

FLORIDA STATE UNIVERSITY COLLEGE OF LAW

Fall 2016

Environmental, Energy & Land Use Law Newsletter

2016 - 2017 will be another successful year for our program. We would like to share with you some of the highlights of our upcoming year.

We are delighted that for the twelfth year in a row our Environmental Law Program has again been ranked in the top 20 in the United States by *U.S. News & World Report*.

2016 Environmental Law Without Courts

On September 16, 2016, FSU Law brought together prominent environmental and administrative law scholars from across the country to explore different ways in which administrative agencies have implemented environmental policies largely without court supervision or intervention. For more information about the conference, including a full list of participants and a detailed schedule, please visit our [Environmental Law without Courts conference webpage](#).



Environmental Distinguished Lectures



ROBERT PERCIVAL, Robert F. Stanton Professor of Law and Director, Environmental Law Program, University of Maryland Francis King Carey School of Law
Wednesday, October 19, at 3:30 P.M.

Professor Robert Percival is internationally recognized as a leading scholar and teacher in environmental law. Since 1992 he has been the principal author of the most widely used casebook in environmental law, *Environmental Regulation: Law, Science & Policy*, now in its seventh edition. Professor Percival has served as senior attorney for the Environmental Defense Fund, a law clerk for Judge Shirley M. Hufstedler, of the U.S. Court of Appeals for the Ninth Circuit, and for U.S. Supreme Court Justice Byron R. White.

NICOLE STELLE GARNETT, John P. Murphy Foundation Professor of Law, University of Notre Dame Law School
Wednesday, February 1, at 3:30 P.M.

Professor Nicole Stelle Garnett is the author of numerous articles on property, land use, urban development, local government law and education policy. She is the author of *Ordering the City: Land Use, Policing and the Restoration of Urban America* (2009). Before joining Notre Dame Law in 1999, she was a staff attorney at the Institute for Justice, a non-profit public-interest law firm in Washington, D.C., and was a law clerk for Judge Morris S. Arnold, of the United States Court of Appeals for the Eighth Circuit, and for Associate Justice Clarence Thomas, of the United States Supreme Court.



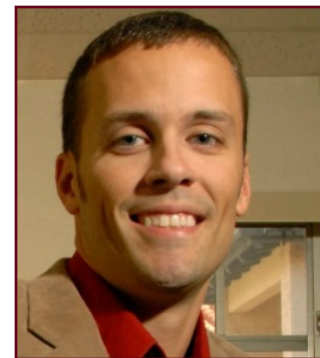
Municipal Utilities and Cooperatives: Transitioning to a Lower-Carbon Future

Next March, FSU Law will host a conference addressing the challenges and opportunities that municipally-owned electric utilities and electric co-operatives have faced as they have transitioned to lower-carbon sources of electricity. Conference panelists will include executives and attorneys from a variety of utilities, and legal scholars from nonprofit organizations. The conference is co-sponsored by the Florida State University College of Law and the University of North Carolina School of Law Center for Climate, Energy, Environment and Economics and will take place on Friday, March 24, 2017 at 8:00 A.M.

Environmental Certificate & Environmental LL.M. Enrichment Lectures

BLAKE HUDSON, Burlington Resources Professor of Environmental Law and Edward J. Womac, Jr. Professor of Energy Law, Louisiana State University Paul M. Herbert Law Center
Wednesday, October 5, at 12:30 P.M.

Professor Blake Hudson's research considers how property, land use, and natural resources law and policy intersect with environmental and constitutional law, with specific focus on the issue of federalism as it relates to land use and the environment. Professor Hudson holds a joint appointment with the LSU School of the Coast and Environment, where he teaches natural resources and environmental law-related coursework. Before joining LSU, Professor Hudson practiced law with Baker Botts in Houston, Texas, and was an assistant professor at Stetson University College of Law.



ROBERTA MANN, Mr. & Mrs. L.L. Stewart Professor of Business Law, University of Oregon School of Law
Wednesday, November 16, at 12:30 P.M.

Professor Roberta Mann teaches and writes about tax law, with a particular emphasis on how the tax system affects the environment. Professor Mann served as the only tax lawyer on the National Academies of Science committee studying the greenhouse gas impact of the Internal Revenue Code. She is active with the ABA Tax Section, the National Tax Association, and the Portland Tax Forum, and regularly speaks at the annual Global Conference on Environmental Taxation. Before beginning her teaching career, Professor Mann served on the staff of the Joint Committee on Taxation and worked for the Office of Chief Counsel of the Internal Revenue Service in Washington, D.C.

Environmental Law Society

Our student organization, the Environmental Law Society, brings together law students interested in environmental and natural resource issues, and remains active in programming events that bring Florida issues to the FSU Law community. This past September, the ELS hosted *A Day in the Life of an Environmental Lawyer*, which featured alumni from private practice, government, and non-profit environmental advocacy. Panelists discussed the work they do, and recommended classes and extracurriculars, and insights on hiring interns and summer associates.



Environmental, Energy and Land Use Law Student Colloquium



Every year, the Environmental, Energy and Land Use Law program holds a colloquium in which students producing high-quality papers are given the opportunity to present them to faculty and fellow students. Last year's colloquium featured presentations on the link between hydraulic fracturing and food production, the history of oil production and regulation in Mexico, invasive plants, and light pollution. Congrats to all!

This upcoming academic year's colloquium will take place Wednesday, April 5, at 3:30 pm.

Environmental Alumni Spotlight

SARAH LOGAN BEASLEY ('16) is currently a law clerk for Judge Robert Hinkle, of the U.S. District Court for the Northern District of Florida, and next year will be a law clerk for Judge Mark Walker, also of the U.S. District Court for the Northern District of Florida. Beasley's moot court team was a semifinalist in the Pace Moot Court competition two years in a row, and she was named Best Oralist for the 2016 competition.



"I was born and raised in Tallahassee, Florida, to a family full of lawyers, including my dad, a 1974 graduate of FSU Law. Growing up, my parents instilled in me a deep appreciation for the environment--particularly the Gulf Coast--and my dream career for the past 10 years has been to work as a park ranger for the National Park Service. I spent three summers in high school building hiking trails in various national parks and other public lands with the Student Conservation Association. A penchant for argument and persuasive story-telling eventually led me down a different but equally fulfilling path to study environmental law at FSU Law. Now you could say I spend my days as a metaphorical park ranger in the legal system, exploring and analyzing the numerous legal issues presented to me daily. I couldn't have found a better way to start my career."

Environmental Student Spotlight

DANIEL WOLFE (3L) is the first student in FSU Law's joint degree program with the FSU Department of Earth, Ocean and Atmospheric Sciences, in which students can earn a J.D. and a Master's Degree in Aquatic Environmental Sciences in three-and-a-half years. Dan served as a clerk for Earthjustice in Tallahassee, and was an intern this past summer for the EPA Environmental Appeals Board. He has a B.A. in Political Science from the University of Florida, and has this to say about his experience with the joint degree program:

"The Aquatic Environmental Science joint degree program has deeply enhanced my law school experience. It has given me a greater understanding of topics pertinent to environmental law and challenged me to approach problems from a scientific perspective in addition to a legal one."



Faculty Publications

DAVID MARKELL, Steven M. Goldstein Professor and Associate Dean for Research

COMPLIANCE AND ENFORCEMENT OF ENVIRONMENTAL LAW (L. Paddock and D. Markell, eds., Edward Elgar, forthcoming 2016)
Technological Innovation, Data Analytics, and Environmental Enforcement, 44 *ECOL. L. Q.* __ (forthcoming 2017) (with Robert Glicksman)
Emerging Legal and Institutional Responses to Sea-Level Rise in Florida and Beyond, 42 *COLUM. J. ENV'T'L. L.* __ (forthcoming 2016)
Dynamic Governance in Theory and Application, Part I, 58 *ARIZ. L. REV.* __ (forthcoming 2016) (with Robert Glicksman)
A Holistic View of Agency Enforcement, 93 *N.C. L. REV.* 1 (2014) (with Robert Glicksman)

ERIN RYAN, Elizabeth C. & Clyde W. Atkinson Professor

Federalism, Regulatory Architecture, and the Clean Water Rule: Seeking Consensus on the Waters of the United States, 46 *ENVTL. L.* 277 (2016)
The Public Trust Doctrine, Private Water Allocation, and Mono Lake: The Historic Saga of National Audubon Society v. Superior Court, 45 *ENVTL. L.* 561 (2015)
Negotiating Federalism and the Structural Constitution: Navigating the Separation of Powers both Vertically and Horizontally (A Response to Aziz Huq), 115 *COLUM. L. REV. SIDEBAR* 4 (2015)
The Spending Power and Environmental Law After Sebelius, 85 *U. COLO. L. REV.* 1003 (2014)
The Elaborate Paper Tiger: Environmental Enforcement and the Rule of Law in China, 24 *DUKE ENVTL. L. & POL'Y F.* 184 (2014)

MARK SEIDENFELD, Patricia A. Dore Professor of Administrative Law

Ex-Ante Investments to Make Threats Credible, 23 *SUP. CT. ECON. REV.* 341 (2015) (with Murat Mungan)
Standing in the Wake of Statutes, 57 *ARIZ. L. REV.* 745 (2015) (with Allie Akre)
Duress as Rent-Seeking, 99 *MINN. L. REV.* 1423 (2015) (with Murat C. Mungan)
Tax Credits on Federally Created Exchanges: Lessons from a Legislative Process Failure Theory of Statutory Interpretation, 99 *MINN. L. REV. HEADNOTES* 101 (2015)
A Process Failure Theory of Statutory Interpretation, 56 *WM. & MARY L. REV.* 467 (2014)

HANNAH WISEMAN, Attorneys' Title Professor

ENERGY LAW CONCEPTS & INSIGHTS (with Alexandra B. Klass) (Foundation Press) (forthcoming 2016)
HYDRAULIC FRACTURING: A GUIDE TO ENVIRONMENTAL AND REAL PROPOERY ISSUES (with Keith B. Hall) (forthcoming 2016)
Disaggregating Preemption in Energy Law, 40 *HARV. ENVTL. L. REV.* __ (forthcoming 2016)
The Fracking Revolution: Shale Gas As A Case Study in Innovation Policy, 64 *EMORY L.J.* 955 (2015) (with John M. Golden) (selected for republication in the *LAND USE AND ENVIRONMENT LAW REVIEW*)
Regulatory Islands, 89 *N.Y.U. L. REV.* 1661 (2014) (selected for republication in the *LAND USE AND ENVIRONMENT LAW REVIEW*)

SAMUEL WISEMAN, McConaughay and Rissman Professor

The Criminal Justice Black Box, 77 *OHIO ST. L.J.* _ (forthcoming 2017)
Fixing Bail, 84 *GEO. WASH. L. REV.* 417 (2016)
The Implementation of the Food Safety Modernization Act and the Power of the Sustainable Agriculture Movement, 41 *AM. J. L. & MED.* 259 (2015)
The Dangerous Right to Food Choice, 38 *SEATTLE U. L. REV.* 1299 (2015)
Pretrial Detention and the Right to be Monitored, 123 *YALE L. J.* 1344 (2014)

SHI-LING HSU, D'Alemberte Professor and Associate Dean for Environmental Programs

Carbon Taxes, in *GLOBAL CLIMATE LAW* (D. Farber & M. Peeters, eds., Edward Elgar, 2016)
Capital Transitioning: An International Human Capital Strategy for Climate Innovation, __ *TRANS. ENVTL. L.* __ (forthcoming, 2016)
Inefficient Inequality, __ *IND. J. L. & EQ.* __ (forthcoming, 2016)
Scale Economies, Scale Externalities: Hog Farming and the Changing American Agricultural Industry, 94 *OR. L. REV.* 23 (2015)
The Accidental Postmodernists, 39 *VT. L. REV.* 27 (2015)