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CURRENT POSITION

Professor of Law and Senior Counsel, Environmental and Natural Resources Law Clinic, Vermont Law School

EDUCATION

1975 George Washington University, Washington, DC (L.L.M. in Environmental Law)

1972 Creighton University, Omaha, NE (J.D.)

1969 Regis University, Denver, CO (B.S.)

TEACHING EXPERIENCE

Sept-Dec 2018 Fulbright Scholar University College Cork Ireland

1993- present Professor of Law, Vermont Law School, South Royalton, VT. Currently teaching: Climate Change and the Law; Water Quality; Extinction and Climate Change; Law of Climate Adaptation (online course). Faculty Advisor, National Environmental Moot Court Team.

1998-2004 Adjunct Professor of Environmental Studies, Dartmouth College, Hanover, NH.

1999 Visiting Professor, Washington University, St Louis, MO. Ecosystem Approaches to Natural Resource Conservation.

1979-1989 Summer Faculty, Vermont Law School. Wildlife and Forestry.

1986 Lecturer, Boston College Law School, Chestnut Hill, MA. Regulation of Air and Water Quality.

1982 Lecturer, Lewis & Clark Law School. Portland, OR. Wildlife Law.

1977-1978 Lecturer, George Washington University, Washington, DC. Natural Resources Law.

1975-1976 Natural Resources Law Institute Fellow, Northwestern School of Law, Lewis and Clark College, Portland, OR.

TEACHING INTERESTS

Subjects taught: The Administrative Procedure Act; Climate Change and the Law; The National Environmental Policy Act; Regulation of Air and Water Pollution; Hazardous Waste Management and Remediation; The Marine Mammal Protection Act; The Sustainable Fisheries Act; The Endangered Species Act; Water Resources Law; Wetlands Conservation; The National Forest Management Act; The Wilderness Act; The Federal Lands Policy and Management Act; Biodiversity Conservation;

Environmental Policy and Management; Environmental Litigation

Teaching methodologies: Socratic dialogue; simulations and role-playing; mock hearings and negotiations; problem-solving exercises; interdisciplinary case studies; field trips; stakeholder interviews; distance learning; web-based courses; power-point presentations.

Educational philosophy: Mastery of environmental law and policy requires literacy in a number of related fields: ecology, economics, ethics, law, and political science. To be a good environmental lawyer, one must first be a good lawyer, a creative problem solver; someone who can bring people together in constructive ways that lead to durable agreements to resolve complex problems. To be a good environmentalist, one must have a strong ethical foundation, a sincere respect for nature, and a commitment to leaving the world a better place, for all its inhabitants.

PROFESSIONAL EXPERIENCE

2003-Present: Professor of Law and Senior Counsel Environmental and Natural Resources Law Clinic, Vermont Law School

2004-2008: Founding Director, Environmental and Natural Resources Law Clinic. ENRLC provides clinical training in environmental litigation, negotiation, and policy advocacy, and represents nonprofit conservation organizations and community groups in federal and state courts, administrative bodies, and legislatures.

1993-1999: Director, Environmental Law Center, Vermont Law School. Responsibilities included curriculum development, recruitment and admissions to masters' programs, faculty hiring and development, fund-raising, marketing and budgeting, career counseling, and outreach/public service. Started several new programs including First Nations Environmental Law Fellowship, Indian Country Environmental Justice Clinic, Environmental Semester in Washington Externship Program, Masters of Environmental Law (LLM) Degree Program, and a dual degree master's program with the Tuck School of Business at Dartmouth College.

1991-1992: Special Counsel to U.S. Fish and Wildlife Service. Received special congressional appointment to represent USFWS in the Endangered Species Act exemption process involving the northern spotted owl controversy in the old growth forests of the Pacific Northwest.

1989-1993: Of Counsel, Perkins Coie, Portland, OR. Counseled and represented clients on wide range of environmental matters before regulatory agencies and state and federal courts. Drafted nation's first environmental audit privilege statute. Chaired Water Quality Advisory Committee for Oregon Department of Environmental Quality; negotiated cleanup of numerous hazardous waste sites.

1987-1989: Commissioner, Vermont Department of Environmental Conservation. Appointed by Governor Madeleine Kunin. Oversaw department that implemented all of the environmental programs in the state of Vermont. Implemented new programs for solid waste management, groundwater protection, wetlands conservation and enforcement. Secured passage of law creating nation's first Environmental Court. Won regional award for outstanding contributions to air quality improvement.

1984-1987 Regional Counsel, U.S. Environmental Protection Agency, Region I, Boston, MA. Senior Executive Service appointment. Responsible for managing legal staff and enforcement program for large regional office of federal regulatory agency. Oversaw development of Boston Harbor cleanup case. Developed cases that set national precedents for criminal enforcement, multi-party hazardous waste cleanups, and wetlands protection.

- 1980-1984: Vice President for Conservation, National Wildlife Federation, Washington, DC. Responsible for implementing advocacy programs of the nation's largest conservation organization. Oversaw lobbying and grassroots program that was instrumental in passage of major national environmental laws including Alaska Lands Bill, Coastal Barriers Resources Conservation Act, Superfund; and major amendments to Clean Air Act, Clean Water Act and Endangered Species Act. Supervised active litigation program handling cases of national importance. Oversaw research program that produced influential public policy papers.
- 1978-1980: Director of Resources Defense Division, National Wildlife Federation. Created innovative approach to conservation by hiring and organizing staff into interdisciplinary teams of lawyers, scientists, economists, and lobbyists assigned to subject matter areas (e.g., energy, public lands, wildlife). Expanded NWF's advocacy and policy research programs in the US and abroad.
- 1976-1978: Counsel, National Wildlife Federation. Litigated precedent-setting cases under the Endangered Species Act, National Environmental Policy Act, Clean Water Act, and other laws. Established the Platte River Whooping Crane Trust as part of a settlement of major lawsuit; case is now used by the Kennedy School of Government as a case study for resolving natural resources disputes.
- 1972-1974: Staff Attorney, Legal Aid Society of Omaha, Nebraska. Handled cases for indigent clients; litigated major federal cases involving civil rights, welfare, housing, segregation, consumer protection and prisoner's rights.

INTERNATIONAL EXPERIENCE

- 2018 Fulbright Scholar University College Cork Ireland
- 2016 Beijing China. Training program for Chinese judges sponsored by the Supreme People's Court
- 2015 Bogota Colombia. Training program for faculty of the University of the Andes
- 2010 Brazil. Created and taught environmental compliance seminar for senior attorneys with Petrobras (state-owned oil company)
- 2006 Guatemala. Advised Pro Peten, an indigenous Mayan organization helping build sustainable communities in the Peten Region of Guatemala.
- 2004 Russia-Finland. Participated in International Environmental Law School. Faculty and students from Russia, the U.S., Finland, and Italy. Topic: Comparative Law of Protected Areas.
- 2004 China. Visit to Sun Yat-sen University in Guangzho for presentations, meetings and faculty colloquia. Led to creation of the VLS-China Partnership, which is now in its seventh year operating on a \$1.5 million annual budget
- 2002 Republic of Karelia Russia. Participated in third annual International Environmental Law Summer School, which included students from Vermont Law School and the U. of Trento, Italy. Also organized and presented papers at a conference for Russian lawyers on citizen enforcement of environmental laws and protection of individual rights to a healthy environment.
- 2000 Petrozavodsk, Karelia. Helped develop and teach first annual International Environmental Law Summer School, hosted by PSU, which drew students from Republics in Northwest Russia and Scandinavian countries (Barents Sea Region). Advised PSU faculty and administrators on

creation of environmental law center, which was launched the next year.

- 1999 Moscow, Russia and Petrozavodsk, Karelia. Participated in ABA-CEELI Conference on clinical legal education in Russia. Presented paper on environmental litigation. Met with faculty and administration of Petrozavodsk State University to discuss development of environmental curriculum including potential development of environmental clinic.
- 1997 Havana, Cuba. Member of multi-country delegation to promote inter-American dialogue on environmental issues. Presented paper at national conference; participated in workshops with government officials on development of Cuban environmental laws; met with Cuban Bar Association and judges.
- 1995 Visiting Lecturer, Petrozavodsk State University (PSU), Republic of Karelia, Russia. Lectured in several classes of the law faculty. Met with University officials to plan cooperative educational programs between PSU and VLS.
- 1994 Prague, Czech Republic. Developed and participated in one-week training program for government officials and NGO's on environmental enforcement sponsored by the Institute for Sustainable Communities with funding from USEPA.

PUBLICATIONS

Book Chapters

Cities on Stilts: The Myth of Large Scale Climate Adaptation in Rethinking Sustainability in and Age of Climate Change Environmental Law Institute (2015)

Legal Authorities for Ecosystem-Based Management in U.S. Coastal and Ocean Areas (with several co-authors); *Climate Change and the Marine Environment* (with several co-authors), in **Ocean and Coastal Law and Policy 2d Ed.** ABA (2015)

Species and Ecosystem Impacts, in **The Law of Adaptation to Climate Change** ABA 2012

Go Back it's a Trap: On the Perils of Geologic Sequestration of Carbon Dioxide, in **The Climate Reader** Carolina Press 2010

Overview of Wildlife Law in the United States (with Don Baur) in **Wildlife law: A Global Perspective** (ABA 2008)

The Endangered Species Exemption Process and the God Squad, in **The Endangered Species Act: Law, Policy and Perspectives**, American Bar Association (2002)

Vermont Environmental Law, in **Environmental Law Practice Guide: State and Federal Law**, Michael Gerrard (general editor) (Matthew Bender & Co. 2001)

Overview of Federal Wildlife Law (with Don Baur), in **Natural Resources Law Handbook** (Gov't. Institutes Inc. 1994)

Wetlands Regulation under the 404 Program, in **Federal Wetlands Regulation** (Gov't. Institutes Inc. 1991)

Law Review Articles

The Clean Water Rule: Not Dead Yet 48 Environmental Law 377 (Summer 2018)

A Bright Line Mistake: How EPA Bungled the Clean Water Rule, 46 Environmental Law 379-393 (2016)

Carbon Trading in China: Progress and Challenges 46 ELR 10194 (2016)

A Bridge Too Far: Building Off-ramps on the Shale Gas Superhighway (with Abigail Barnes), 49 Idaho Law Rev. 325 (2013)

The Other Dam: Grayrocks vs the Whooping Crane, 80 Tenn. L. Rev. 543 (2012)

Come Hell and High Water: Coping with the Unavoidable Consequences of Climate Disruption, 34 Vermont Law Rev. 957 (2010)

Lead Follow or Get Out of the Way: The States Tackle Climate Change with little Help from Washington, 40 Connecticut L Rev. 1453 (2008)

Whatever Industry Wants, Environmental Policy under Bush II, 14 Duke Env't'l Law & Policy Forum 363 (2004)

Citizen Suits under the Endangered Species Act: Survival of the Fittest, 10 Widener Law Rev. 321 (2004)

Unreasonable Expectations: Why Palazzolo Is Not Entitled to Turn Silk Purse into A Sow's Ear, 30 Boston College Environmental Affairs Law Review, 101 (2002)

Rearranging the Deck Chairs: Endangered Species Act Reforms In An Era of Mass Extinction, 22 William & Mary Law & Policy Review 2227 (1999)

Fashioning A Comprehensive Environmental Review Code for Tribal Governments: Institutions and Processes (with Dean Suagee), 21 American Indian Law Review 297 (1997)

Who's Taking What? Property Rights, Endangered Species, and the Constitution, 6 Fordham Environmental Law Review No. 3 (1996)

All You Needed To Know About Environmental Law You Learned In Kindergarten, 23 Environmental Law 223 (1993)

The Big Chill: The Impact of Fleet Factors on Lenders (with Craig Johnston), 20 Chemical Waste Litigation Reporter 380 (1990)

Small Handles, Big Impacts: When Do Corps Permits Federalize Private Development? 20 Environmental Law 747 (1990)

The Effluent Limitations Controversy: Will Careless Draftsmanship Foil the Objectives of the Clean Water Act? (with Nancy Tauman), 6 Ecology Law Quarterly 1 (1977)

Regulation of Nuclear Powerplants: A Constitutional Dilemma for the States, 6 Environmental Law 675 (1976)

Public Assessment of Biological Technologies: Can NEPA Answer the Challenge? (with Robert Catz), 64 Georgetown Law Journal 679 (1976)

Journal Articles

Between a Pebble and a Hard Place: Using §404(c) to Protect a National Treasure, National Wetlands Newsletter Vol. 37, No 2 March-April (2015)

The Carbon Bubble, Fletcher Forum on World Affairs February 2014

Wetlands Conservation and Climate Resilience, National Wetlands Newsletter, Vol. 34 No. 4 (2012)

Reinvigorating the Public Trust Doctrine: Expert Opinion on the Potential of a Public Trust Mandate in U.S. and International Environmental Law(with several authors), Environment: Science and Policy for Sustainable Development, Volume 52, Issue 5, 2010

Last One Standing: The Roberts Court and Article III, ABA Trends (November/December, 2009)

Wetlands and Climate Change, National Wetlands Newsletter, March 2009

The First One Hundred Days: What President Obama should do to Confront the Climate Challenge, Environmental Law Quarterly Currents, January 2009

Conservation Science, Biodiversity, and the 2005 U.S. Forest Service Regulations (with Barry Noon and Steve Trombulak) Conservation Biology, Vol. 19 No. (5 October 2005)

Preemptive Surrender: How Corps Districts Are Giving Away Clean Water Act Jurisdiction, National Wetlands Newsletter (May-June 2005)

Bushwhacked: The Impact of the President's Policies on Vermont, Vermont Environmental Reporter (May/June 2004)

A Biodiversity Plan for Vermont? Vermont Environment Reporter (Summer 2001)

She Runs With Wolves: In Memory of Mollie Beattie, 14 Trumpeter 4 (1997)

A Bum Rap for Vermont's Endangered Species Act, The Vermont Bar Journal and Law Digest (October, 1995)

Babbitt v Sweet Home: The Court Protects Endangered Species Habitat, 5 Rivers 216 (1996)

NEPA at Twenty, 6 Environmental Forum 14 (1989)

NEPA at Twenty: Disappointment or Success? Audubon, p. 14 (March, 1990)

Opinion Pieces

What Scalia's death means for environment and climate The Conversation (Feb 18, 2016)

The Clean Power Plan Will Survive Law 360 (Sept 28, 2015)

Setting the Record Straight on the FTC Decision, VtDigger February 11, 2015

Don't Gut Environmental Review, Rutland Herald and VtDigger May 13, 2013

In Praise of Public Interest Journalism Huffington Post (October 2011)

Environmental Clinic Works for People Burlington Free Press (November 2004)

Trashing Vermont, The Rutland Herald (November 13, 2003)

Playing Games with Critical Habitat, Northern Woodlands (Sept/Oct 2003)

Leahy's Careful Scrutiny Is Necessary, Valley News (VT) (May 23, 2002)

Don't Squander Best Chance To Clean Up Elizabeth Mine, Valley News (VT)(March 23, 2002)

Opponents Threaten To Unravel Champion Plan, Burlington Free Press (VT)(Jan. 15, 2002)

Court Should Nix Takings Argument, Boston Globe (MA) (Jan. 7, 2002)

Our Wetland Dominoes, National Law Journal (Feb. 26, 2001)

Coming EPA Policy Ruling Gives Court Opportunity to Clear the Air, The Philadelphia Inquirer (PA) (Nov. 3, 2000)

Let Regulation Evolve, Naturally, Legal Times (May 13, 1996)

Twenty Five Years of Environmental Progress Comes to a Screeching Halt, Valley News (VT) (April 23, 1995)

Another Broken Promise? The Oregonian (OR) (Aug. 30, 1994)

Lessons from the Spotted Owl for Vermont, Burlington Free Press (VT) (April 3, 1994)

Court Finds New Basis for Liability (with Craig Johnston and Mary Wood), National Law Journal (May 13, 1991)

Exporting Extinction—Or Building a Future? Legal Times (Mar 4, 1991)

Work to Protect People and Owl, The Oregonian (April 24, 1990)

SELECTED PRESENTATIONS

The Twenty Ninth Day: Confronting Climate Disruption and Winning the Future, Framingham State U, Framingham MA, April 2 2015

Prairie Dogs, The Endangered Species Act, and the Limits of the Commerce Clause, Tulane Environmental Law Summit, New Orleans, February 2015

Dead Zones and the Clean Water Act, Society of Environmental Journalists 24th Annual Meeting, New Orleans, September 2014

Running Out of Atmosphere: How Millennials Will Save Civilization from Runaway Climate Change, Thirtieth Annual Public Interest Environmental Law Conference, U of Oregon February 2014

A Law like No Other: Celebrating the Fortieth Anniversary of the Endangered Species Act, Public Interest Environmental Conference, U of Florida February 2103

Species Conservation in the Anthropocene, ALI/ABA Course of Study Species Protection: Critical Legal Issues, May 2012

Reinvigorating the Public Trust Doctrine, American Assn. for Advancement of Science Annual Meeting, May 2011

Wetlands and Climate Change, Association of State Wetlands Managers Annual Meeting, Portland Oregon September 16, 2008

Is It Just Me or Is It Getting Hot in Here? ABA Mid-Year Meeting, Clean Air Panel, Phoenix, Az. September 19, 2008

The Role of State and Local Planning in Climate Change Mitigation and Adaptation, Windham County Regional Planning Commission, Brattleboro, VT. September 30, 2008.

Ecosystem Effects of Climate Change, Massachusetts School of Law, Andover MA October 11, 2008

Meltdown: Can Law Save the Arctic? Yale School of Forestry and Environmental Studies, October 21, 2008

Defining Waters of the United States after SWANCC, The Association of State Wetlands Managers, Albuquerque, NM (October 2005)

What's in a Name? The Bush Administration's Environmental Record, The Society for Environmental Journalists 15th Annual Conference, Austin, TX (September 2005)

Litigating the ESA Take Prohibition, ALI/ABA Conference on the Law of Protected Species, Washington DC, (April 2004)

Implications of Miccosukee, ABA National Telecast (June 13, 2004)

Clean Water Act Jurisdiction after SWANCC, The Federalist Society, Nat'l Press Club Washington DC February, 2004

The Public Trust Doctrine as a Background Principle of Property Law, Symposium on the Palazzolo Case, Boston College Law School (March, 2002)

Forestry and Biodiversity, International Environmental Law School, Petrozavodsk State University, Karelia, Russia (June, 2001)

Citizen Enforcement of Environmental Laws in the United States, ABA-CEELI Conference, Moscow, Russia (May 1999)

SUPREME COURT AMICUS BRIEFS

Massachusetts v EPA, 549 U.S. 497 (2007). Submitted on behalf of climate scientists in landmark climate change case.

Rapanos v United State, 547 U.S. 715 (2006). Submitted on behalf of Association of State Wetlands Managers major Clean Water Act case.

South.Fla. Water Mgt. Dist. v Miccosukee Tribe of Indians, 541 U.S. 95 (2004). Submitted on behalf of Association of State Wetland Managers in major Clean Water Act case.

Borden Ranch Partnerships v U.S. Army Corps of Engineers, 537 U.S. 995 (2002). Submitted on behalf of Association of State Wetland Managers in major wetlands case.

Palazzolo v. State of Rhode Island, 121 S.Ct. 2448 (2001). Submitted on behalf of Dr. John Teal and group of distinguished scientists in a case involving constitutional challenge to state coastal wetlands protection program.

Babbitt v. Sweet Home Chapter of Communities for Greater Oregon, 115 S. Ct. 2407 (1995). Submitted on behalf of Professor E. O. Wilson and group of distinguished scientists in case involving interpretation of the Endangered Species Act.

SELECTED CASES

Center for Biological Diversity v EPA, No. 13-cv-1866 (W.D. Wash. Feb. 19, 2015): (amicus brief on behalf of climate scientists and marine biologists in case challenging EPA failure to designate coastal waters impaired by ocean acidification)

Catskills Mtn. Chapter of Trout Unlimited v City of New York, No 14-1823 (2d Cir 2015) (amicus brief on behalf of Leon G Billings et al in case challenging EPA water transfers rule)

Residents Concerned About Omya v Omya, Inc, (Represented residents living next to mining operation that has contaminated groundwater) (2009)

In re Vermont Yankee NPDES Permit Appeal, Vermont Environmental Court (2008)(Represented Connecticut River watershed Council in appeal of permit to discharge heated effluent to Connecticut River).

Nulankeyutmonen Nkihtaqmikon v BIA, 503 F.3d 18 (1st Cir. 2007)(Represented indigenous people opposed to LNG terminal on tribal sacred site)

National Wildlife Federation v Norton, 386 F.Supp.2d 553 (D. Vt. 2005).Represented national conservation organizations in case challenging reclassification of the gray wolf under the Endangered Species Act.

Kootenai Tribe v. Veneman, 313 F.3d 1094 (9th Cir. 2003). Represented conservation interests in defense of the “Roadless Rule” for National Forests..

National Audubon Society v. Hoffman, 132 F.3d 7 (2d Cir. 1997). Represented conservation group in case involving management of roadless areas of National Forests.

Northwest Environmental Advocates v. City of Portland, 11 F.3d 900 (9th Cir. 1993). Represented community groups in case involving cleanup of the Willamette River under the Clean Water Act.

In Re Bureau of Land Management Application for Exemption from the Endangered Species Act Endangered Species Committee (1992). Represented U.S. Fish and Wildlife Service in opposition to an exemption for timber sales in critical habitat of northern spotted owl.

National Wildlife Federation v Gorsuch, 639 F.2d 156 (DC Cir. 1982). Represented NWF in case seeking

regulation of dams as point sources under the Clean Water Act.

The Pittston Co. v. The Endangered Species Committee, 14 ERC 1257 (D.DC 1980). Represented NWF in case challenging right of oil refinery to seek exemption from the Endangered Species Act for impacts to the bald eagle and right whale.

North Slope Borough v. Andrus, 642 F.2d 589 (DC Cir. 1980). Represented conservation organizations in challenge to oil and gas development in habitat of the endangered bowhead whale.

Environmental Defense Fund v. Andrus, 596 F.2d 848 (9th Cir. 1979). Represented conservation organizations as *amici curiae* in case applying Fish and Wildlife Coordination Act to federal water marketing program.

State of Nebraska v. Rural Electrification Administration, 12 ERC 1156 (D.Neb. 1978). Represented national conservation organizations in case challenging water diversions destroying critical habitat of the endangered whooping crane on the Platte River.

National Wildlife Federation v Andrus, 440 F.Supp. 1245 (D. DC 1977). Represented NWF in case challenging legality of hydro-power project on the San Juan River in New Mexico.

AWARDS

Kerry Rydberg Public Interest Environmental Law 2016

American College of Environmental Lawyers Fellow 2015

National Wildlife Federation, National Conservation Achievement Award (2006)

Connecticut River Conservation Council, River Champion (2009)

PROFESSIONAL ASSOCIATIONS

Admitted to practice in Nebraska, Oregon, District of Columbia, Second Circuit and US Supreme Court.

Member, American Bar Association, Society of Conservation Biologists

Board Member, Climate Law Institute