understanding of how public health issues can be addressed through the rule of law.

Anderson, who has a background in sociology, said environmental law is broadening his concept of public service. “I’ve talked to so many students here about pollution, invasive species, water quality, agricultural practices, and land development,” he said. “Everyone’s very passionate.”

NCCU Professor Kevin Foy, who teaches his school’s lone environmental law class, accompanied his students to VLS for the summer session. Foy, a veteran of the environmental movement and a former mayor of Chapel Hill, North Carolina, said the depth and breadth of environmental courses at VLS give the NCCU students a unique opportunity, especially when it comes to sustainable land use issues. He said few black lawyers have specialized in environmental law because protecting wildlife and trees is associated with “white privilege,” while low-income families typically focus on jobs, education, crime, and medical care.

“Minority communities offer an important voice that hasn’t been heard. VLS connecting with this historically black law school is an exciting opportunity to address that problem.”

—Mark Latham,
Professor of Law

“I think it’s also been a sense that you can’t do anything about pollution and other forms of environmental injustice, and there’s a general lack of awareness of the health problems caused by pollution,” he said.

VLS Professor **Mark Latham** said he got involved in the EPA program because minority communities haven’t been fully represented in the environmental arena.

“It’s an important voice that hasn’t been heard,” he said. “I think VLS connecting with this historically black law school is an exciting opportunity to address that problem.”

(continued from page 1)

VLS Opens China’s First Public Interest Environmental Law Firm

The new public interest law firm, which will be the first in China devoted solely to combating pollution, will handle citizen-action lawsuits intended to enforce environmental laws and regulations. The grassroots litigation is designed to give citizens more power to protect themselves, their families, and their communities from the worst polluters. The firm is tentatively slated to open in December with about six attorneys in Beijing.

Additionally, the grant will fund expansion of an environmental legal clinic at Sun Yat-sen University Law School (SYSU). Associate Professor **David Mears**, director of VLS’s Environmental and Natural Resources Law

Clinic (ENRLC), will spend the 2010–2011 academic year in China as a Fulbright Scholar. He will teach and assist the environmental law clinics at SYSU and the Center for Legal Assistance to Pollution Victims at the China University of Political Science and Law. He also intends to reach out to other universities across China that are interested in establishing environmental law clinics.



David Mears will spend the 2010–2011 academic year in China

ENVIRONMENTAL COLLOQUIUM

(continued from page 1)

and to meet and interact with those who are also teaching and researching in the environmental and natural resources law area.

Thirty environmental law professors and scholars from across the United States and Canada will present papers at the event. All papers presented will still be at a revisable stage (neither published nor so close to publication that significant changes are not feasible) by the date of the colloquium. The papers to be presented cover an exceptionally diverse range of topics, including a paper on climate change and risk calculation by Professor David Driesen of Syracuse University College of Law; an article on environmental federalism by Professor Erin Ryan of William & Mary Law School; one on urbanization by Professor Dave Owen of the University of Maine School of Law; and a paper on climate change and the Clean Water Act by Professor Robin Kundis Craig of Florida State University College of Law.

“I am very much looking forward to participating in Vermont’s Environmental Scholarship Colloquium,” said Kundis Craig. “Environmental law scholars have very few opportunities to present works-in-progress in an organized forum, and I think that the benefits for all of us will be tremendous.”

The colloquium was developed by Vermont Law School professor **Jason Czarnezki**, who saw a lack of opportunities for scholars to discuss works-in-progress with their colleagues at other schools, especially in the area of environmental law.

“Other academic fields have conferences and colloquia focused on current and recent scholarship, and I wanted to bring that model to legal scholars who research environmental and natural resources policy,” said Czarnezki. “This is an exciting opportunity for us to learn from each other, and it’s also a wonderful time of year to introduce people to the beautiful scenery of Vermont.”

For more information about the colloquium, please visit www.vermontlaw.edu/ces2010.

New Land Use Clinic Will Benefit Students and Community



Laura DeCapua

Katherine Garvey '10 is the staff attorney for the new clinic

In the summer of 2010, Vermont Law School expanded its clinical and experiential programs to include a Land Use Clinic. The new clinic will give students the opportunity to apply their knowledge of land use law, strategies, and policy for the benefit of the land use community and the public, and will expand VLS's experiential offerings in a legal and policy field drawing increasing interest due in part to connections to energy demands and climate change.

David Mears, director of the Environmental and Natural Resources Law Clinic (ENRLC), will also direct the Land Use Clinic. While he spends the 2010–11 academic year in China on a Fulbright fellowship, **Teresa Clemmer** will serve as acting director of both the ENRLC and the Land Use Clinic. **Peg Elmer** will be the associate director. Elmer, the former associate director of the Land Use Institute at VLS, is an experienced

land use planner. Prior to her work at VLS, she was the director of the Community Planning Program at Vermont's Department of Housing and Community Affairs. **Katherine Garvey LLM '10** is the staff attorney for the clinic.

The clinic will include weekly seminars on land use issues and skills, as well as weekly meetings to discuss projects, research strategies, client relations, and professional and ethical considerations. The Land Use Clinic will give specific attention to projects that meet one of the following priorities: to encourage compact settlement in rural villages; to maintain the vitality of historic downtowns; to maintain a viable working landscape such as supporting sustainable agriculture and forestry operations; to mitigate negative human impacts; to plan for healthy natural resource systems; and to improve the capacity of volunteer rural land use decision-makers.

"We're seeking to pull together a nice range of projects to provide a challenging experience," says Elmer. "If you have a suggestion for a great project, please let us know." 🌿

China Partnership Strengthens China's Environmental Justice Sector



Stefan Havel

Exchange program participants discuss environmental justice issues

To strengthen the professional development of environmental justice in China, the U.S.-China Partnership for Environmental Law at Vermont Law School launched an exchange program for nine American and nine Chinese

fellows, including lawyers, scientists, professors, and activists. Funded primarily by a grant from the U.S. State Department's Educational and Cultural Affairs Bureau and supported by USAID, the fellows were chosen based on their experience and ability to advance environmental justice in minority communities in both the U.S. and China.

In June, the fellows completed a three-week U.S. study tour, which included a series of lectures at VLS, followed by short internships at well-known grassroots environmental justice organizations. The tour ended with a week of activities in Washington, D.C., where the fellows met with high-level U.S. government officials.

In July, the 18 fellows traveled to China for three weeks of activities there. This exchange enhances the fellows' understanding of the challenges their counterparts face as well as the tools available to citizens to participate effectively in environmental decision-making and influence local environmental policies. 🌿

VLS to Cosponsor Takings Conference at Berkeley

The 13th Annual Conference on Litigating Regulatory Takings Challenges to Land Use and Environmental Regulations will be held at U.C. Berkeley School of Law in Berkeley, California, on November 5, 2010. Conference sponsors include Vermont Law School, U.C. Berkeley School of Law, Georgetown University Law Center, California Attorney General Edmund G. Brown Jr., the California League of Cities, and the Planning and Law Division of the American Planning Association. The conference speakers include a wide range of distinguished scholars and practitioners from around the country. VLS Professor **Marc Mihaly** will speak on a panel discussing the *Kelo* decision five years out, while Professor **John Echeverria** will speak about "The Contracts and Takings Intersection" with Jeanne Davidson from the U.S. Department of Justice.

Featured topics will include the *Stop the Beach Renourishment* decision, future prospects for the judicial takings concept, takings problems raised by sea level rise and other consequences of climate change, controversial new decisions applying an expansive interpretation of the *Penn Central* analysis, the state of eminent domain law five years after *Kelo*, the intersection of breach of contract and takings claims against the government, takings litigation arising from regulation of water, and takings claims based on the federal rails to trails program. For more information or to register, please visit www.vermontlaw.edu/Takings2010. 🌿

Energy Institute Receives \$450K Federal Grant for Smart Grid Research

In April, U.S. Representative Peter Welch announced a \$450,000 federal grant to VLS's Institute for Energy and the Environment to conduct smart-grid research and analysis aimed at updating the U.S. power grid. The Department of Energy grant, which was secured by Welch, will strengthen the institute's reputation as a national leader in smart-grid implementation standards and its efforts to address the reliability, cost, and environmental impacts of the nation's energy policy.

In August, the institute welcomed **Kevin Jones** as the Smart Grid Project Leader. Seeking solutions to the energy and environmental policy challenges facing the electric power industry has been the focus of Jones' career. He has been at the center of the transformation of the electric power industry in the Northeast as the director of power market policy for the Long Island Power Authority and as the former director of energy policy for the City of New York. He has also consulted on energy issues as an associate director with Navigant Consulting and Resource Management International. He received his PhD degree from Rensselaer Polytechnic Institute's Lally School of Management and Technology, his master's degree from the LBJ School of Public Affairs at the University of Texas at Austin, and his bachelor of science degree from the University of Vermont.

"This project will provide the much needed legal and policy foundation to protect customer information, while increasing the efficiency of managing the transmission system, which will greatly reduce financial costs, environmental emissions, and reliability concerns," the institute's director, **Michael Dworkin**, said. "Improvements to load management and system-efficiency, including upgrades to the network cables, transformers, and power stations, will require a detailed assessment of legal and regulatory structures on the national, regional, and state levels." 🌿

Taxation and Climate Change on the Agenda in Bangkok

Once a year, people intrigued by economic instruments gather from around the world to share their knowledge about environmental taxation, trading markets, and other market-based instruments for environmental protection. This year, the 11th Global Conference on Environmental Taxation will be held in Bangkok, Thailand, on November 3–5, where climate change issues will dominate the program.

Selected papers from last fall's 10th Global Conference in Lisbon, Portugal, will be published by Oxford University Press in *Critical Issues in Environmental Taxation, Volume VIII*, just prior to the Bangkok conference.

VLS's Environmental Tax Policy Institute is a supporting sponsor of the event, and the institute's director, Professor **Janet Milne**, serves on the steering committee for the conference series and as an editor of the *Critical Issues* series. For more information or to receive notice about future conferences, contact jmilne@vermontlaw.edu. 🌿

An Advocate for the Everglades:

JANE GRAHAM LLM '10

Jane Graham is passionate about animals and passionate about protecting the Everglades in her home state of Florida. A member of the LLM in Environmental Law class of 2010, she earned her JD and BA degrees, both *cum laude*, from the University of Miami.

As a JD student, she published an article on "Statutes with Sharp Teeth: Prosecuting a Crocodile Killing with State and Federal Statutes," (with Jonathan Tanoos) in the spring 2009 issue of the Florida Bar's *Animal Law Committee Newsletter*. At VLS, she worked on the Endangered Species Act during her internship at the National Wildlife Federation's Northeast Regional Office in Montpelier. At both schools, she was active in the Student Animal Legal Defense Fund.

"What began with 'I want to write my LLM thesis on something to do with animal law' has developed into a creative critique of invasive species law," said Pamela Vesilind, Jane's thesis advisor. "You heard it here first: Jane will be an influential and respected voice in the field of animal law."

Jane will appear on a panel on "Biodiversity and Climate Change: Oceans and Coasts" at the International Union for Conservation of Nature (IUCN) Academy of Environmental Law Colloquium in Ghent, Belgium, in September.

In addition to her ESA work, her internship at the National Wildlife Federation included work on climate change, nationwide permits, and the Clean Water Act. Jane said she "found an amazing mentor in a VLS LLM alum," her NWF internship supervisor, Jim Murphy '06.

"Jane was a standout LLM candidate who wrote a great paper in my course, got it published, and used it to land the job of her dreams working to conserve Florida's priceless and threatened natural resources," said Patrick Parenteau.

Jane now has a job working with Audubon of Florida as an Everglades Policy Associate.

"As a child in South Florida, alligators lived in the canals outside my house. When I was older, I realized the alligators weren't living in my backyard, but I was living in theirs," said Jane. "This job with the National Audubon Society is the exact realization of my goal when I started the LLM: a job with a wildlife nonprofit protecting and preserving the animals of the Everglades." 🌿



ELC Faculty News

Since returning from his Fulbright experience in China during the 2009–10 academic year, **Jason Czarnezki** is finishing his book, *Everyday Environmentalism: Law, Nature and Individual Behavior*, to be published by Environmental Law Institute Press. He is working on a series of articles about the relationships between food, law, and the environment, and he has launched a new blog, Czarnezki.com: Life, Law, & the Environment. He gave a number of presentations while in China, including a China-U.S. Relations Roundtable at the Center for Asia-Pacific Studies at Sun Yat-sen University in May; the Earthcast 2010 Keynote Address, “Climate Change Policy & U.S.-China Relations,” in April; and a talk on “Everyday Environmentalism” as part of the American Law Series at the Peking University School of Transnational Law, also in April. Czarnezki was recently named The Wallace Stegner Center for Land, Resources, and the Environment 2010 Distinguished Young Scholar.

Sheryl Dickey '10, staff attorney at the ENRLC, and **Katherine Garvey '10**, staff attorney at the Land Use Clinic, attended the AALS Conference on Clinical Legal Education in May and participated in the Environmental Law Clinics working group.

Tim Duane is teaching a new advanced seminar on land use and biodiversity. He will publish the following articles this fall: “Increasing the Public Benefits of Agricultural Conservation Easements: An Illustration with the Central Valley Farmland Trust in the San Joaquin Valley,” in the *Journal of Environmental Planning and Management*, and “Comparing the Conservation Effectiveness of Private Water Transactions and Public Policy Reforms in the Conserving California Landscapes Initiative,” in *Water Policy* (with Jeff J. Opperman).

In April, **Stephen Dycus** appeared on a panel at Duke University Law School to discuss “DOD Responds to Climate Change and Other Environmental Threats.” He recently published “Congress’s Role in Cyber Warfare,” 4 *J. Nat’l Security L. & Pol’y* 155 (2010); the 2010-2011 Supplement for *National Security Law* (4th ed.) and *Counterterrorism Law* (with William C. Banks and Peter Raven-Hansen) (New York: Aspen Publishers 2010). A fifth edition of *National Security Law* and a second edition of *Counterterrorism Law* will be published in the summer of 2011. In October, he will speak at an ABA-sponsored Seminar on Teaching National Security Law in Washington, D.C. In November, he will make a presentation on “NEPA, Climate Change, and National Security” at the annual Developments in the Field conference of the ABA Standing Committee on Law and National Security in Washington, DC.



Peg Elmer

Peg Elmer, associate director of the Land Use Clinic, has been reappointed by Governor Jim Douglas to a two-year term as the “smart growth representative” on the Vermont Downtown Development Board. This board aims to promote compact development and preserve historic settlements and buildings.

Janet Milne published a paper on “Watersheds: Runoff from the Tax Code” in 34 *Vt. L. Rev.* 883 (2010) which uses the issue of agricultural nonpoint source pollution in Lake Champlain to explore the role of tax incentives. She will present a paper on “Earmarking for Environmental Damage from Fossil Fuels: Lessons from the U.S. Oil Spill Liability Trust Fund” at the 11th Global Conference on Environmental Taxation in Bangkok in November.

Patrick Parenteau will have two articles published this fall, “Reinvigorating the Public Trust Doctrine: 6 Experts on the Potential of a Public Trust Mandate in U.S. and International Environmental Law” in the September/October issue of *Environment*, and “Tipping Point for Mountaintop Mining?” in the September/October issues of *National Wetlands Newsletter*. He is currently involved in litigating *Northern Plains Resources Council and National Wildlife Federation v. State of Montana*, a case challenging the issuance of a lease to mine coal on state lands in the Otter Creek Basin. It is pending in the 16th Judicial District in Powder River County, but will ultimately be decided by the Supreme Court. He is also working on *In Re Tongue River Railroad*, a Petition to Reopen proceeding before the Surface Transportation Board to require a supplemental environmental impact statement for a new rail line to service coal mines in Wyoming and Montana. The petition is based in part on new evidence related to climate change.



Gus Speth

Gus Speth has an article in *Solutions* entitled “Towards a New Economy and a New Politics.” He is teaching two new courses this fall at VLS, Environmentalism in America: Recent History and Future Prospects, and New Frontiers in Environmental Policy. He continues to work on projects for the New Economy Network. Speth spoke at the LLM in Environmental Law and Master of Environmental Law and Policy graduation celebration at VLS in July.

Tseming Yang has been appointed by President Obama to serve as deputy general counsel for international affairs of the U.S. Environmental Protection Agency, where he will support the agency’s efforts on international and tribal affairs. He will work most directly with the EPA’s Office of International and Tribal Affairs but also expects to work on bilateral and multilateral efforts across the agency. Yang will be on a leave of absence from VLS, where he joined the faculty in 1998 and became director of the U.S.-China Partnership for Environmental Law in 2007. 🍁

Four Environmental Faculty Members Granted Tenure

The VLS Board of Trustees granted tenure to four members of the environmental law faculty at its May meeting. John Echeverria, Jackie Gardina, Mark Latham, and Marc Mihaly are now officially professors of law.



John Echeverria

John Echeverria joined the VLS faculty in 2009 after serving 12 years as executive director of the Georgetown Environmental Law & Policy Institute at Georgetown University Law Center. He has written extensively on the takings issue and other aspects of environmental and natural resource law. His recently coauthored a *Stanford Environmental Law Journal* article summarizing the experiences of several states that have adopted takings legislation in the last few decades.

Jackie Gardina, who joined the VLS faculty in 2003, specializes in civil procedure, administrative law, bankruptcy in environmental law, and sexual orientation and gender identity issues. Among her works in progress is an article titled "Federal Preemption: A Roadmap for the Application of Tribal Law in State Courts," which contends state courts are not necessarily free to apply state law when the state court is exercising concurrent adjudicative jurisdiction with tribal courts.



Jackie Gardina



Mark Latham

Mark Latham, who joined the VLS faculty in 2005, specializes in a wide range of environmental issues that arise in corporate and commercial real estate transactions and brownfields redevelopment. His scholarship over the past year includes "(Un)restoring the Chemical, Physical, and Biological Integrity of Our Nation's Waters: The Emerging Clean Water Act Jurisprudence of the Roberts Court," to be published in the *Virginia Environmental Law Journal*.

Marc Mihaly is an expert in the areas of land use, urban planning, and energy law and policy. He joined the VLS faculty full time in 2005. Today, he is associate dean of the environmental law program and director of the Environmental Law Center. He recently published an article titled, "Citizen Participation in the Making of Environmental Decisions: Evolving Obstacles and Potential Solutions through Partnership with Experts and Agents," in the *Pace Environmental Law Journal*. 🍁



Marc Mihaly

Summer Session Faculty News

Don Baur, **Tim Eichenberg**, and **Mike Sutton** were invited participants in a two-day workshop on Marine Spatial Planning held in Washington state in April. The workshop was funded by the Gordon and Betty Moore Foundation and run by the Meridian Institute. Pioneering legal analysis of the methods for legal implementation of marine spatial planning is found in a chapter in the ABA *Ocean and Coastal Law and Policy* book edited by Baur, Eichenberg, and Sutton. That chapter was authored by Don Baur and Patrick Parenteau and supported by a grant from the David and Lucile Packard Foundation. Baur is a partner with Perkins Coie, Eichenberg is an attorney in San Francisco, and Sutton is the vice president and director of the Center for the Future of the Oceans at Monterey Bay Aquarium. The three coteach Ocean and Coastal Law.

Tim Eichenberg's article, "Climate Change and the Public Trust Doctrine: Using an Ancient Doctrine to Adapt to Rising Sea Levels in San Francisco Bay," was published in the spring 2010 edition of the *Golden Gate University Environmental Law Journal*.

Barry Hill spoke in April at the Roger Williams School of Law in Rhode Island on "Addressing Human Environment Challenges Related to Water in Florida, Puerto Rico, and Yemen." In September, he delivered

a lecture on "Addressing Human Environment Challenges Related to Clean Water: A Silent Tsunami," at Saint Martin's University Law School in Washington. Starting in October, he will be a visiting scholar at the Environmental Law Institute, researching and writing on issues related to environmental governance. He will be travelling back and forth to Africa for two years and then will return to EPA's Office of International and Tribal Affairs as the senior counsel for environmental governance. Hill teaches Environmental Justice and Sustainable Development.

Jacqueline L. Weaver spoke on "The Future of the Petroleum Industry" at Wonkwang University and the Forum for Advanced Society in Seoul, Korea, in March. She also taught a two-week course on international petroleum transactions in the Global LLM program at the Universidade Catolica in Lisbon, Portugal, in May; and a course on Oil and Gas Frameworks to 12 lawyers from Angola's national oil company in Houston in July. Two casebooks and a treatise on energy and international petroleum were released in 2009–10, with many chapters coauthored by her. Weaver is a professor of law at the University of Houston. She teaches Oil and Gas Production and the Environment at VLS. 🍁

VERMONT LAW SCHOOL

164 Chelsea Street, PO Box 96, South Royalton, VT 05068

802-831-1201

802-763-2940 fax

www.vermontlaw.edu/elc

ADDRESS SERVICE REQUESTED

For more information
about the ELC, visit:

www.vermontlaw.edu/elc

Blowout in the Gulf: Panelists Discuss the BP Oil Disaster

On July 22, students, faculty, staff, and community members packed a large classroom at VLS for a panel discussion titled “Blowout in the Gulf: The Legal Consequences of America’s Worst Environmental Disaster, and What Needs to Happen to Prevent Another One.” Panelists included Environmental Law Media Fellow Beth Daley, an award-winning environmental journalist from the *Boston Globe*; VLS Professor **Patrick Parenteau**; and Northeastern University School of Law’s Associate Dean and Professor of Law Lee Breckenridge, who coordinates VLS’s environmental law dual degree program with Northeastern.

Daley shared her experience as a reporter visiting New Orleans three weeks after the spill. Unable to see any oil, and unable to access information about what was taking place on the water or within the local government, she left Louisiana disappointed and discouraged with the poor communication and organization in the post-spill gulf region. Sharing Daley’s sense of frustration, Breckenridge drew from her experience as an attorney at the EPA and Tennessee and Massachusetts Attorney Generals’ offices to question why the environmental laws in place failed to prevent such a catastrophe, and why well-calculated environmental assessments failed to result in legal restrictions on the oil industry. While Breckenridge spoke to the failures of federal law, state law, and citizen groups, Parenteau concentrated on the fundamental flaws of the current economic structure, citing the gulf spill as yet another reason to end dependency on oil. He emphasized that “safe” drilling, stricter industry regulations, and small policy changes will never be enough to combat the problems associated with oil and combustion of fossil fuels, asserting that ending oil dependency is the only valid response to this disaster.

Whether a better informed public, a multitude of legal and political tweaks, or steep gas taxes will best prevent another oil calamity, all panelists agreed on the desperate need for a cultural, economic, and political transformation to effectively combat the effects of oil on the environment. 🍂

Stefan Hard



Patrick Parenteau