

THE NEW LEAF

ENVIRONMENTAL LAW
AT VERMONT LAW SCHOOL

SPRING 2019

Hothouse Earth Podcast: Accessible Environmental Law

Vermont Law School's new podcast Hothouse Earth debuted in March. Each episode of the podcast is drawn from the

Top 10 Environmental Watch List put together by VLS's *Vermont Journal of Environmental Law* in December 2018. Hosts **Mason Overstreet LLM'19**, staff attorney at the Environmental and Natural Resources Law Clinic, and **Jeannie Oliver LLM'14**, staff attorney at the Energy Clinic, speak with our faculty and other experts on fast-changing environmental law and policy developments like regulatory rollbacks and subsequent lawsuits.

Our guests provide concise, accessible conversation on the most pressing issues of our time. The first episode focuses on the Farm Bill with Professors **Laurie Beyranevand '03** and **Sophia Kruszewski '13**. Episode 2 looks at Trump's America First Energy Policy with Professor **Hillary Hoffmann** and other guests. Future episodes will include "Novel Approaches to Battling Climate Change" and "Natural Disasters: Developing Resiliency and Addressing Climate Refugees." Subscribe at hothouseearthpodcast.com.

▼ Podcast hosts Mason Overstreet and Jeannie Oliver interview Laurie Beyranevand



vermontlaw.edu/elc



NEW ENVIRONMENTAL JUSTICE CLINIC will Focus on Civil Rights and the Environment

▲ Environmental Justice Law Society students with Mustafa Santiago Ali

VLS students have a strong commitment to environmental justice. They started the first Environmental Justice Law Society at any law school in the country, and co-sponsored the Environmental Justice Symposium at Duke Law School in March. At the symposium, they met **Mustafa Santiago Ali** of the Hip Hop Caucus, who received an honorary degree from VLS last year.

Starting in the fall of 2019, VLS students will have the opportunity to participate in a new Environmental Justice Clinic focused on interdisciplinary practice at the intersection of civil rights and the environment. Student clinicians will work in partnership with communities of color and low-income communities on projects to address racial disparities and improve environmental quality in environmentally overburdened communities. Students will work in small teams on projects to address inequality and race discrimination in the distribution of health hazards as well as procedural inequities experienced by communities as they try to assert their own vision for the future of their neighborhoods, towns, and cities.

"At VLS, we teach our students that environmental law must serve all communities," said **Jennifer Rushlow**, Associate Dean for Environmental Programs. "We strive to arm our students with the full range of tools they might need to assist a community in overcoming an environmental challenge. To this end, we are proud to add a new environmental justice clinic to our experiential offerings. In this clinic, JD and master's students will gain experience working on law and policy issues

at the nexus of environment, race, and poverty, and they will learn to be nimble in calling upon a range of skills to problem-solve."

Marianne Engelman-Lado

will direct the Environmental Justice Clinic. Professor Engelman-Lado is on the faculty of Yale's School of Public Health and School of Forestry and Environmental Studies. She has been Chair of the Environmental Health Practice Group at Earthjustice, focusing on toxics, pesticides, waste, the health impacts of industrial agriculture, civil rights enforcement, and the effects of environmental contamination on vulnerable and overburdened populations. She served for ten years as General Counsel at New York Lawyers for the Public Interest, a non-profit

civil rights law firm, where she directed a legal and advocacy program focused on racial and ethnic disparities in access to health care, environmental justice, and disability rights. She holds a BA from Cornell University, a JD from the University of California at Berkeley, and an MA from Princeton University.

"We are privileged to welcome Professor Engelman-Lado, an exceptional environmental justice lawyer and advocate, to VLS to teach this clinic," Rushlow said. "Our students are eager to learn from her rich set of experiences in this field."

◀ Marianne Engelman-Lado will lead the clinic

“**AT VLS, WE TEACH OUR STUDENTS THAT ENVIRONMENTAL LAW MUST SERVE ALL COMMUNITIES. WE STRIVE TO ARM OUR STUDENTS WITH THE FULL RANGE OF TOOLS THEY MIGHT NEED TO ASSIST A COMMUNITY IN OVERCOMING AN ENVIRONMENTAL CHALLENGE.**”

— JENNIFER RUSHLOW





ENRLC

▲ The ENRLC team and clients at the Vermont Supreme Court

ENVIRONMENTAL CLINIC DOCKET

Highlights from the current docket of the Environmental and Natural Resources Law Clinic:

Victory in Puerto Rico

This spring, the Clinic's client Comité Dialogo Ambiental, Inc. won a years-long battle against a liquefied natural gas terminal and pipeline project off the coast of Puerto Rico, protecting Jobos Bay and Puerto Rico's clean energy future. The Federal Energy Regulatory Commission (FERC) approved a request from the gas company to vacate the authorization order issued on July 24, 2015 citing "changed circumstances." The Clinic's involvement began in 2016 when they filed a petition in the D.C. Circuit Court of Appeals against FERC for authorizing the project without any consultation or assessment of the impacts on the numerous sensitive coral and marine species in the area, as required by the Endangered Species Act and the National Environmental Policy Act.



causes undue impacts from silica dust emissions and increased truck traffic noise.

Newark Gas Plants

The Clinic and Earthjustice continue to challenge Clean Air Act operating permits issued to natural gas plants and waste incinerators on behalf of the Ironbound Community Corporation, a non-profit organization committed to protecting the health and welfare of the "Ironbound" community in the East Ward of Newark, New Jersey. Nearly a fifth of Newark's population lives in the four square miles of the Ironbound neighborhood, making it one of the most densely populated areas of the city. It is also one of the most diverse, with two-thirds of the population born outside the United States. Over a quarter of the population is below the poverty level. A team of student clinicians will visit the affected area and meet the clients this spring.



Farmworker Protection from Pesticides

The Clinic and Earthjustice are preparing to challenge anticipated rollbacks of crucial protections for more than two million farmworkers and pesticide applicators provided by the federal Agricultural Worker Protection Standard and the Certification of Pesticide Applicators rule. The purpose of these rules is to prevent unreasonable

adverse effects of pesticides among pesticide applicators, agricultural workers, pesticide handlers, the general public, and vulnerable groups, such as minority and low-income populations.

Lead Contamination from Gun Club

For more than 50 years, the North Country Sportman's Club (NCSC) shooting range has shot lead into nearby woods, wetlands, tributaries, and neighboring properties, and continues to do so. This large quantity of lead is sitting within areas specifically set aside for protection of groundwater and drinking water sources for the Town of Williston, Vermont. The Clinic's clients have lived on a neighboring farm for five generations and have used the property to raise livestock, hunt deer and turkey, grow fruits and vegetables, and raise their children. Concerns about lead contamination have forced them to abandon the majority of these activities. As a result of the Clinic's advocacy efforts, the Vermont Agency of Natural Resources took enforcement action and entered into an Assurance of Discontinuance with the gun club. Put simply, the agreement between the State and club was inadequate. So, in December 2018, on behalf of its clients, the Clinic intervened in the matter in Vermont's Environmental Court. Throughout the fall and spring, student clinicians have been hard at work meeting with clients, preparing affidavits, drafting motions, and preparing for motion practice.

Nuclear Power Plant License Battle

In December, the Clinic traveled to Homestead, Florida for a hearing before the Nuclear Regulatory Commission's Atomic Safety Licensing Board. The Clinic is representing Friends of the Earth to challenge Florida Power & Light's application for a 20-year extension of its already-extended license to operate. The issues involved implicate NEPA, climate change, groundwater resources, and more.

Coal Shipping

The Clinic filed an amicus brief in the Ninth Circuit Court of Appeals. In *Oakland Bulk & Oversized Terminals, LLC v. City of Oakland*, the City of Oakland is appealing the district court's decision in favor of a coal shipping terminal developer. The City entered into a "development agreement" for a bulk terminal only to find out later, and contrary to the company's representations, that the primary products for shipment were coke and coal. The lower court held the City breached the development agreement. The Clinic's brief, on behalf of several public health advocates, argues that the court's interpretation of the development agreement and the standards it applied are incompatible with the City's duty to protect public health and safety. ♻️

Oral Argument in Vermont Supreme Court

The Clinic represents multiple residents of Graniteville, Vermont who are opposed to the location of an asphalt plant and rock crushers in their residential neighborhood. On April 16, Staff Attorney **Rachel Stevens** argued before the Vermont Supreme Court with support from Student Clinician **Dayna Smith**. The issue on appeal is whether the Environmental Court erred in finding that the rock crushing operation

PUBLICATION INFORMATION

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

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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.

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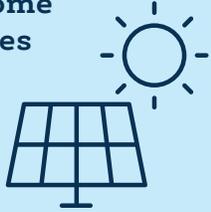
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ENERGY AND THE ENVIRONMENT

Bringing the Benefits of Solar Power to Low Income Communities



VLS's Energy Clinic recently finished a project to bring solar power to Mascoma Meadows, a 50-unit resident owned community (ROC) of manufactured housing in Lebanon, NH. This project is unique because it helps the community members make real reductions in their carbon footprints. It will lead to an opportunity for this cooperative housing organization to own their own solar array in the future, and provides immediate energy cost relief to the residents through monthly reductions in their lots rents.

"This project is an important national model illustrating how, when you work hard at it, you can really bring the benefits of solar to low income communities," said Professor **Kevin Jones**, Director of VLS's Institute for Energy and the Environment.

The Energy Clinic's project partners, the NH Community Loan Fund, Revision Energy, ROC-NH, and the NH Sustainable Energy Association, emphasized that this project would never have happened without the incredible hard work, creativity, and perseverance of VLS's student clinicians. The students were led by **Christa Shute LLM'19**. This project was supported by a Climate Justice Fellowship from the Janes Trust foundation. 🌱

▼ Ribbon cutting ceremony at Mascoma Meadows



PROTECTING THE ELECTRIC GRID from Cyberattack

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VLS's Institute for Energy and the Environment (IEE) released a report in April on "Improving the Cybersecurity of the Electric Distribution Grid." The report addresses the growing threat of a cyberattack on our nation's electricity distribution grid. The report was commissioned by Protect Our Power, a non-profit organization focused on grid security. The report identifies barriers to addressing the growing risk and presents best practices to assist state electric utility commissions and their regulated utilities to increase investment in enhanced security.

The nation's electric distribution network needs increased investment to address the growing threat of a cyberattack. Aging legacy equipment combined with the rise of a "connected" grid are creating an enticing target for attack. Investment in new technology and training is needed to reduce system vulnerabilities and increase system resilience. State electric utility commissions play a vital role in assessing the need for and the cost recovery of investments in cybersecurity. This report focuses on the pathways for increasing investment across the distribution grid.

ELECTRICITY POWERS EVERYTHING THAT WE DO. EVERY DAY THE CYBER THREATS TO OUR ELECTRIC DISTRIBUTION SYSTEM GROW. A SUSTAINED, WIDE-SPREAD ATTACK ON OUR ELECTRIC GRID WOULD BE ECONOMICALLY DEVASTATING AND POSE SERIOUS HEALTH HAZARDS."

— MARK JAMES

Professor **Mark James** led the team of student research associates who worked on the report. "Electricity powers everything that we do," James said. "Every day the cyber threats to our electric distribution system grow. A sustained, wide-spread attack on our electric grid would be economically devastating and pose serious health hazards."

"Our research identifies pathways for utilities and utilities commissions to reduce barriers to investment and increase system resilience," James said. "Our report is built on interviews with utility executives, system analysts, former commissioners, and public utility commission staff to assess where vulnerabilities exist and how those vulnerabilities could be addressed. We reviewed dozens of utility commission filings and critical government reports to identify best practices. Action is needed to reduce the risk of a cyberattack on the nation's distribution grid and this report provides concrete steps towards a more resilient grid." 🌱



Using Electrification to REDUCE GREENHOUSE GAS EMISSIONS

In partnership with the Regulatory Assistance Project, the Institute for Energy and the Environment at VLS presented a conference in February on "Electrification: Why it Makes Sense and Can Be in the Public Interest." The conference examined how beneficial electrification can be used to reduce greenhouse gas emissions from buildings and transportation. Panelists from across Vermont and New England discussed emerging technologies, government incentives, and implementation challenges.

Speakers included David Farnsworth and Richard Cowart of the Regulatory Assistance Project, Karen Glitman of the Center for Sustainable Energy, Mackay Miller of National Grid, and VLS's Professor **Kevin Jones**. Panelists discussed electrification trends across the U.S., how those trends will affect Vermont and New England, and what needs to happen to take advantage of these opportunities. 🌱



FOOD AND AGRICULTURE

STUDENT IN THE SPOTLIGHT

Alyssa Hartman MFALP'19

Alyssa Hartman '19 came to VLS to pursue a Master of Food and Agriculture Law and Policy degree to complement her past work experience on farms, in campaign organizing, and in food procurement. She received her BS degree in Natural Resources and Environmental Management from Ball State University in Indiana. Before coming to VLS, she worked as a Canvass Director for Green Corps and as the National Business Development and Projects Manager for Revolution Foods, a meal vendor working to ensure all youth have access to nutritious meals each day. She received a \$20,000 grant (one of only ten awarded nationally) from the James Beard Foundation National Scholars Program to study topics related to sustainable agriculture.

At VLS, Alyssa has worked as both a research assistant and student clinician in the Food and Agriculture Clinic. She is the co-host of "The New Dairy Show" on Royalton Community Radio, a live weekly talk radio program focused on issues facing dairy farms in Vermont and nationally. She also volunteered for at Rural Vermont, where she assisted in qualitative data collection from hemp farmers to understand the perspectives of small and mid-sized diversified farms in preparation for a state rulemaking on hemp. After VLS, she plans to work building more resilient rural communities and economies through strengthening regional food systems

"Alyssa has excelled in her work on a project in the Food and Agriculture Clinic researching and analyzing state laws in the New England region that incentivize institutions to purchase more local food," said Professor **Sophia Kruszewski**, the clinic's director. "I've been super impressed with her work ethic, professionalism, and quality of work."

"Alyssa has enthusiastically pursued every opportunity to learn about food and agriculture law and policy, not only through coursework and research at the Center for Agriculture and Food Systems, but also through connections she's built within our local farming community in Vermont," said Professor **Emily Spiegel**. "In her time at VLS, she has demonstrated a commitment to using law and policy to build inclusive, thriving rural communities." 🌱

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IN HER TIME AT VLS, ALYSSA HAS DEMONSTRATED A COMMITMENT TO USING LAW AND POLICY TO BUILD INCLUSIVE, THRIVING RURAL COMMUNITIES."

— PROFESSOR EMILY SPIEGEL

New Projects at Food and Agriculture Clinic

Led by Clinic Director **Sophia Kruszewski**, the Food and Agriculture Clinic kicked off several exciting new projects in 2019. Working with state, regional, and national project partners, student clinicians are tackling research topics across the food and agriculture system from seeds to meals. The Extension Legal Services Initiative, a partnership between CAFS and the University of Vermont

Extension, is exploring legal questions associated with compliance with new federal food safety regulations under the Food Safety Modernization Act. The results of this research will ultimately inform the development of educational materials for produce growers and food safety instructors. In collaboration with Farm to Institution New England, student clinicians are developing policy snapshots that analyze and evaluate laws and policies that incentivize local food purchasing by institutions across the New England states. Professor **Emily Spiegel** is leading an intellectual property-focused project with nonprofit and academic partners to support the preservation of seed varieties for public plant breeding. We are excited to share more about the activities and results of these projects in the coming months. 🌱



▲ Food and Agriculture student clinicians

Advocating for Healthy Food Access

The new Farm Bill passed in December (the Agriculture Improvement Act of 2018) contains a provision supporting access to local fruits and vegetables for low-income consumers. The new provision enables farmers markets to accept SNAP (Supplemental Nutrition Assistance Program) benefits at multiple market locations using one SNAP authorization and one point-of-sale device. This change will reduce the cost and regulatory burden of offering SNAP redemption for farmers markets that serve more than one physical location.

VLS's Center for Agriculture and Food Systems (CAFS) advocated for the new provision alongside the Farmers Market Coalition and the Northeast Organic Farming Association of Vermont, which were also our partner organizations in creating the Farmers Market Legal Toolkit. CAFS also provided input on drafting the provision to Vermont's members of Congress, Senators Leahy and Sanders and Representative Welch. CAFS is proud to help support local economies and healthy food access for all people. 🌱



Farm Labor and Housing Legal Guide

The Food and Agriculture Clinic recently finalized a project designed to provide educational resources for farmworkers regarding applicable housing and employment law. Part of the project, funded by the National Agricultural Library, provides this information via a report assessing federal employment and housing laws relevant to farmworkers, and uses Vermont as an example to highlight state laws that can extend those protections. Leveraging funds from the Vermont Community Foundation, CAFS partnered with Migrant Justice to develop an accompanying Housing and Employment Rights Handbook tailored to workers on Vermont dairies. The Handbook is available in English and Spanish. 🌱



State Farm to School Policy Handbook

VLS's Center for Agriculture and Food Systems partnered with the National Farm to School Network to produce the *State Farm to School Policy Handbook* in April 2019. The Handbook is a tool for those working to advance the farm to school movement, whose core elements are local food procurement, nutrition and agriculture education, and school gardens. It summarizes and analyzes bills and resolutions introduced between January 1, 2002, and December 31, 2018, from the 50 states, the District of Columbia, and the US territories. Users can search bills by jurisdiction or topic. The Handbook provides analysis of and infographics detailing state farm to school legislative trends; summaries of proposed bills since 2002, whether enacted, defeated, or pending; case studies on successful farm to school advocacy efforts in Hawai'i, Michigan, New Mexico, the U.S. Virgin Islands, and Vermont; and additional resources for advocates and policymakers to support state farm to school policies. The Handbook builds on a survey that was originally released in 2011, and updated in 2013, 2014, and 2017, and was previously called the State Farm to School Legislative Survey. Students in VLS's fall 2018 Food and Agriculture Clinic conducted the legal research used to produce the Handbook. 🌱



China's ENVIRONMENTAL MISSION SCHOLARS in action

Environmental Mission Scholars at the U.S.-Asia Partnerships for Environmental Law (PEL) work with partner institutions to provide legal assistance to Chinese environmental NGOs in filing public interest litigation cases addressing environmental problems, while honing their environmental legal advocacy skills. In February, the scholars based at Duke Kunshan University prepared a policy forum to engage conservation experts and policy makers in discussion on China's current laws and policies related to protected areas. The scholars at the Environmental Law Clinic at Wuhan University developed case strategies and investigation plans supporting two NGO actions: to seek compliance and remediation of a solid waste landfill, and to hold local banks accountable for environmental harms resulting from their investments. The scholars at Friends of Nature and Fujian Green Home, both NGOs, developed cases related to ocean protection.

"The Environmental Mission Scholars program is a really great opportunity to be involved in practical environmental cases and learn from experienced environmental lawyers, scholars, and environmental protection organizations," said



▲ Environmental Mission Scholars in China

U.S.-ASIA PARTNERSHIPS FOR ENVIRONMENTAL LAW

Xinxin Wang LLM'20, one of the scholars at Wuhan University.

In March, the scholars began an online course, "Comparative Environmental Public Interest Litigation," taught by VLS Professor **Jack Tuholske**. One of five courses PEL offers to the Chinese Environmental Mission Scholars, this course aims to develop a deeper understanding of the role of the legal system in addressing pollution problems in both China and the U.S. This course covers topics such as environmental legal approaches to addressing pollution, the role of NGOs and lawyers in environmental public interest litigation, case selection decisions, and the role of science in litigation. ♻️



▲ Xinxin Wang LLM'20

Myanmar Environmental Lawyers' Network Meeting

VLS's U.S.-Asia Partnerships for Environmental Law (PEL) works collaboratively with government institutions, non-government organizations, lawyers, judges, lawmakers, and others to promote good environmental governance in Asia. In March, PEL Assistant Director **William Schulte** attended the Myanmar Environmental Lawyers' Network Meeting in Pyin Oo Lwin, Myanmar. The network and meeting was organized by Earth Rights International. Lawyers representing nearly all states and regions in Myanmar were in attendance. At the meeting, Schulte shared information and insights from PEL's work with Myanmar's Environmental Conservation Department, and also gave presentations on core principles of environmental governance and Myanmar's environmental legal framework. In closing, the participants engaged in a discussion on perceived shortcomings and potential improvements that could be made to the environmental legal framework in Myanmar. ♻️

▼ Myanmar Environmental Lawyers' Network Meeting



▲ VLS students tour Southeast Asia
Will Northrop '20 in Cambodia ▶



ENVIRONMENTAL GOVERNANCE in Southeast Asia

by **William Northrop JD/MELP'20**

During my first year at law school, I opted to become a joint degree student, focusing not only on my JD, but also on a Master of Environmental Law and Policy (MELP) degree that would let me take advantage of VLS's unique summer programming. When signing up for summer classes, one class in particular, "Environmental Governance in the Developing World," caught my eye. Not only did this class provide me an opportunity to learn about a part of the world I had never considered studying before, but it also offered an optional field study trip to Southeast Asia.

"Environmental Governance in the Developing World" was a real eye opener. Throughout the 8-week course, we discussed various issues facing both Southeast Asia and China, including the Belt and Road Initiative, Environmental Impact Assessments in Southeast Asia, regional cooperation within the Mekong River region, and environmental governance within China. This class is a valuable experience, testing the skills you develop throughout your first year in law school. Writing my final paper helped me develop my

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WE LEARNED THAT ONE OF THE BIGGEST CHALLENGES LOCAL COMMUNITIES FACE IS OBTAINING COMMUNITY-BASED LAND TITLE FOR THEIR LANDS.”

— WILLIAM NORTHROP

research abilities, test my outlining capabilities, and become comfortable with footnotes and Bluebook citations. In addition, writing this paper inspired my note topic for the Vermont Journal of Environmental Law.

When it comes to the optional two-week field study trip in Southeast Asia, I cannot stress enough how valuable the opportunity is. This year, the trip began in Phnom Penh, Cambodia, and ended in Yangon, Myanmar. While in Cambodia, we first met with the Vishnu Law Group and attended presentations on their work on behalf of indigenous communities in the Mondulkiri and Ratanakiri

(continued on page 11)



STUDENT IN THE SPOTLIGHT

Emma Akrawi JD'19

Emma Akrawi JD'19 plans to pursue a career in land use and environmental law. She received her Master of Environmental Management from Yale's School of Forestry and Environmental Studies, and her BA in Political Science, with a concentration in Environmental Politics, from Yale College. Prior to her studies at VLS, she held numerous positions across New England working in environmental education and agriculture, including as a Deckhand/Educator at SoundWaters and a Green Skills Intern at the Urban Resources Initiative.

At VLS, Emma is an Environmental Mission Scholar and a research assistant to Professor Janet Milne at the Environmental Tax Policy Institute, where she drafts research memos on a variety of taxation and land use topics, reviews citations, and critiques book chapters and articles for publication. "It has been a great privilege to work with Emma," Professor Milne said. "Her research and insights are invaluable, and she causes me to think harder and dig deeper. One of the joys of being a faculty member at VLS is being able to work closely with students and to explore challenging issues together."

EMMA'S RESEARCH AND INSIGHTS ARE INVALUABLE, AND SHE CAUSES ME TO THINK HARDER AND DIG DEEPER."

— PROFESSOR JANET MILNE

Emma presented about carbon pricing and agriculture at the 19th Global Conference on Environmental Taxation in September and received the Young Scholar Award there for her paper. She was also a legal extern at Handy Law, LLC, in Providence, RI, a boutique law firm focused in energy, environmental, and land use law. She won Second Place in the 35th annual Smith-Babcock-Williams Student Writing Competition, sponsored by the American Planning Association, which recognizes outstanding student writing in the fields of urban planning, land use, and environmental law. Emma's winning paper, "Conservation Easements & Adaptation: Considering a Climate Lens," was written for Professor Milne's course "Climate Change: The Power of Taxes."

"My chief interest lies where land use intersects with climate change—through avenues such as renewable energy siting, agricultural practices, and transportation," Emma said. In the fall, she will work at the Maine Supreme Judicial Court in Bangor, as a Judicial Law Clerk to the Honorable Associate Justice Andrew M. Mead.

Summer 2019 DISTINGUISHED ENVIRONMENTAL SCHOLARS

Every summer, Vermont Law School brings a series of distinguished scholars to campus. They spend a couple of weeks meeting with students and faculty, working on their scholarship, and delivering a public lecture as part of our Hot Topics in Environmental Law summer lecture series.

AMY COHEN, the John C. Elam/Vorys Sater Professor of Law at Ohio State University Moritz College of Law, is our Sustainable Agriculture and Food Systems Scholar. She brings a range of qualitative and historical research methods to bear on two areas of legal scholarship—alternative dispute resolution (ADR) and law and economic development, including the law and political economy of agriculture and food.

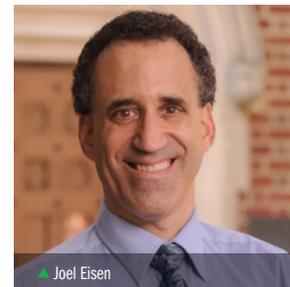
JOEL EISEN, a Professor of Law and the Austin Owen Research Fellow at the University of Richmond School of Law, is the Energy Law Scholar. He teaches and writes in the areas of energy law and policy, environmental law and policy, and federal administrative law. He is a co-author of a law and business school text on energy law, *Energy, Economics and the Environment*, and numerous books, book chapters, treatises, and law review articles on electric utility regulation and clean and renewable energy topics.

CARMEN GONZALEZ, a Professor of Law at Seattle University School of Law, is our International Environmental Law Scholar. She teaches torts, environmental law fundamentals, international environmental law, and international trade law. She has published widely in the areas of international environmental law, environmental justice, human rights and the environment, and food security. She was a Fulbright Scholar in Argentina.

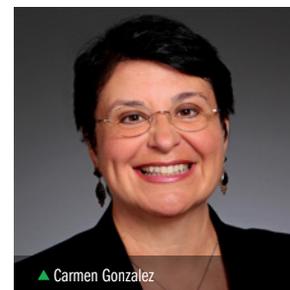
RICHARD LAZARUS, the Howard and Katherine Aibel Professor of Law at Harvard Law School, is the Environmental Law Scholar. He teaches environmental law, natural resources Law, Supreme Court advocacy, and torts. He has represented the U.S., state and local governments, and environmental groups in the U.S. Supreme Court in 40 cases.



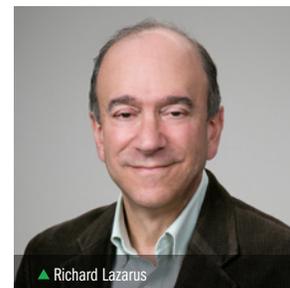
▲ Amy Cohen



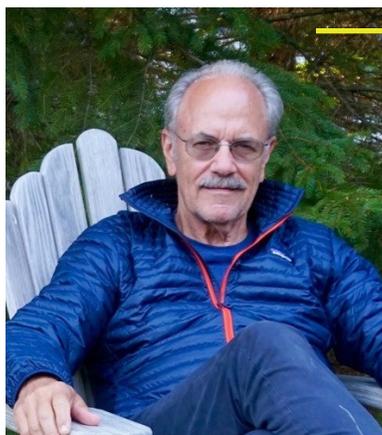
▲ Joel Eisen



▲ Carmen Gonzalez



▲ Richard Lazarus



▲ John Nolon of Pace Law School

From the Ground Up: LOCAL WATER LEGISLATION THAT WORKS

Water is one of the world's most valuable resources, but where the responsibility lies for its care is decidedly murky. Professor **John R. Nolon**, founder of Pace University Law School's Land Use Law Center, discussed the struggle that governments face in regulating water at VLS's 15th Annual Norman Williams Lecture on April 4, 2019.

"Federal jurisdiction over water is incomplete; the promise of the states' police power is unfulfilled, and local governments lack the capacity to use their extensive land use authority to protect their citizens," said Nolon. "If these systems of law were coordinated, the legal system could be as interconnected as the hydrological cycle."

The lecture explored the local foundations of a comprehensive regime of water law, building from the bottom-up to integrate the legal authority and resources of local, state, and federal governments. Nolon's expertise in water law and land use offered a framework in how to untangle a century of uncoordinated laws.



▲ Eden the Dog atop Burnt Rock Mountain



▲ Kent's Ledge in Autumn



▲ Claire Andrews at the Hunger Mountain Summit

HIKING IN VERMONT Brings Surprises and Delights

by Claire Andrews, Program Coordinator, U.S.-Asia Partnerships for Environmental Law

HIKING IN VERMONT IS THE GIFT THAT KEEPS ON GIVING, NO MATTER THE SEASON. WHETHER THE BRANCHES ARE FROSTED WITH SNOW LIKE DIAMONDS, OR BURGEONING WITH THE KALEIDOSCOPE OF FALL COLORS, EACH TRAIL IS A UNIQUE AND PLEASANT SURPRISE THAT OFFERS A DIFFERENT ADVENTURE FROM SEASON TO SEASON.

Some are more leisurely, beautiful in their simplicity, while others are a test of both body and mind, requiring all your limbs and focus. On my quest to conquer all of Vermont's peaks, I have discovered many incomparable trails.

In the heart of the Mad River Valley, nestled among rivers, grasslands, and hills, is a mountain of particular joy to climb: Burnt Rock Mountain. A steady ascent across streams and mountain gullies, and somewhat terrifying climbs up ladders and staircases of stone, lead to breathtaking bald rock faces to boulder, revealing a view of the entire Mad River Valley, Sugarbush Ski Resort, and even Camel's Hump. Not for the faint of heart, but for the soul of an adventurer, **Burnt Rock Mountain** is recommended for the climber looking to break away from the typical dirt trails. Stopping at Prohibition Pig Brewery or Waitsfield's Mad Taco afterwards for celebratory burritos is always recommended, and your stomach will thank you.

For the hikers looking for more leisurely climbs around Vermont, I will forever recommend these two hikes: **Stowe Pinnacle** and the trail closest to Vermont Law School: **Kent's Ledge**. Both can easily take less than an hour, offer easier hiking alternative trails, and provide excellent ledges to sit, snack, and enjoy the view.

For those of you who enjoy a more difficult ascent, I suggest conquering Vermont's five

4,000-foot peaks. Each is unique and challenging in its own right, and all leave the climber with the insatiable desire to move on to the next peak. The feeling of elation and victory that comes with reaching the summit is indescribable. Every hiker that comes to Vermont needs to experience the state's quintessential peak, **Camel's Hump**. Much of Camel's Hump's summit is protected due to endangered and fragile fauna. A steady climb with a variety of trail options, you can't go wrong on Camel's Hump, and perhaps you can even find the elusive World War II Bomber Plane hidden atop its mountainside.

Speaking of plane crashes, Vermont's **Mount Abe** boasts a crash site just off the trail. After passing over Vermont's famous Long Trail and climbing hand over heel up a rock face, you reach the summit, featuring views of both Vermont and New York, and the wreckage of a plane crash from the 1970s. (Worry not, there were no casualties for either crash site!) Afterwards, Warren Falls is just around the corner of the trailhead waiting to provide a refreshing post-hike dip.

No matter the goal, whether it be a daunting adventure or leisurely stroll, each of Vermont's mountains has its own appeal. The Beast of the East, **Killington Mountain** up the Bucklin trail is

the ultimate test of endurance, while **Mount Pisgah** provides a more laid-back climb towards an incredible view of Vermont's Northeast Kingdom. If you're a winter adventurer, daunted by the idea of chugging along through the snow, pick up some snowshoes from VLS's gym and head up **Hunger Mountain's** Middlesex trail, which offers a more gradual climb but the same fantastic summit.

My favorite hike, one of Vermont's lesser-known delights, is **Worcester Mountain**. Often overlooked by fans of Mount Mansfield and Camel's Hump, Worcester offers everything—bouldering, stone staircases to kick your glutes into shape, running water alongside the trail and, best of all, a miraculously uncrowded trail. No

matter the trail you chose, no matter how many times you climb it, Vermont will always find ways to surprise and delight you.

So pack up your snacks and a water bottle or two—you're going to need them! 🍌





VLS Students at the National Environmental MOOT COURT COMPETITION

▲ Rachael Swiatek, Luckie Milad, Mahmoudy Kemal

The VLS team made it to the quarterfinals of the 2019 National Environmental Moot Court competition in White Plains, NY, in February. Students **Luckie Milad '19**, **Rachael Swiatek '19**, and **Mahmoudy Kemal '19** gave an outstanding performance, praised by the three judges. Professor **Ken Rumelt**, who coached the team, reported on the arguments: "During the first argument, the team represented the dastardly Hexon Global Corporation, which is responsible for 32% of U.S. greenhouse gas emissions and 6% of global greenhouse gas emissions. During the second argument, the team represented the slightly less dastardly U.S. government, which let Hexon Global get away with this nonsense for years and is retreating from earlier commitments to curb greenhouse gas emissions. The team faced hard-hitting (and some off-the-wall) questions from two panels and tough competition from the other teams." Luckie Milad was selected as best oralist in the first argument and Rachael Swiatek was named best oralist for the second argument. 🌱



▲ LALSA students at the event
◀ Diana Corriveau

Panel on Environmental Justice Issues IMPACTING THE LATINX COMMUNITY

VLS's Latin American and Caribbean Law Student Association (LALSA) hosted a panel discussion on "The Environmental Justice Caravan," on February 19. The panel examined a wide range of environmental topics that impact the Latinx community, and featured the work of Latinx leaders engaging in grassroots and legal work at the intersections of race and environmental justice. "Latinx communities are vulnerable to environmental harm and have always been at the forefront of the environmental justice movement," said **Mariana Muñoz**, President of LALSA. Speakers included **Robert Hernandez**, Staff Attorney for the Mental Health Legal Advisors Committee of the Massachusetts Supreme Judicial Court, and **Diana Corriveau** of FEM Colombia. The event was co-sponsored by the Hispanic National Bar Association, and the VLS Office of Student Affairs and Diversity. 🌱



STUDENT IN THE SPOTLIGHT

Christopher Reintjes LLM'19

Lieutenant Commander **Christopher Reintjes LLM'19** is pursuing his LLM in Environmental Law at VLS. Chris serves in the Navy Judge Advocate General's (JAG) Corps, and he plans to use his VLS education to help the Navy in its environmental mission.

"The Navy JAG Corps has invested heavily in building an expert cadre of active-duty Navy environmental attorneys," Chris said. "We have environmental attorneys stationed around the globe working on numerous environmental issues and advising senior Navy commanders on their responsibilities in this highly complex area of the law."

Chris received his BS in Chemical Engineering from the University of Notre Dame, his JD degree from the Dickinson School of Law at Pennsylvania State University, and his MA in Defense and Strategic Studies from the U.S. Naval War College. As a Surface Warfare Officer, he served aboard the guided missile destroyer USS Mitscher, and with the Marine Corps Special Operations Command.

In his years in the Navy JAG Corps, Chris has served as Trial Counsel, Legal Assistance Attorney, Staff Judge Advocate, Defense Counsel, Deputy Special Counsel for the Chief of Naval Operations, and Deputy Executive Assistant to the Judge Advocate General of the Navy.

"The highlight of my time here at VLS was my National Security Law class with Professor **Stephen Dycus**. The class provided a unique perspective that I needed to see the many intersections of environmental law with national security law, and how often these two are really one and the same. The Navy must get environmental law right and be good stewards of the environment in order to accomplish our mission—our Nation deserves no less," said Chris.

"Chris was a real intellectual leader in our class on National Security Law. He also inspired three of his classmates to become JAG Corps officers," Professor Dycus said.

After graduating from VLS, Chris will be working at the US Fleet Forces Command legal office with a team of judge advocates, civilian attorneys, scientists, and environmental planners. Fleet Forces Command is responsible for the training, certification, and provision of combat-ready Navy forces worldwide. "My time here at VLS has helped prepare me for this new turn in my naval career," Chris said. 🌱

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THE NAVY MUST GET ENVIRONMENTAL LAW RIGHT AND BE GOOD STEWARDS OF THE ENVIRONMENT IN ORDER TO ACCOMPLISH OUR MISSION—OUR NATION DESERVES NO LESS"

— CHRISTOPHER REINTJES LLM'19

New Field Study Course in Utah on PROTECTED PUBLIC LANDS AND TRIBAL RIGHTS

Students in Professor **Hillary Hoffmann's** Utah Field Study class travelled to the public lands of Utah over spring break. This new, week-long, experiential course gave students an advanced understanding of federal laws governing public lands. The course covered statutes including the National Park Service Organic Act, the Antiquities Act, the Federal Lands Policy and Management Act, and significant tribal treaty rights and other legally protected tribal interests in federal lands. Students learned relevant legal principles and their application to public lands and tribal rights in field workshops. Classes included hikes in Arches National Park, Canyonlands National Park, and the Bears Ears National Monument, including visits to sites removed from the Monument by President Trump in 2017.

"The Utah Field Study class has been a dream of mine for several years," Professor Hoffmann said. "VLS students have a zest for experiential learning, environmental

protection, and social justice, and I knew this course could incorporate all of those topics. Also, while teaching Natural Resources Law in the classroom over the past several years, I discovered that it was challenging to design a lecture that effectively conveyed the significance of the Bears Ears region to the five tribes that designed the original Monument, especially for students who had never been to this area. My instinct was that the message would be conveyed best by the tribal architects of the Monument, on location in the heart of the Monument itself. Similarly, teaching



▲ Utah Field Study students in Arches National Park

44 **WHILE TEACHING NATURAL RESOURCES LAW IN THE CLASSROOM OVER THE PAST SEVERAL YEARS, I DISCOVERED THAT IT WAS CHALLENGING TO DESIGN A LECTURE THAT EFFECTIVELY CONVEYED THE SIGNIFICANCE OF THE BEARS EARS REGION TO THE FIVE TRIBES THAT DESIGNED THE ORIGINAL MONUMENT, ESPECIALLY FOR STUDENTS WHO HAD NEVER BEEN TO THIS AREA."**

— HILLARY HOFFMANN

students about the adverse impacts of oil and gas leasing in the classroom is not nearly as informative as discussing the same material while standing next to a well pad, listening to the incessant droning of the rig equipment and watching the giant tractor-trailer trucks fill up their tanks. Taking students to an oil well also helps them see exactly what may happen to the former Monument lands if the federal courts decline to reinstate the original boundaries."

"Field studies are truly a holistic approach to learning the law, and help give context—especially

for environmental issues," said **Dillon Post '19**. **Alicia Follrod '19** agreed. "Visiting an oil well, as much of an eyesore as it was, actually ended up being an incredibly eye-opening experience," she said. "I want to do something about it now, anything."

Guest lecturers for the class included an attorney from the Southern Utah Wilderness Alliance, who spoke about the challenges of protecting public lands from oil and gas, livestock grazing, and heavy impact recreational use; the Utah Wild Lands Director for the Grand Canyon Trust; a tribal representative of the Ute Mountain Ute Tribe; and a Navajo representative from Utah Dine Bikeyah, a grassroots tribal environmental organization, which has sued the President over his decision reduce the Bears Ears National Monument. 🌱



Animal Law Symposium: Safeguarding Primate Welfare

The VLS Animal Law Society hosted a symposium on March 18, 2019, on "Safeguarding Primate Welfare and Conservation through Science and the Law." Speakers included **Katherine Meyer**, partner at Meyer Glitzenstein & Eubanks; **Kari Bagnall**, founder and director of Jungle Friends Primate Sanctuary; **Eric Holmes**, Special Agent with the U.S. Fish and Wildlife Service, Office of Law Enforcement; **Cathy Williams, DVM**, the head veterinarian at the Duke Lemur Center; and **Dr. Ian Singleton**, the founder and director of the Sumatran Orangutan Conservation Program. Moderators included **Don Baur**, a partner in the Environment, Energy and Resources practice of Perkins Coie; **Delcianna J. Winders**, PETA's Vice President and Deputy General Counsel for Captive Animal Law Enforcement; and **Dr. Heather Rally** PETA's supervising Veterinarian for Captive Animal Law Enforcement. Baur, Winders, and Rally are members of the summer faculty at VLS. They co-teach Animal Welfare Law. Baur also co-teaches Ocean and Coastal Law at VLS. 🌱



▲ Bill McKibben of 350.org

The Emerging Environmental Law Curriculum

Environmental law is changing. What today's students need to know to be prepared for careers in the field is changing, and VLS is leading the way in updating the environmental law curriculum for the next generation of students. In June 2019, VLS is hosting a conference for environmental law professors around the country on new directions in environmental law curriculum. The conference, called "The Emerging Environmental Law Curriculum," will kick off with an address by environmentalist and author **Bill McKibben**, founder of 350.org.

The conference will include a keynote panel on "Comparing Educational Theories," featuring Professor **Helen Kang** from Golden Gate, Professor **Richard Lazarus** from Harvard, and Professor **Michael Vanderbergh** from Vanderbilt. Additional panels will include "Teaching Climate without Despair," "Old Statutes as Modern Problem-Solvers," "Undivided Environmentalism," and "The Practitioner's Perspective."

Panelists and attendees will get to enjoy the splendor of summer in Vermont, with dinner at a local farm, organic farm tours, and a beer tasting at a local nanobrewery. It's the perfect setting for a discussion about the environmental law curriculum of the future. 🌱



▲ Helen Kang



▲ Richard Lazarus



▲ Michael Vanderbergh

Environmental Faculty Profile: HILLARY HOFFMANN

Professor **Hillary Hoffmann** is passionate about protecting public and tribal lands and natural and cultural resources. Recently, she has been writing, speaking, and teaching about how President Trump's reduction of the Bears Ears National Monument in Utah will affect natural and cultural resources within the former Monument boundaries. In order to give students hands-on experience and understanding of these issues, she led VLS's first Colorado Plateau-based field study course in March, taking 10 students to southern Utah to study various legal mechanisms available to protect public lands and tribal values in those lands.

"Many of our students come to VLS with a passion for natural resource issues. Professor Hoffmann's deep experience with public and tribal lands in particular facilitated the development of our newest field study course. This course allows our students

to take a deep dive into controversial current events in natural resources law and policy. Professor Hoffmann is also a well-loved teacher, and her students enjoyed the opportunity to delve into these issues with her over their spring break," said **Jennifer Rushlow**, Associate Dean for Environmental Programs.

"VLS students are intellectually curious about a vast array of environmental issues and they bring a unique energy to the study of environmental and natural resources law," Professor Hoffmann said. "They engage deeply with the law and the facts, often bringing with them a specific area of environmental or natural resources expertise, which enhances the classroom experience for me and their classmates. Their passion and dedication to the study of environmental law challenges me to bring my teaching A-game to every class, and I enjoy that challenge immensely."

At VLS, she teaches Natural Resources Law, Native American Law, and Administrative Law. Her scholarship addresses the systems governing natural resource use and allocation on public lands and tribal lands, and cultural resource protection on federal, state, and tribal lands. Her forthcoming publications include "Congressional Plenary Power and Indigenous Environmental Stewardship: the Limits of Environmental Federalism," in the *Oregon Law Review*, "Speaking Regional Truth to Washington Power over Federal



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VLS STUDENTS ARE INTELLECTUALLY CURIOUS ABOUT A VAST ARRAY OF ENVIRONMENTAL ISSUES AND THEY BRING A UNIQUE ENERGY TO THE STUDY OF ENVIRONMENTAL AND NATURAL RESOURCES LAW. THEY ENGAGE DEEPLY WITH THE LAW AND THE FACTS, OFTEN BRINGING WITH THEM A SPECIFIC AREA OF ENVIRONMENTAL OR NATURAL RESOURCES EXPERTISE, WHICH ENHANCES THE CLASSROOM EXPERIENCE FOR ME AND THEIR CLASSMATES. THEIR PASSION AND DEDICATION TO THE STUDY OF ENVIRONMENTAL LAW CHALLENGES ME TO BRING MY TEACHING A-GAME TO EVERY CLASS, AND I ENJOY THAT CHALLENGE IMMENSELY.”

— HILLARY HOFFMANN

Public Lands," in the *Vermont Journal of Environmental Law*, and *Indigenous Cultural Resource Preservation*, with Professor Monte Mills, from Cambridge University Press.

Professor Hoffmann was interviewed for *Public Radio International's Living on Earth* about the reduction of the Bears Ears National Monument, and she testified before the House Natural Resources Committee regarding the impacts of oil and gas development (specifically, fracking) on tribal communities in Montana and North Dakota.

Prior to joining the VLS faculty, she practiced in the litigation group at Fabian & Clendenin, P.C. in Salt Lake City, Utah. Professor Hoffmann received her BA degree from Middlebury College and her JD from the S. J. Quinney College of Law at the University of Utah. In her spare time, she enjoys hiking and camping in the Vermont State Parks with her husband and four children. She also enjoys attending bluegrass festivals, where on occasion she has been spotted playing a few tunes on her 100 year old fiddle. 🌱

VLS ENVIRONMENTAL ALUMNI NEWSFEED

RANDALL ABATE '89 is the inaugural Rechnitz Family Urban Coast Institute Endowed Chair in Marine and Environmental Law and Policy at Monmouth University... **KELLY BRANTZI '18** is now the Northern Region Program Title Manager for the U.S. Forest Service in Missoula, Montana... **MARGARET EVERSON '01** was appointed Principal Deputy Director of the U.S. Fish and Wildlife Service... **MONICA MILLER '12**, Senior Counsel at the American Humanist Association, argued in front of the U.S. Supreme Court in *The American Legion v. American Humanist Association*... **CANDACE QUINN LL.M.'16** is now a partner at the Wagner Law Group in Boston... **KRISTY SENATORI '04** was appointed Executive Director of the Cape Cod Commission... **KYLE TISDEL '05** of the Western Environmental Law Center, represented the environmental groups in a ruling that halted the Bureau of Land Management from authorizing new oil and gas drilling on 300,000 acres of land in Wyoming... **TAMARA TOLES O'LAUGHLIN JD/MELP'09** is the new North America Director of 350.org... **REBECCA TURNER '08** was named Vice President and Chief of Staff, General Counsel at American Forests; she has been with the organization since 2010... **HELENA WOODEN-AGUILAR '02** was named Acting Deputy Chief of Staff at the U.S. Environmental Protection Agency. ♻️



▲ Margarita Everson '01



▲ Helena Wooden-Aguilar '02

ENVIRONMENTAL GOVERNANCE *(continued from page 5)*

provinces who are being impacted by economic land concessions and land grabs. We learned that one of the biggest challenges local communities face is obtaining community-based land title for their lands.

After meeting with Vishnu, we departed for the Mondulakiri Province, where we visited with Phnong ethnic villagers in the Dak Dam commune to hear from them about their struggle with Mega First Corporation. While in Mondulakiri, we had the opportunity to stay with local families for a night and participate in an Indigenous People's Day celebration involving music, dancing, and a

communal meal. Afterwards, we made the trip to the Ratanakiri province where Vishnu Law Group was representing a local community that had also been the victim of land-grabbing by a local businessman. All in all, we spent a good portion of our time in rural areas of Cambodia learning about some of the various issues facing indigenous peoples.

After Cambodia, we traveled to Yangon, Myanmar, where we had the opportunity to meet with the Rule of Law Centres in Myanmar, the Myanmar Center for Responsible Business, the Thilawa Special Economic Zone, and Earth Rights

International. We discussed legal rights at the community level and environmental issues faced by rural communities. This trip was a valuable opportunity to see environmental governance in action, and also to engage directly with local people about the issues they are facing. I would recommend this opportunity to anyone, and if I could, I would go back in a heartbeat. ♻️

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2019 EVENTS

APRIL 4, 2019

NORMAN WILLIAMS LECTURE

John R. Nolon, Distinguished Professor of Law at the Elisabeth Haub School of Law at Pace University, delivers the 15th Annual Norman Williams Distinguished Lecture in Land Use Planning and the Law With His talk is titled "Calming Troubled Waters: Local Solutions."

MAY 10, 2019

ENVIRONMENTAL HONORARY
DEGREE LECTURE

The President and CEO of the National Wildlife Federation, **Collin O'Mara**, delivers the annual environmental honorary degree lecture the day before VLS Commencement.



▲ Collin O'Mara

JUNE 20-22, 2019

EMERGING ENVIRONMENTAL LAW CURRICULUM
CONFERENCE

This conference for law professors on new directions in environmental law curriculum kicks off with a keynote address by environmentalist and author **Bill McKibben**, founder of 350.org.

MAY 30-AUGUST 1, 2019

HOT TOPICS IN ENVIRONMENTAL LAW
SUMMER LECTURE SERIES

Twice a week throughout the summer, members of our summer faculty, distinguished scholars, media fellows, and other visitors discuss the hottest issues in their fields.

SEPTEMBER 20-22, 2019

COLLOQUIUM ON ENVIRONMENTAL SCHOLARSHIP

The tenth annual Colloquium on Environmental Scholarship at VLS offers the opportunity for environmental law scholars to present their works-in-progress and recent scholarship.



SEPTEMBER 26-28, 2019

GLOBAL CONFERENCE ON ENVIRONMENTAL TAXATION

The 20th Global Conference on Environmental Taxation is held in Limassol, Cyprus. This year's theme is "Economic Policies for Low-Carbon Development." VLS's Environmental Tax Policy institute is a supporting partner.

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