

ENVIRONMENTAL LAW BULLETIN

FALL
2018

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VERMONT
LAW SCHOOL

CAFS RECEIVES \$1.5M GRANT FROM NATIONAL AGRICULTURE LAW LIBRARY

The [Center for Agriculture and Food Systems](#) (CAFS) received a \$1.5 million award from the United States Department of Agriculture's National Agriculture Library (NAL) as part of a cooperative agreement to continue their partnership.



This funding will be used for a variety of major projects and initiatives addressing food and agricultural law. Specifically, the funding will support a new partnership with the Extension Service's Northeast Center to Advance Food Safety at the University of Vermont, to assist farmers and food producers in understanding legal issues related to Food Safety Modernization Act compliance. This work will be led by [Sophia Kruszewski '13](#), the new director of CAFS' Food and Agricultural

Law Clinic, giving students the opportunity to engage in hands-on stakeholder outreach and engagement.

The NAL funding will also help to support the Farm and Energy Initiative, a joint effort of the CAFS and the Institute for Energy and the Environment, led by Staff Attorney [Genevieve Byrne](#), and focused on issues related to energy and the food system. Additionally, this award will support the continuation of the Healthy Food Policy Project, a collaboration between CAFS, the Public Health Law Center at Mitchell Hamline, and the Rudd Center for Food Policy and Obesity at the University of Connecticut. This project, led by CAFS Associate Director [Lihlani Nelson](#), works to identify and elevate local laws



CAFS Program Coordinator Claire Child, Assistant Director Lihlani Nelson, Distinguished Summer Scholar Andrea Freeman, Clinic Director Sophia Kruszewski, Agriculture and Energy Staff Attorney Genevieve Byrne, and Assistant Professor Emily Spiegel

and policies that promote access to healthy food, contribute to strong local economies and an improved environment, prioritize health equity, and focus on socially disadvantaged and marginalized populations. 🌱

EARTHJUSTICE AND VLS EXPAND FOCUS ON COMMUNITY ENVIRONMENTAL JUSTICE CASES

In a move to advance environmental justice advocacy, VLS's [Environmental and Natural Resources Law Clinic](#) (ENRLC) partnered with Earthjustice, the largest nonprofit environmental law organization in the nation, to hire a full-time staff attorney for the clinic.

Attorney [Rachel Stevens JD'13/LLM'16](#) will lead the environmental justice partnership and a team of ENRLC student clinicians to advocate for people and communities who have been disproportionately affected by environmental harms, such as exposure to toxic chemicals and

drinking water contamination.

"All of our cases will have an environmental justice focus," Stevens said. "And rather than waiting for potential clients to contact us, we will contact communities directly. We will engage in outreach to better understand community needs, to develop a deeper sensitivity to those needs, and to empower communities that need legal resources the most."

[Lisa Garcia](#), Earthjustice Vice President of Litigation for Healthy Communities, looks forward to working with the ENRLC to expand

the national organization's work at the community level. Like the ENRLC, Earthjustice represents clients free of charge.

"The Earthjustice partnership with the Environmental and Natural Resources Law Clinic at VLS will help advance the environmental justice movement with communities throughout Vermont, the Northeast, and potentially other regions of the United States," said Garcia. "At

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ENVIRONMENTAL LAW CENTER

[Center for Agriculture and Food Systems](#)

[Environmental and Natural Resources Law Clinic](#)

[Environmental Tax Policy Institute](#)

[Institute for Energy and the Environment](#)

[New Economy Law Center](#)

[U.S.-Asia Partnerships for Environmental Law](#)

[Water and Justice Program](#)

ADVOCATE AND LITIGATOR JENNY RUSHLOW IS NEW ELC DIRECTOR

[Jenny Rushlow](#) is the new Associate Dean for the Environmental Law Program and Director of the Environmental Law Center at VLS. Ms. Rushlow comes to VLS from the Conservation Law Foundation, where she was a senior attorney for CLF Massachusetts and Director of Farm & Food, leading CLF's New England-wide advocacy on agriculture and food issues. She also worked on clean energy and transportation at CLF. Prior to joining CLF in 2011, she was an associate at Anderson & Kreiger LLP, where she worked on a range of environmental, land use, and municipal issues.

(continued on page 3)

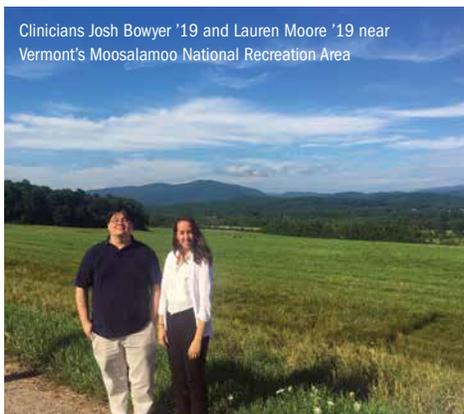


ENVIRONMENTAL CLINIC: MAKING A DIFFERENCE

The attorneys and student clinicians at the [Environmental and Natural Resources Law Clinic](#) have been working on important issues in Vermont and across the country.

PROTECTING FARMS, HOMES, AND WATERWAYS FROM TOXIC PESTICIDES

The ENRLC, on behalf of the Toxics Action Center, is challenging a state decision allowing pesticide spraying in the Champlain Valley that threatens water resources and people's health. The lawsuit alleges that the Vermont Department of Environmental Conservation allows a local insect control district to spray pesticides without first following state requirements designed to protect public health and the environment. The pesticides are harmful chemicals that have been used to control mosquitoes but are also known to cause damage to public health, aquatic species, and the environment.



Clinicians Josh Bowyer '19 and Lauren Moore '19 near Vermont's Moosalamoo National Recreation Area

DEFENDING THE ENDANGERED SPECIES ACT IN THE SUPREME COURT

In July, the ENRLC filed an amicus brief on behalf of law professors in an Endangered Species Act case pending before the Supreme Court. The case, *Weyerhaeuser v U.S. Fish and Wildlife Service*, involves the critical habitat of the dusky gopher frog. This was a collaborative effort with the Georgetown Institute for Public Representation. Clinic Fellow [Lizzie Tisher LL.M'18](#) and student clinician [Katie Bleau '19](#) crafted a superb argument blending law and science into a compelling narrative.

SUPPORTING INTEGRITY OF ORGANIC CERTIFICATION

ENRLC Director [Jill Witkowski Heaps](#) represented the Organic Farmers Association and the Center for Food Safety in a case about pesticide drift in the Minnesota Court of Appeals. An organic farmer sought economic damages from loss of his organic certification when pesticides on an adjacent field contaminated his land. The lower court determined that, in Minnesota, pesticide drift cannot cause land to lose its organic certification. The ENRLC explained that consistent national enforcement of federal regulations is critical to consumer confidence, and that the National Organic Program's interpretation of its own regulations under the Organic Foods Production Act is owed substantial deference.



FIGHTING FOR SWIMMABLE WATERS IN ALABAMA

Alabama residents flock to their local creeks and streams to swim. The Clean Water Act directs states to understand how people are using the water and to make sure water quality protects those uses. But Alabama's water quality regulations are backwards—rather than recognizing where people swim and reducing pollution sources into those waters, Alabama's rule protects sewage treatment plants, suggesting that Alabamians should stay out of the water downstream of their discharges because swimming there is unsafe. The ENRLC submitted comments on behalf of a number of Riverkeeper groups during Alabama's triennial review of water quality regulations. The groups are asking Alabama to fix its illegal regulations, to designate waters where people swim as safe for swimming, and ratchet back pollution from sewage treatment plants. 🌿

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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.

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

ENVIRONMENTAL LAW CENTER

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FROM THE ASSOCIATE DEAN

GREETINGS FROM VERMONT

I am so delighted to join the VLS community as the new Director of the Environmental Law Center. I am honored to follow in the footsteps of my distinguished predecessors and to have the opportunity to work with VLS' accomplished faculty.

It takes a village to train the next generation of environmental lawyers, and VLS is a community that takes that commitment seriously. Vermont Law School is dedicated to providing our students with hands-on experience to prepare them to work as environmental lawyers and professionals. The work that our students do helps people in need in Vermont and beyond.

A few highlights from our recent efforts to make a difference include: Our innovative U.S.-Asia Partnership, which recently hosted a workshop in Myanmar on strategies for government and NGOs to implement the Myanmar National Climate Change Policy. Our Center for Agriculture and Food Systems, which launched the Farmland Access Toolkit to help farmers access affordable farmland for new farmers and land transfer for those retiring. The Environmental and Natural Resources Law Clinic, which is partnering with Earthjustice to advocate for environmental justice communities, and, on behalf of Toxics Action Center, is challenging a Vermont decision allowing pesticide spraying. Finally, the new Vermont Law School Entrepreneurship and Legal Lab, is providing free or low-cost legal assistance to entrepreneurs who seek to launch green and sustainable businesses. These and many other examples illustrate how VLS environmental faculty and students make a difference in communities worldwide.

It is not an easy time to be an environmentalist; the threat of climate change looms large and reading the news can be extremely discouraging. But at VLS, the students' passion to make a difference in the world is palpable. It is both energizing and reassuring to see firsthand the conviction and fortitude of our next generation of environmental lawyers and advocates.

I look forward to connecting and collaborating with you.

Sincerely,



Jenny Rushlow

the national level, Earthjustice has accomplished meaningful change as we challenge rulemakings and work on cases with national impact. Our work with the ENRLC will enable us to do more to support individuals and communities at the local level.”

The partnership is off to a tremendous start. Rachel Stevens, along with student clinicians Lauren Moore '19 and Kyron Williams '19, worked with Earthjustice and the Ironbound Community in Newark, New Jersey, this summer to submit comments on a local power plant. The letter asks the New Jersey Department of Environmental Protection to strengthen the Title V air permit to better protect the community's health and consider the cumulative impact multiple air pollution sources are having on the neighborhood. This is a first in a series of comments the ENRLC will work on with Earthjustice and the Ironbound Community to protect their health and give them a voice in the regulatory process. 🌱



The Ironbound Neighborhood of Newark, New Jersey

Rushlow argued and won a major climate change case before the Massachusetts Supreme Judicial Court (Kain v. Department of Environmental Protection) in 2016. She was named a 2016 Lawyer of the Year by *Mass Lawyers Weekly* for her work on the case.

“We are delighted to welcome Jenny Rushlow to VLS—she joins a distinguished and committed group of

scholars, activists, and teachers who have held this position over the past 40 years,” said [Tom McHenry](#), VLS President and Dean. “Jenny’s background and expertise overlap so well with VLS’s core environmental programs and concerns—climate, food and agriculture, energy, and environmental and social justice—and her practical experience is ideal for our students as we expand our focus on experiential learning.”

“As each day brings more troubling news of increasing social inequity and of the plundering of our bedrock environmental laws, it’s clear we need a new generation of environmental leaders,” said Rushlow. “The students of Vermont Law School think freely and bring a passion to do good in their careers. This drive to make a difference is powerful; we all do our best work when we’re doing it because we care. These students make me hopeful for the future.”

She received her JD degree from Northeastern University School of Law, her Master’s in Public Health from Tufts University School of Medicine, and her BA degree from Oberlin College. 🌱

“JENNY’S BACKGROUND AND EXPERTISE OVERLAP SO WELL WITH VLS’S CORE ENVIRONMENTAL PROGRAMS AND CONCERNS—CLIMATE, FOOD AND AGRICULTURE, ENERGY, AND ENVIRONMENTAL AND SOCIAL JUSTICE—AND HER PRACTICAL EXPERIENCE IS IDEAL FOR OUR STUDENTS AS WE EXPAND OUR FOCUS ON EXPERIENTIAL LEARNING.”

—TOM MCHENRY

ENERGY INSTITUTES PARTNERS WITH PROTECT OUR POWER FOR A MORE SECURE ELECTRIC GRID

VLS’s [Institute for Energy and the Environment](#) has entered into an agreement to work with Protect Our Power on critical research related to security and resilience issues of the nation’s electric grid. Protect Our Power is an independent, not-for-profit organization whose mission is to build consensus as soon as possible among government, industry, and other key stakeholders to strengthen the nation’s electric grid. Their goal is to make the overall grid more resistant against all potential physical or cyber threats, as well as improve its ability to restore power quickly in the event of an attack.

IEE’s research will focus on identifying a model approach for state electric utility commissions, and the utilities they regulate, to use to facilitate timely grid upgrades, including identifying an appropriate financial structure for equitably sharing the costs of such upgrades. The project will also specifically assess opportunities for state governments to advance grid security and resilience quickly by providing a framework for model state regulatory and legislative initiatives.

“The electric grid is a sophisticated physical system largely governed by a complex state-by-state regulatory system,” said [Jim Cunningham](#), Executive Director of Protect Our Power. “We are asking IEE to help us develop a streamlined, model approach that can be used in every

“WE KNOW THE GRID IS UNDER ATTACK ON THE CYBER FRONT EVERY DAY, AND A NATURAL DISASTER CAN OCCUR AT ANY TIME, SO CHARTING A PATH FORWARD FOR STATE LEGISLATORS, STATE UTILITY REGULATORS, AND UTILITIES TO TAKE NECESSARY ACTIONS WILL BE A VERY POSITIVE STEP.”

—MARK JAMES

state to properly incentivize the utility companies and assure complete recovery of costs associated with improving grid resiliency now. The framework will provide needed uniformity throughout the states and help the regulatory agencies make timely decisions on both the need and the cost recovery for those upgrades.”

The IEE research team will be led by [Mark James](#), a senior research fellow at the IEE. “We’re pleased to partner with Protect Our Power to work on the critical issue of grid security,” said James. “We know the grid is under attack on the cyber front every day, and a natural disaster can occur at any time, so charting a path forward for state legislators, state utility regulators, and utilities to take necessary actions will be a very positive step.”

“I applaud Protect our Power for this initiative and the focus on state policy actions,” said [Kevin Jones](#), Director of the IEE. “As a former utility power market policy leader myself, I understand the need for state leadership on these critical grid infrastructure issues, and I am confident that state regulators will appreciate the results of our work.” 🌱



NEW FARM AND ENERGY INITIATIVE BRIDGES TWO VLS INSTITUTES

VLS's Farm and Energy Initiative is a new collaboration between the [Institute for Energy and the Environment](#) (IEE) and the [Center for Agriculture and Food Systems](#) (CAFS).

[Genevieve Byrne](#), the new staff attorney for the Farm and Energy Initiative, started in summer 2018. She received her JD degree from Lewis and Clark College of Law, where she also received a Certificate in Natural Resources Law. Joining Ms. Byrne is the Farm and Energy Initiative's new LLM Fellow, [Katherine Oaks](#), who received her JD degree from Villanova University School of Law.

Given the importance of both agriculture and energy production to our economy, the VLS Farm and Energy Initiative will explore the many important policy linkages between these vitally important industries. Some priority policy areas ripe for new research and broadly accessible resources include promoting farms' energy self-reliance and sustainability; solar siting on agricultural land while protecting soil resources; future feasibility of biofuels as an energy resource, including impacts to agricultural production and lifecycle analysis; and the use of biodigestors to manage the reuse of organic waste and generate local energy.

Professor [Kevin Jones](#), Director of the IEE, says "The Farm and Energy Initiative will help build a bridge between the work of the IEE and CAFS, and offer increased research and hands-on experiential opportunities to JD, master's and LLM students." 🌱



Genevieve Byrne



Katherine Oaks



AN ELECTRIFYING SUMMER AT THE ENERGY INSTITUTE

The [Energy Clinic](#) had a boisterous, productive, and fun student team this summer with student clinicians working on representing Mascoma Meadows, a resident-owned community in Lebanon, New Hampshire. The community won a state grant to fund a 100 kW low income community solar project, advancing solar trusts in collaboration with a professor from the University of Minnesota, and commercial and community solar projects in Randolph and South Royalton, Vermont.

Adding to the excitement this year were an outstanding group of visiting students. [Caroline Daniels](#) from Northeastern University School of Law and [Travis Jones](#)

from the University of Baltimore School of Law are both pursuing master's degrees at VLS. [Erin Milliken](#) is a JD student at Texas A&M University School of Law. Undergraduate Clean Energy Advocacy interns came from the University of Delaware ([Rebecca Fruehwald](#)) and Skidmore College ([Garrett Flanagan](#)). The summer was enhanced by exceptional visiting faculty, including [Kit Kennedy](#) from NRDC, who taught about clean energy advocacy, [Joe Halso](#) from the Sierra Club, who taught a new course on clean transportation policy, and attorney and environmental commodities broker [Arturo Brandt LLM'03](#) from Santiago, Chile, who taught a course on Latin American energy and climate policy. 🌱



Energy Clinic students and faculty visit the VLS solar array

NEW FOOD AND AGRICULTURE LLM FELLOW HAILS FROM UGANDA

[Esther Akwii LLM'20](#) joins the [Center for Agriculture and Food Systems](#) (CAFS) this fall. Esther most recently worked at the Food and Agriculture Organization of the United Nations' Agriculture and Consumer Protection Department. Previously, she spent six years working with small holder farmers on land tenure, right to food, climate change, and natural resource governance. Her research and academic interest is in the role policy and law play in ensuring a sustainable agro-food system. She received a Bachelor of Laws degree from Makerere University and a Diploma in Law from the Law Development



Esther Akwii LLM'20

Centre, in Kampala, Uganda. Esther will work part-time with CAFS as she earns her LLM in Food and Agriculture Law. 🌱

Nico Lustig '19 and Gordon Merrick '20 in Washington, DC



FARM BILL LAW ENTERPRISE STUDENTS LOBBY IN DC

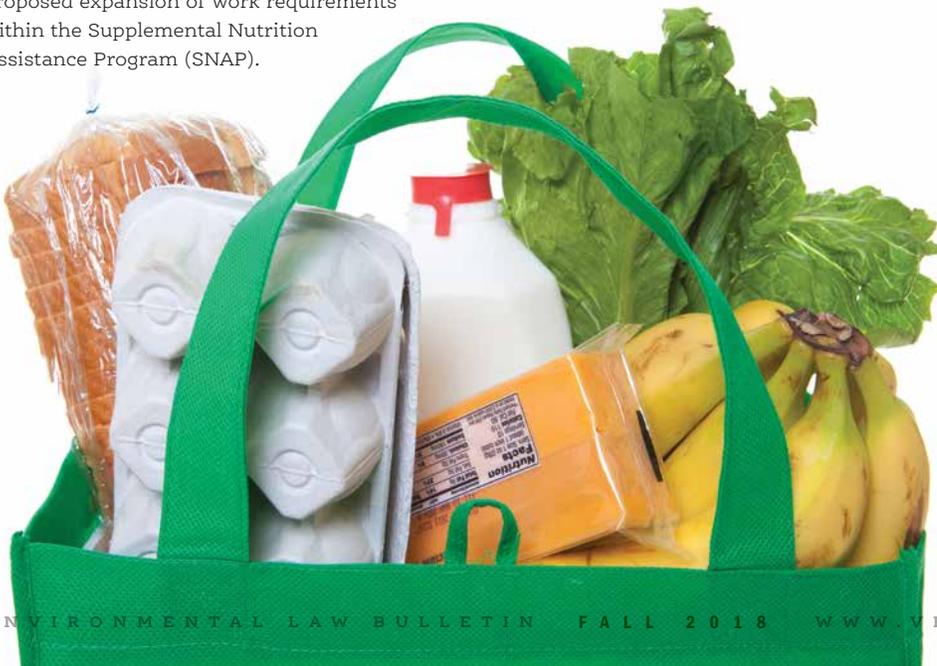
Nico Lustig '19 and **Gordon Merrick '20**, students in the joint JD/Master of Food and Agriculture Law and Policy (MFALP) degree program, traveled to Washington, DC, in the spring with the Farm Bill Law Enterprise, a national partnership of law schools. FBLE and Food Policy Action partnered to provide an opportunity for students, farmers, chefs, and community activists to lobby representatives in support of a farm bill that provides for all members of society and for the environment. The trip provided VLS students with the opportunity to study core subject areas of the farm bill—SNAP, conservation, crop insurance, and local food initiatives—and practice lobbying their representatives to advocate for better policy.

Each group of FBLE students focused on specific areas of concern as they met with legislators and their staff. Gordon Merrick focused on recommendations from FBLE's report, "Food Access, Nutrition, and Public Health," and highlighted the dangers of the proposed expansion of work requirements within the Supplemental Nutrition Assistance Program (SNAP).

"THE BEST MOMENT OF THE TRIP WAS A CONVERSATION WITH A CONSERVATIVE MEMBER'S STAFF. ALTHOUGH WE ALL DID NOT AGREE ON THE ROLE OF SNAP PLAYS IN A PERSON'S LIFE, WE CAME TO A CONSENSUS THAT A WORK REQUIREMENT, AS DESIGNED IN THE CURRENT HOUSE BILL, WOULD HURT AND NOT HELP PEOPLE ON THE PROGRAM."

—GORDON MERRICK

"The best moment of the trip was a conversation with a conservative member's staff, said Merrick, "Although we all did not agree on the role of SNAP plays in a person's life, we came to a consensus that a work requirement, as designed in the current house bill, would hurt and not help people on the program." 🌱



NEW DIRECTOR FOR FOOD AND AGRICULTURE CLINIC

This summer, **Sophia Kruszewski '13** joined the [Center for Agriculture and Food Systems](#) to lead the [Food and Agriculture Clinic](#). She returns to VLS after



Sophia Kruszewski '13

spending the last five years immersed in federal food and agriculture policy with the National Sustainable Agriculture Coalition (NSAC). At NSAC, her portfolio focused in particular on the Food Safety Modernization Act and its implementing regulations, as well as the Farm Bill, Clean Water Act, and other federal issues impacting farmers and the food system. Kruszewski has worked for the Center for Food Safety, clerked for the White House Council on Environmental Quality, and interned with the Honorable Judge Paul L. Friedman of the Federal District Court for the District of Columbia. She holds a BS in Environmental Science from the University of Michigan and a JD from VLS, and is thrilled to be back on campus. She grew up on a small diversified farm in Michigan, and enjoys gardening and raising chickens in her Burlington backyard with her husband and young son. 🌱

CAFS FARMLAND ACCESS TOOLKIT ADDS "FARM LEASE BUILDER" APP

The [Center for Agriculture and Food Systems](#) (CAFS) launched the [Farmland Access Toolkit](#)



in 2018 to help farmers address a top concern: access to affordable farmland for new and socially disadvantaged farmers and land transfer for those farmers retiring. Most recently, CAFS launched the Farm Lease Builder app, which may be accessed through the Farmland Access website. Lease Builder is a free tool that helps farmers create a lease document which can then be taken to a lawyer, lowering the cost of legal services. 🌱

VLS'S ASIA PROGRAM HOSTS WORKSHOP IN MYANMAR

In May, **William Schulte LLM'15**, Assistant Director of the [U.S.-Asia Partnerships for Environmental Law](#), and VLS Visiting Scholar **Matthew Baird** worked with Myanmar's Environmental Conservation Department, UN Environment, and the Myanmar Climate Change Alliance to host a workshop in Nay Pyi Taw on "Incorporating Climate Risk Assessment into the Environmental Impact Assessment Process in Myanmar." The workshop explored various strategies Myanmar can develop and adopt to integrate climate change adaptation and mitigation into its project approval processes in order to implement the goals of the Myanmar National Climate Change Policy. 🌿



VLS STUDENT PRESENTS PAPER AT CHINESE CONFERENCE

Each spring, **Yanmei Lin**, Associate Director of the [U.S.-Asia Partnerships for Environmental Law](#), teaches a course in Comparative Environmental Law Research. This year, Professor Lin's students **Amanda Carrington '19** and **XinXin Wang LLM'18** teamed up to explore the emerging role of environmental public interest litigation and the courts in advancing renewable energy deployment. Their research paper analyzed a newly filed case, Beijing Chaoyang District Friends of Nature Research Institute v. State Grid Gansu Electric Power Company, and formed recommendations for China's Lanzhou Intermediate People's Court on how to proceed given the legal context in China and drawing lessons from U.S. environmental litigation.

The students submitted their paper to Sun Yat-sen University, which was planning a summit on Environmental and Natural Resource Rule of Law in China. The paper was accepted, and Carrington and Lin travelled to Guangzhou, China, in March to participate in the conference. At the forum, Lin presented her own paper on problems with ecological restoration remedies.

"I had a blast on my trip to China," Carrington says. "My first stop was to Guangzhou for the conference. I met many wonderful people and was warmly greeted by



Yanmei Lin and Amanda Carrington

everyone. The topics and the viewpoints on how to handle environmental public interest litigation were all interesting. The proposed solutions were very theoretical. Because the court system differs from the U.S., the proposals seemed almost unachievable; however, from a Chinese perspective, these solutions were feasible. Guangzhou is a beautiful city with delicious food. I could not have asked for a better experience. Overall, the trip was amazing and I cannot wait to travel back to China in the future." 🌿

MARJORIE KELLY OF DEMOCRACY COLLABORATIVE TO SPEAK AT VLS

VLS's [New Economy Law Center \(NELC\)](#) is bringing **Marjorie Kelly**, Senior Fellow and Executive Vice President at the Democracy Collaborative, to speak on campus on November 14, 2018. Her lecture, "The Making of a Democratic Economy," is part of the "VLS New Economy Law and Policy Forum, a Speaker Series on Building a Sustainable, Just, and Democratic Future," a global education platform to engage the public at VLS and online. This fall, the series features events on transforming the corporation to be a positive force of social and environmental change

Ms. Kelly is the author of *Owning Our Future: The Emerging Ownership Revolution* (2012), in which she explores new forms of ownership aimed at creating the conditions for life for many generations to come. "Ms. Kelly will be taking a break from writing her next book to share her ideas with us about how to design a democratic economy for positive outcomes, such as sustainability," says Professor



Melissa Scanlan, director of the NELC. "Design comes before law, but the role of law and policy experts is critical to then implement the new design ideas." 🌿



Janet Milne, Jeff Sokolik, and Emma Akrawi discuss carbon pricing

VLS LAUNCHES LEGAL LAB TO SUPPORT LOCAL GREEN ENTREPRENEURS

In an effort to support the burgeoning local green economy, VLS has launched the Vermont Law School Entrepreneurship and Legal Lab, or “VSELL.” This novel collaboration between Vermont attorneys, business leaders, and government officials will provide free or low-cost legal assistance to entrepreneurs who are seeking to launch green and sustainable businesses. The VSELL program will also train law students interested in learning how to practice business law, while supporting a broader state effort to encourage more business startups.

“We want to build on Vermont’s strong reputation for innovation by providing legal support to our talented entrepreneurs when they most need the help, but can least afford it,” said **Trey Martin ‘08**, Of Counsel to Downs Rachlin Martin PLLC. Martin is Attorney Advisor to VSELL and will play a lead role in running the program. “I am excited by the chance to help grow Vermont businesses which contribute to the triple bottom line of social, environmental, and financial benefits for our state,” said Martin.

VSELL received a generous grant from the City of Burlington Mayor’s Prize awarded last December, with funds from the Ewing Marion Kauffman Foundation. Along with donations from other foundations, alumni, and local business leaders, these funds have allowed VLS to initiate a program that will focus initially on helping business startups in Burlington. Over time, VSELL hopes to expand its service statewide.

Burlington Mayor **Miro Weinberger** applauded the launch. “For Burlington to continue to thrive and enjoy job growth, we need entrepreneurs starting and growing businesses here,” said Weinberger. “I am pleased to partner with Vermont Law School and other entrepreneur support organizations to make that possible.” 🌱

Trey Martin ‘08



HOW THE LAW SHAPES ENVIRONMENTAL TAXATION

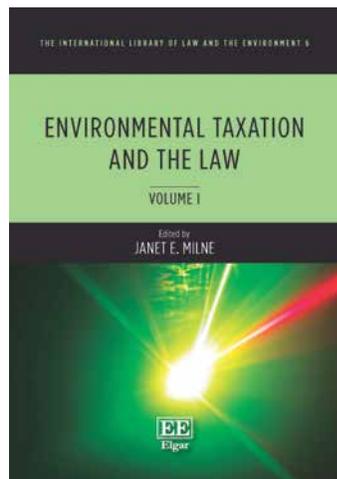
Economic theory drives the idea of using tax systems to protect the environment, but law shapes its execution. The law determines which levels of government have the power to build environmental protection into their tax systems and on what terms. It defines the technical design and implementation details. It grapples with border adjustments for carbon taxes. And more. The role of the law is essential but sometimes underappreciated.

A new two-volume book edited by VLS’s [Environmental Tax Policy Institute](#)’s director, Professor **Janet Milne**, *Environmental Taxation and the Law* (Edward Elgar 2017), assembles key articles by authors around the world. Milne hopes that the book will serve as a valuable resource for researchers exploring the legal terrain at the intersection of taxation and environmental protection. Harvard Law School’s Professor **Cass Sunstein** describes the book as “a fascinating and important collection on an issue of increasing urgency.”

Students at VLS have also been delving into legal issues under the umbrella of the Environmental Tax Policy Institute. During the 2017–2018 academic year, **Luckie Milad**, **Scott Rowland**, **Emma Akrawi**, and **Jeff Sokolik**

“LIKE THE GRAPHIC ON THE COVER OF *ENVIRONMENTAL TAXATION AND THE LAW*, TAXATION CAN DELIVER TARGETED LASER BEAMS INTO THE GREEN SPHERE OF ENVIRONMENTAL PROTECTION. I HOPE THAT THESE METAPHORICAL LASER BEAMS WILL FASCINATE STUDENTS AS THEY WORK ON THE LAW AND POLICY OF ENVIRONMENTAL TAXATION.”

—JANET MILNE



worked on carbon pricing, including the influence of constitutional law in the United States and France. **Ben Surface** investigated the design of U.S. tax incentives that protect cultural heritage. The research agenda this past summer also ventured into the role of taxation in the world of the digital economy. Milne says, “Like the graphic on the cover of *Environmental Taxation and the Law*, taxation can deliver targeted laser beams into the green sphere of environmental

protection. I hope that these metaphorical laser beams will fascinate students as they work on the law and policy of environmental taxation.” 🌱

USING ARTS AND POP CULTURE TO SAVE THE PLANET

How can arts and pop culture help advance the causes of environmental advocacy? On July 12 at VLS, a panel of artists, conservationists, and policymakers discussed the importance of visual arts and popular media in promoting environmental stewardship and wildlife conservation.

Don Baur, a partner with Perkins Coie and VLS summer faculty member, moderated the panel. “The power of visual media for driving an advocacy agenda has been demonstrated time and again across all fields of public policy and law,” said Baur. “The speakers in this program have extraordinary backgrounds in a broad range of methods of visual communication, and they will share their work and experiences on how to advance environmental objectives through images and the messages they convey.”

The panel included **Asher Jay**, designer, artist, conservationist, and National Geographic Emerging Explorer; **Julie Phillips**, Vice President of Herschend Studios, producers of *Splash and Bubbles* for PBS; **Zack Rago**, coral reef expert, featured in *Chasing Coral*; **Dr. Heather Rally**, wildlife veterinarian with the PETA Foundation and Oceanic Preservation Society, featured in *Racing Extinction*; and **John Tartaglia**, puppeteer, actor, and comedian, featured in *Sesame Street* and *Splash and Bubbles*.

“Film, media, and other forms of visual art speak to our hearts and our souls,” said Rally. “They have the power to transcend language barriers and transform audiences by captivating, educating, and instilling compassion. As such, film and media are among the most powerful tools for spreading widespread awareness and creating large-scale social change.” 🌱

“FILM, MEDIA, AND OTHER FORMS OF VISUAL ART SPEAK TO OUR HEARTS AND OUR SOULS. THEY HAVE THE POWER TO TRANSCEND LANGUAGE BARRIERS AND TRANSFORM AUDIENCES BY CAPTIVATING, EDUCATING, AND INSTILLING COMPASSION. AS SUCH, FILM AND MEDIA ARE AMONG THE MOST POWERFUL TOOLS FOR SPREADING WIDESPREAD AWARENESS AND CREATING LARGE-SCALE SOCIAL CHANGE.”

—HEATHER RALLY



Don Baur (front) and panelists



STUDENT IN THE SPOTLIGHT

HEALTHY COMMUNITIES, THRIVING ECONOMIES: NICO LUSTIG '19

Nico Lustig '19 has a professional mission: to use the law to help communities, entrepreneurs, and workers create cooperatives, benefit corporations, and social enterprises that strengthen connection and cultivate human and environmental health. A student in the JD/ Master of Food and Agriculture Law and Policy (MFALP) joint degree program, Nico already had years of experience working on local food issues before she came to VLS.

She worked as the Food Business Development Specialist at the Franklin County Community Development Corporation in Western Massachusetts, where she helped many New England farmers and start-up entrepreneurs develop and grow sustainable food businesses. For 12 years before that, she managed regional Natural Foods Cooperative Markets in Maine and Massachusetts.

She received a degree in Business Studies from the University of Massachusetts, Amherst, and studied abroad in Khon Kaen, Thailand, researching the effect of development and globalization on the environment and agricultural communities. She worked with fellow students to found the Educational Network for Global and Grassroots Exchange (ENGAGE), a robust non-profit that is still thriving today.

At VLS, Nico is an Environmental and Social Justice Mission Scholar, a research assistant and Media Director for the [Center for Agriculture and Food Systems](#), co-chair of the Food and Agriculture Law Society, and the environmental justice editor of the [Vermont Journal of Environmental Law](#). She is also on the board of Red Tomato, a produce distribution organization that applies fair trade principles to domestically sourced, Eco-Farmed regional foods.

“Nico is using all of the resources VLS has to offer to prepare herself to go out in the world and be a warrior on behalf of sustainable agriculture and healthy food systems,” says Professor [John Echeverria](#), who taught her in Property.

“I am earning a law degree to continue my lifelong work of building a more equitable food system,” Nico says. “At VLS, I am learning how to map the frontiers of the new environmental law movement. I am focused on crafting an innovative economic paradigm, from the ground up, that promotes regenerative environmental practices while planting the legal tools that will sustain the future of democracy into the hearts, hands, and minds of many.” 🌱

“NICO IS USING ALL OF THE RESOURCES VLS HAS TO OFFER TO PREPARE HERSELF TO GO OUT IN THE WORLD AND BE A WARRIOR ON BEHALF OF SUSTAINABLE AGRICULTURE AND HEALTHY FOOD SYSTEMS.”

—JOHN ECHEVERRIA

DISTINGUISHED SUMMER VISITORS AT VLS

Three environmental journalists participated in VLS's 2018 Summer Media Fellowship program. Each fellow, selected from several dozen highly qualified applicants from around the world, attended a summer course and delivered a lecture as part of VLS's "Hot Topics" series.

Roseanne Gerin, a writer and editor for Radio Free Asia's English Service, reports on issues ranging from military conflict in Myanmar to the impact of hydropower dam projects on people and the environment in Cambodia. **Maya Kapoor** is a science and environmental writer for High Country News, where she reports on climate change, biodiversity, environmental policy, and environmental justice. **Rebecca Leber** of Mother Jones covers environmental policy and writes about climate change, global climate politics, environmental lawsuits, and the energy industry.

Fellows were selected based on work history and samples, commitment to covering environmental



Roseanne Gerin



Maya Kapoor



Rebecca Leber

issues, and their potential for increasing understanding of environmental law and policy issues in the United States and internationally. Former media fellows include **Fiona Harvey** of The Guardian, **Brent Kendall** of The Wall Street Journal, and **Richard Harris** from National Public Radio.

The Vermont Law School Summer Media Fellowship program has been made possible since 2002 by a generous grant from the Johnson Family Foundation.

In addition to the media fellows, VLS hosted **Dr. Gita Gill**, a professor of environmental law at Northumbria Law School in Newcastle upon Tyne, England, as a visiting scholar. Her research encompasses environmental issues dealing with human rights, public interest litigation, pollution, and sustainable development. She is currently researching matters related to National Green Tribunal, India, including comparison with other jurisdictions. 🌱

2018 SUMMER SESSION: BY THE NUMBERS

24 classes on topics ranging from Animal Welfare Law to Global Energy Law and Policy to Food Justice and Sustainability

11 students from various colleges participating in the [New Frontiers in Environmental Law](#) summer program for undergrads considering law school

14 JD students from other law schools taking summer classes at VLS

34 summer faculty members from organizations including U.S. EPA, the Center for International Environmental Law, and Cambridge University

3 [Distinguished Summer Scholars](#): **Andrea Freeman**, University of Hawai'i at Mānoa William S. Richardson School of Law; **Shi-Ling Hsu**, Florida State University College of Law; and **Tseming Yang**, Santa Clara University School of Law

18 lectures in the [Hot Topics in Environmental Law](#) brown bag series, live-streamed for remote audiences

3 [Environmental Media Fellows](#): **Roseanne Gerin** (Radio Free Asia), **Maya Kapoor** (High Country News), and **Rebecca Leber** (Mother Jones) 🌱



Professor Christine Ryan (center) with students in her Advanced Environmental Legal Research summer class

ENVIRONMENTAL LAW CENTER CELEBRATES 40TH ANNIVERSARY

Forty years ago, Vermont Law School launched the Environmental Law Center, under the leadership of Professor [Richard Brooks](#), creating the first such environmentally-focused law program in the nation. In the four decades since, the Environmental Law Center has continuously trained students to work on the forefront of environmental law and policy.

To celebrate the 40th anniversary of the ELC, VLS hosted a tribute to Brooks and a panel discussion of seven past ELC directors about the future of environmental law and policy.

“Since training our graduates to implement the environmental laws and policies passed in the first decades of the environmental movement, we have much to celebrate,” said **David Mears ‘91**, the most recent past director of the ELC. “Many of our streams, rivers, ponds and lakes have recovered. The air is cleaner. A number of once endangered species are thriving. Businesses are increasingly sophisticated in making decisions that result in greater sustainability. Vermont Law School-trained professionals have played a major role

in these successes, representing all sectors and levels of government.”

“Students today are facing a new landscape of environmental challenges—from global climate change to ocean acidification, from food policy to the energy transition in a carbon constrained world,” said VLS President and Dean [Tom McHenry](#). “We convened some of the best minds in environmental law and policy to discuss how our students can best use law and policy to address these challenges.” 🌱

Past directors raise a glass to the ELC: Patrick Parenteau, John Echeverria, Karin Sheldon, Richard Brooks, Melissa Scanlan, Marc Mihaly, and David Mears



ENVIRONMENTAL FACULTY NEWS

TRACY BACH **NEWS:** Continues to teach the International Climate Change Law course that prepares a VLS student delegation to attend the UNFCCC COPs each year. This year’s meeting, COP24, will take place in Katowice, Poland. This year also marks the fifth year of the service learning partnership that Bach created with the Myanmar State Party Delegation. • Serves as a climate advisor to Myanmar’s environmental ministry. In December 2017, she led two days of workshops in Myanmar’s capital, Nay Pyi Taw, sponsored by UNDP. In March 2018, she taught in IUCN’s “Teach the Teacher” week-long course for law professors in Yangon. • Serves as the Focal Point for Research and Independent NGOs (RINGO) at the UNFCCC and was selected to deliver the constituency’s closing statement at the intersessional meeting (SB48) in Bonn in May.



Tracy Bach representing RINGO at SB48

She will advise the Myanmar Delegation at the additional negotiating session on the Paris Agreement implementation rules in Bangkok in September.

LAURIE BEYRANEVAND '03 **PRESENTATION:** “Making the Case for a National Food Strategy in the United States,” on a panel entitled Notes from the Field of Food Law and Policy at the Yale Food Systems Symposium on February 24, 2018. • Speaker at the “FDA: Past, Present, and Future” conference at American University Washington College of Law, October 19, 2018. Publication: Co-authored an essay with Diana Winters entitled “Retooling American Foodralism,” which was accepted for publication by the American Journal of Law and Medicine, a peer reviewed health law journal published by the Boston University School of Law in conjunction with the American Society of Law, Medicine, and Ethics. **NEWS:** Invited to serve another term on the Academic Programs Committee of the Food and Drug Law Institute.

STEPHEN DYCUS **PRESENTATION:** “Whistling in the Dark: Addressing Threats to Critical Infrastructure,” to a conference on national security issues sponsored by the New York County Lawyers Association on April 20, 2018. **PUBLICATIONS:** He and his coauthors have just reached agreement with Wolters Kluwer for publication of a 7th edition of National Security

Law and a 4th edition of Counterterrorism Law in the spring of 2020. In August they published 2018–2019 Supplement to National Security Law (6th ed.) and Counterterrorism Law (3rd ed.) (2018).

JOHN ECHEVERRIA **PRESENTATION:** “Taking Sea Level Rise Seriously,” at the 2018 IUCN Academy of Environmental Law Colloquium in Glasgow, Scotland, July 5, 2018.

STEPHANIE FARRIOR **PRESENTATION:** “New Perspectives on the Environment and Human Rights: A Look at the Historical Advisory Opinion by the Inter-American Court of Human Rights,” at the United Nations, at the invitation of the Colombian Permanent Mission to the U.N., on a panel convened to mark World Environment Day, in June 2018.

JILL WITKOWSKI HEAPS **PRESENTATION:** Represented VLS at the International Workshop on Clinical Environmental Law Education in Wuhan, China, in June 2018.

HILLARY HOFFMANN **PRESENTATION:** “FLPMA Mineral Withdrawals Under the Trump Administration,” at the 64th Annual Rocky Mountain Mineral Law Institute, Natural Resources Law Teachers’ Workshop, Victoria, B.C., July 22, 2018. **PUBLICATIONS:** “Congressional Plenary Power and Indigenous Environmental Stewardship: The Limits of Environmental Federalism,” in *Oregon Law Review* (forthcoming 2019). • “Speaking Regional Truth to Washington Power over Federal Public Lands,” in *Vermont Journal of Environmental Law* (forthcoming 2019). She and co-author Prof. Monte Mills of the Margery Hunter Brown Indian Law Clinic at the Alexander Blewitt III School of Law at the University of Montana have reached agreement with Cambridge University Press to publish a textbook on indigenous cultural resource preservation laws. **NEWS:** Quoted, along with Prof. Mark Squillace of the University of Colorado Law School, about the litigation challenging President Trump’s reduction of the Grand Staircase-Escalante National Monument and the Bears Ears National Monument, in “Trump’s Monument Cuts May Rest on Shaky Legal Ground,” *Law360* (Jan. 16, 2018). • Quoted on Justice Kennedy’s retirement, potential replacements, and the corresponding impacts on environmental protection efforts in “These Would be the Worst Supreme Court Nominees for the Environment,” *Earthier* (June 29, 2018) and “Losing Justice Kennedy Puts Fundamental Environmental Protection Efforts in Peril,” *Grist* (June 28, 2018).

MARK JAMES LLM’16 **PRESENTATION:** “Clean Energy Policies: International, Federal, State, and Local Conflicts, Opportunities, and Constraints” in the Section on Natural

Resources & Energy Law, Co-Sponsored by Environmental Law and State & Local Government Law, AALS, January 3, 2018.

KEVIN JONES **PRESENTATIONS:** “Promoting Meaningful Community Solar as a Bridge to Climate Justice” at “The Just Transition towards a Low-Carbon Economy – Integrating Climate, Energy and Environmental Justice” conference sponsored by the Low Carbon Energy for Development Network in Edinburgh, Scotland, March 1–2, 2018. • “Examining FERC’s Role in RTO Governance,” at Powershift: Regulating the Evolving Electricity Sector, sponsored by Harvard’s Environmental Law Program, Duke’s Nicholas Institute, and UNC’s Center for Climate, Energy, Environment and Economics at Duke University, Washington, DC, February 11, 2018. • Panelist, American Resilience Project, “A Strategic Narrative for Modernizing the Grid,” New York, NY, May 31, 2018.

REED LODER **PUBLICATION:** “Mining Asteroids: Ecological Jurisprudence Beyond Earth,” forthcoming in *Virginia Environmental Law Journal*, Volume 3, Issue 36, Fall 2018.

JANET MILNE **PRESENTATIONS:** “Carbon Taxes: The Basics,” at a meeting organized by the energy committees of the towns of Hartford, Hartland, Norwich, and Thetford, Vermont, February 12, 2018. **NEWS:** Appointed as general editor for *The International Library of Law and the Environment*, a series published by Edward Elgar. She will be responsible for recommending topics and editors that might be suitable for new titles in the series and for vetting draft publications. • Received the Richard Brooks Distinguished Scholar Award from VLS in May 2018.

PATRICK PARENTEAU **PRESENTATIONS:** “Climate Change Litigation Heating Up,” University College Cork, Ireland, April 25, 2018. • *Lewis & Clark Law Review* Symposium on “Environmental Protection in the Trump Era,” April 9, 2018. • Panelist at the Tulane Environmental Summit on “Defending the ESA in the Era of Trump” and “Enforcing the Rule of Law in an Age of Deregulation,” March 9–10, 2018. • “The Great Debate: Is Global Warming a Public Nuisance?” at Antonin Scalia School of Law at George Mason University, May 22, 2018. **PUBLICATIONS:** “The Clean Water Rule: Not Dead Yet,” 48 *Environmental Law* 377 (Summer 2018). • “Local, county and state governments are suing oil companies over climate change,” *The Conversation*, July 5, 2018. • “Green Justice Revisited: Dick Brooks on the Laws of Nature and the Nature of Law,” (forthcoming) *Vermont Journal of Environmental Law*, Fall 2018. • Co-author, Brief Amici Curiae of Environmental Law Professors in *Weyerhaeuser v USFWS*.



The endangered dusky gopher frog

US S. Ct. 2018. This case involves the critical habitat of the dusky gopher frog.

MELISSA SCANLAN **PRESENTATIONS:** “Public Rights in Water as a Paradigm of Protection,” University of Florida, Levin College of Law, Guest Professor, Environmental Capstone Colloquium, Gainesville, FL, February 1, 2018. • “Law and Policy for the New Economy,” at the Tilburg Law and Economics Center faculty speaker series, Tilburg Law School, the Netherlands, May 8, 2018. **PUBLICATIONS:** “The Role of the Courts in Guarding Against Privatization of Important Public Environmental Resources,” 7:2 *Michigan Journal of Environmental & Administrative Law* 237 (2018). • Opinion article, “Facebook is a Tyranny and our Government Isn’t Built to Stop It,” *The Guardian US*, April 18, 2018 (#1 op-ed on the day of publication). **NEWS:** Served as a judge for the Secretary of the U.S. Navy’s environmental sustainability awards. In February, she reviewed and ranked U.S. military bases’ efforts and progress to reduce their use of hazardous materials, recycle and reuse materials, conserve energy, generate power with renewables, and conserve water, among other sustainability measures. • Will spend Spring 2019 as a Senior Fulbright Scholar at the University of Alicante School of Law, Alicante, Spain.

JESSICA SCOTT **NEWS:** Quoted in “The EPA Plans to Weaken Fuel Emissions Standards. California Plans on Fighting Back,” in the *Pacific Standard*, April 3, 2018, discussing the legal implications of the EPA’s action on fuel efficiency standards.

KINVIN WROTH **PRESENTATIONS:** “Renegotiating NAFTA: Threat or Opportunity for Sustainability,” jointly with Hoi Kong, Associate Professor of Law, McGill Faculty of Law, VLS Hot Topics in Environmental Law series, June 5, 2018. • “Dick Brooks and Act 250,” *Festschrift Honoring Professor Richard Brooks*, VLS, June 22, 2018. 🌿

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ENVIRONMENTAL LAW BULLETIN

FALL
2018

SAVE THE DATE 2018-2019 EVENTS



OCTOBER 19, 2018

VERMONT JOURNAL OF ENVIRONMENTAL LAW SYMPOSIUM



VERMONT JOURNAL
of ENVIRONMENTAL LAW

“The Rights of Nature” is the topic of the annual [Vermont Journal of Environmental Law](#) Symposium.

NOVEMBER 14, 2018

NEW ECONOMY LAW CENTER LECTURE

“The Making of a Democratic Economy” is the [New Economy Law Center](#) Lecture, by Marjorie Kelly, Senior Fellow and Executive Vice President at the Democracy Collaborative.

APRIL 4, 2019

NORMAN WILLIAMS DISTINGUISHED LECTURE IN LAND USE PLANNING AND THE LAW

John Nolon, Professor of Law at Pace University, delivers the 15th annual [Norman Williams Distinguished Lecture in Land Use Planning and the Law](#). 🍁



John Nolon

SEPTEMBER 21-23, 2018

COLLOQUIUM ON ENVIRONMENTAL SCHOLARSHIP



The ninth annual [Colloquium on Environmental Scholarship](#) offers the opportunity for environmental law scholars to present their works-in-progress and recent scholarship.

SEPTEMBER 26-28, 2018

GLOBAL CONFERENCE ON ENVIRONMENTAL TAXATION

The 19th Global Conference on Environmental Taxation, in which VLS's Environmental Tax Policy Institute is an active participant, is held in Madrid, Spain.