



ENVIRONMENTAL, ENERGY & LAND USE LAW

**FLORIDA STATE UNIVERSITY
COLLEGE OF LAW**



ENVIRONMENTAL, ENERGY & LAND USE LAW

DEFINING THE NATIONAL AGENDA

Six prolific environmental law scholars provide the core of our environmental law program, which has been ranked by *U.S. News & World Report* as a top 20 program for 12 consecutive years. The breadth and depth of their expertise are truly remarkable. Our faculty helps set the agenda for policy makers, practitioners, scholars and students. Their expertise ranges from energy law to water law to climate change.

They are active nationally and internationally as speakers, experts and consultants. The scholarship of our environmental law faculty is consistently selected as some of the nation's strongest. The peer-selected list of finalists for the 2016-17 edition of the *Land Use and Environmental Law Review* includes four articles by FSU professors – more than any other law school in the nation.

CLIMATE CHANGE & ENVIRONMENTAL LAW AND ECONOMICS

Shi-Ling Hsu

D'Alemberte Professor and Associate Dean for Environmental Programs

PH.D., AGRICULTURAL AND RESOURCE ECONOMICS,
UNIVERSITY OF CALIFORNIA, DAVIS, 1998
M.S., ECOLOGY, UNIVERSITY OF CALIFORNIA, DAVIS, 1994
J.D., COLUMBIA UNIVERSITY, 1987
B.S., COLUMBIA UNIVERSITY, 1983



SELECT RECENT PUBLICATIONS:

Carbon Taxes, in *GLOBAL CLIMATE LAW* (D. Farber & M. Peeters, editors) (Edward Elgar 2016)

International Market Mechanisms, in *THE OXFORD HANDBOOK OF INTERNATIONAL CLIMATE CHANGE LAW* (C. Carlarne, editor) (2016)

Capital Transitioning: An International Human Capital Strategy for Climate Innovation, __ TRANS. ENVTL. L. __ (forthcoming 2016)

Inefficient Inequality, __ IND. J. L. & SOC. EQ. __ (forthcoming 2016)

Scale Economies, Scale Externalities: Hog Farming and the Changing American Agricultural Industry, 94 OR. L. REV. 23 (2015)

The Accidental Postmodernists: A New Era of Skepticism in Environmental Law, 39 VT. L. REV. 27 (2014)

“ENVIRONMENTAL LAW, ABOVE ALL, REQUIRES THAT PRACTITIONERS STEP OUTSIDE OF THE ROLE OF BEING JUST A BLACK BOX OF LEGAL INFORMATION. Environmental advocates must be problem-solvers, and every environmental lawyer must understand the complex, interdisciplinary aspects of a problem. We rigorously train our students to be advocates and problem solvers, but we also train them to marshal the work of biologists, chemists, economists, sociologists, and businesspersons, to advocate and problem-solve. This is an exciting time to be in environmental law.”

THE INTERNATIONAL DIMENSION & COMPLIANCE

David L. Markell

Steven M. Goldstein Professor and Associate Dean for Research

J.D., UNIVERSITY OF VIRGINIA, 1979
B.A., BRANDEIS UNIVERSITY, 1975



SELECT RECENT PUBLICATIONS:

COMPLIANCE AND ENFORCEMENT OF ENVIRONMENTAL LAW
(Paddock, Markell & Bryner, co-editors) (Edward Elgar Publishing
Limited) (forthcoming 2016)

Technological Innovation, Data Analytics, and Environmental Enforcement (with R.
Glicksman), 44 *ECOL. L. Q.* __ (forthcoming 2017)

Emerging Legal and Institutional Responses to Sea-Level Rise in Florida and Beyond, 42
COLUM. J. ENVTL. L. __ (forthcoming 2016)

Dynamic Governance in Theory and Application, Part I (with R. Glicksman), 58 *ARIZ. L.*
REV. __ (forthcoming 2016)

A Holistic View of Agency Enforcement (with R. Glicksman), 93 *N.C. L. REV.* 1 (2014)

Administrative Proxies for Judicial Review: Building Legitimacy from the Inside-Out (with E.
Hammond), 37 *HARV. ENVTL. L. REV.* 313 (2013)

“IN MANY WAYS OUR WORLD OF ENVIRONMENTAL LAW IS AT A CROSSROADS. We are re-examining underlying goals, reassessing the utility of legal and other mechanisms, and reconsidering the roles that various government and non-governmental actors should play. Much of my recent and ongoing scholarship and other work has focused on one or more of these three critical dimensions. For example, my research has focused on the role sustainable development should play in environmental policy; how we should use various mechanisms, such as enforcement, to accomplish environmental objectives; and opportunities citizens should have to influence environmental policy.”

ENERGY & LAND USE

Hannah Wiseman

Attorneys' Title Professor

J.D., YALE UNIVERSITY, 2007
A.B., DARTMOUTH COLLEGE, 2002

SELECT RECENT PUBLICATIONS:

ENERGY LAW CONCEPTS & INSIGHTS (with Alexandra B. Klass) (Foundation Press) (forthcoming 2016)

HYDRAULIC FRACTURING: A GUIDE TO ENVIRONMENTAL AND REAL PROPERTY ISSUES (with Keith B. Hall) (ABA) (forthcoming 2016)

Disaggregating Preemption in Energy Law, 40 HARV. ENVTL. L. REV. 293 (2016)

The Fracking Revolution: Shale Gas as a Case Study in Innovation Policy (with John M. Golden), 64 EMORY L.J. 955 (2015)*

Regulatory Islands, 89 N.Y.U. L. REV. 1661 (2014)*

Remedying Regulatory Diseconomies of Scale, 94 B.U. L. REV. 243 (2014)*

"MY SCHOLARSHIP FOCUSES ON THE INTERSECTION OF ENERGY, LAND USE, AND ENVIRONMENTAL LAW.

It explores novel regulatory regimes and cross-jurisdictional governance approaches for emerging risks and technologies, from the siting of renewable energy infrastructure to hydraulically fracturing oil and gas wells.

"In a world of growing land use, energy, and environmental challenges coupled with political gridlock and conflict surrounding jurisdictional authority, we need to find better ways to coordinate regulatory action, encourage creative and informed policy diffusion, and design regulatory regimes that keep pace with rapidly-changing challenges."

*Named as one of the year's strongest pieces of environmental law scholarship and selected for republication in the *Land Use and Environmental Law Review*



ENVIRONMENTAL FEDERALISM

Erin Ryan

Elizabeth C. & Clyde W. Atkinson Professor

J.D., HARVARD UNIVERSITY, 2001
M.A., ETHNOMUSICOLOGY, WESLEYAN UNIVERSITY, 1994
B.A., HARVARD-RADCLIFFE COLLEGE, 1991



SELECT RECENT PUBLICATIONS:

FEDERALISM AND THE TUG OF WAR WITHIN (Oxford University Press 2012)

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 FORUM 184 (2014)

“THE INTENSITY OF TODAY’S FEDERALISM CONTROVERSIES reflects inexorable pressure on all levels of government to meet the increasingly complicated challenges of governance in an ever more interconnected world. Yet even as federalism dilemmas erupt from all corners, environmental and land use law remain at the forefront. They are especially prone to jurisdictional discord because they arise in contexts where local and national claims to power are simultaneously at their strongest. Ongoing struggles in energy policy, water law, pollution control, forestry, and other areas reveal environmental law as the proverbial canary in federalism’s coal mine, highlighting the underlying reasons for jurisdictional conflict in all areas of law. My scholarship explores why environmental law raises such thorny federalism issues, how it has adapted structurally to manage jurisdictional conflict, and what the larger constitutional discourse can learn from models of dynamic and negotiated environmental governance.”

THE ADMINISTRATIVE STATE

Mark B. Seidenfeld

Patricia A. Dore Professor of Administrative Law

J.D., STANFORD UNIVERSITY, 1983

M.A., THEORETICAL PHYSICS, BRANDEIS UNIVERSITY, 1979

B.A., REED COLLEGE, 1975

SELECT RECENT PUBLICATIONS:

Ex-Ante Investments to Make Threats Credible (with Murat Mungan), 23 SUP. CT. ECON. REV. 341 (2015)

Standing in the Wake of Statutes (with Allie Akre), 57 ARIZ. L. REV. 745 (2015)

Duress as Rent Seeking (with Murat Mungan), 99 MINN. L. REV. 1423 (2015)

Tax Credits on Federal Exchanges: Lessons from the Legislative Process Failure Theory of Statutory Interpretation, MINN. L. REV. HEADNOTES, available at <http://minnesotalawreview.org/headnote-issue/volume-99-no-2> (Feb. 24, 2015)

A Process Failure Theory of Statutory Interpretation, 56 WM. & MARY L. REV. 467 (2014)

Foreword to the Annual Review of Administrative Law: The Role of Politics in a Deliberative Administrative State, 81 GEO. WASH. L. REV. 1397 (2013)

"I HAVE JUST BEGUN WHAT IS FOR ME A NEW LINE OF SCHOLARSHIP, focusing on federalism and its implication for how the federal government can influence state exercises of their sovereign power. This inquiry has two facets: the first looks at the basic notion of sovereignty as an indication of how the Constitution structures the relationship between the federal and state governments; the second considers the bounds of Congress's spending power in light of the Constitution's structuring of federal-state relations and the past Supreme Court spending cases from *United States v. Butler* to *NFIB v. Sebelius*."



ENVIRONMENTAL CRIMES & FOOD LAW

Samuel R. Wiseman

McConaughay and Rissman Professor

J.D., YALE UNIVERSITY, 2007
B.A., YALE UNIVERSITY, 2003

SELECT RECENT PUBLICATIONS:

The Criminal Justice Black Box, 77 OHIO ST. L.J. __ (forthcoming 2017)

Fixing Bail, 84 GEO. WASH. L. REV. 417 (2016)

What is Federal Habeas Worth?, 67 FLA. L. REV. 1157 (2015)

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)



“THE GREAT MAJORITY OF ENVIRONMENTAL ENFORCEMENT EFFORTS ARE CIVIL, but criminal prosecution is a potent tool for promoting compliance and punishing offenders. My seminar, *Environmental Crimes*, explores the criminal provisions of the Clean Water Act, the Clean Air Act, RCRA, and CERCLA, and considers the role of criminal sanctions in the broader enforcement context.”

ADDITIONAL PROGRAM HIGHLIGHTS

THE JOURNAL OF LAND USE & ENVIRONMENTAL LAW

Florida State's student-edited *Journal of Land Use & Environmental Law* ranks among the nation's top 20 journals in environmental law in terms of impact, according to Washington and Lee University's law journal ranking website, and the only specialty environmental law journal in the JSTOR database. Each year the *Journal of Land Use & Environmental Law* sponsors distinguished lecturers, featuring some of the nation's top scholars in the areas of land use and environmental law.



ENVIRONMENTAL SPEAKERS & EVENTS

Our program is outward-looking and strives to bring speakers to FSU Law for a variety of events. Our twice-yearly distinguished lectures have featured some of the most prominent environmental scholars throughout the world. They are part of an enrichment program in which we have sought to provide a diversity of viewpoints, perspectives, practices and disciplines to our students, faculty and our broader environmental community. Recent speakers have included Jonathan Wiener, Duke University School of Law; Carol Rose, Yale Law School and the University of Arizona James E. Rogers College of Law; Katrina Wyman, New York University School of Law; John Nagle, University of Notre Dame Law School; Dave Owen, the University of California Hastings College of the Law; Mary Jane Angelo, University of Florida Levin College of Law; Katrina Kuh, Hofstra University School of Law; and Hari Osofsky, University of Minnesota Law School. This year, we are excited to welcome Robert Percival, University of Maryland Francis King Carey School of Law; Nicole Stelle Garnett, University of Notre Dame Law School; Blake Hudson, Louisiana State University Paul M. Hebert Law Center; and Roberta Mann, University of Oregon School of Law.

We have also hosted workshops featuring leading practitioners and policy makers, to bring to our students timely discussion of ground-breaking environmental developments. Our 2014 conference, *Environmental Law Without Congress*, and our follow-up 2016 conference, *Environmental Law Without Courts*, attracted leading scholars from multiple disciplines to our program.

EXTERNSHIPS

Our location in Tallahassee allows students to gain valuable work experience while in school through externships with government agencies, private companies and public interest agencies, including the U.S. Environmental Protection Agency, NextEra Energy/Florida Power & Light Company, Florida Department of Environmental Protection and Earthjustice. Since 2005, more than 100 students have experienced environmental law firsthand through environmental externships.



“THE FACULTY AND STAFF WORK INCREDIBLY HARD

not only to provide several courses with diverse environmental topics every semester, but also to help students find internships, externships, and jobs. The fact that they are so involved with both the academics and the extracurriculars really speaks to their willingness to do anything they can for the success of their students.”

Jessica Melkun ('17), who is pursuing the environmental certificate, is president of Florida State's Environmental Law Society.

DEGREE PROGRAMS FOR J.D. STUDENTS

Upon graduation, students who successfully complete the environmental certificate program receive a certificate along with their J.D. degree. The certificate signals to employers and others that a student has had broad exposure in the fields of environmental, energy and land use law. Students may select their courses from an extensive menu of curricular and co-curricular offerings, as well as joint-degree programs with other Florida State departments.

The College of Law, along with the Department of Earth, Ocean and Atmospheric Sciences, offers a joint-degree program in Law and Aquatic Environmental Science (J.D.-M.A.E.S.). The program is designed to be strongly interdisciplinary. It provides graduates with a competitive edge by providing prospective employers with the assurance that graduates have received top-notch training in the two disparate areas most crucial to environmental clients, regulators and advocates: law and science. A joint-degree program with the School of Urban and Regional Planning (J.D.-M.S.P.) enhances the law school's ability to provide comprehensive preparation for a career in environmental and land use law. The school is nationally respected and offers a wide array of fields of emphasis. The joint degree provides an excellent foundation in both the law and the policy of land use.

LL.M. IN ENVIRONMENTAL LAW AND POLICY

Our LL.M. in Environmental Law and Policy gives J.D. holders the opportunity to enhance their knowledge of environmental, energy and land use law. Students in the master's program work closely with the law school's nationally recognized faculty members. Students also have a wide variety of opportunities to seek employment with government agencies, administrative tribunals, public interest organizations, the state legislature and private law firms over the course of the LL.M. program.

"THE FACULTY IN THE FLORIDA STATE COLLEGE OF LAW ENVIRONMENTAL, ENERGY AND LAND USE LAW PROGRAM

are not only brilliant scholars and professors, but also mentors and advisors for their students. They went above and beyond to prepare me for a career in environmental law."

Robert Volpe ('15) practices at Hopping Green & Sams in Tallahassee. He clerked for the firm, which is a statewide leader in the area of environmental law, during his 2L year.



ENVIRONMENTAL LAW ALUMNI

The network of graduates practicing environmental law and formulating environmental policy is remarkable and far-reaching. Our environmental alumni network includes more than 700 alumni practicing in 38 states. A large number of them interact regularly with our faculty and students, either on campus, through videoconferencing or through other electronic means. They are helping us build a brighter future for our students.

“THE FSU ENVIRONMENTAL, ENERGY AND LAND USE LAW PROGRAM PROVIDES STUDENTS

with excellent opportunities for focused course work in various areas of environmental law. Additionally, by being in the state capital, students have access to externship opportunities with environmental regulatory agencies and the legislature, which are currently embroiled in a number of critical environmental issues impacting the future of the state of Florida.”

Robyn D. Neely ('87), a partner in Akerman Senterfitt's Orlando office, focuses on a wide range of environmental matters.

