



UF LAW

NEWS FROM THE UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW

FROM THE DIRECTOR

Welcome to the first edition of our new newsletter. This issue has a new face, which is appropriate, because our Environmental and Land Use Law Program (ELULP) has several new faces. We've added depth to our faculty and curriculum since 2003:

- Assistant Professor **Mary Jane Angelo** joined us this year and is teaching the basic Environmental Law course, Environmental Dispute Resolution, and a new seminar on Law & Ecology.
- Professor **Christine Klein** joined us in Fall 2003 and is teaching a basic water law course, Natural Resources Law, and coordinating the Capstone Colloquium for our certificate students.
- Professor **Michael Wolf** also joined us in Fall 2003, filling the Richard E. Nelson Chair in Local Government Law. He offers courses in land use law and local government law and an advanced constitutional law course focused on takings, among others.

In addition, we continue to benefit from the vast expertise of the research attorneys at the Center for Governmental Responsibility, a think-tank here at the College of Law. The full-time presence at the law school of these experts in environmental justice, environment and trade, water and wetlands regulation, the Everglades, historic preservation, and sustainable development greatly enriches our curriculum and the intellectual environment.

While there may be many different views on what we need to accomplish, there is little disagreement that environmental and land use law are critical to Florida's future. The ELULP reflects a commitment to train future lawyers and take the lead in research to develop laws that will protect public health and environmental values while recognizing the importance of a vibrant private sector and individual rights.

— PROFESSOR ALYSON FLOURNOY, DIRECTOR,
ENVIRONMENTAL AND LAND USE LAW PROGRAM

Events Showcase Environmental Issues

Recent events sponsored by faculty and students in the Environmental and Land Use Law Program at the University of Florida's College of Law spotlighted environmental law issues of key importance to the state.

"Hurricanes, Humans & Habitats: Reclaiming, Rethinking, Rebuilding Our Environment"

Battles over fresh water, the fate of the world's seas, and Florida's vanishing stock of farmland were just some of the topics addressed by environmental experts at the UF law school's Public Interest Environmental Conference Feb. 24-26.

About 250 people attended the three-day conference, "Hurricanes, Humans and Habitats: Reclaiming, Rethinking, Rebuilding Our Environment," including 175-plus attendees, 80 panelists and speakers, and some 30 law students who organized the conference. This successful collaboration between the UF Environmental and Land Use Law Society and The Florida Bar's Environmental and Land Use Law Section provided continuing legal education in a unique format, offering four separate concurrent tracks building on kick-off plenaries. The 19 panel discussions were developed by students, who worked closely with members of the Section's Public Interest Committee to identify timely topics of broad appeal and knowledgeable panelists. This year's program included extremely popular panels on mercury in fish, a

legislative session preview featuring past ELUL Section Chair Larry Sellers and Rep. Thad Altman (R-Melbourne), conversion of rural agricultural land, inter-agency conflicts in permitting, springs protection, citrus canker, water quality trading, and post-hurricane redevelopment, among others. The grand finale plenary focused on the state of our seas, highlighting the ecological and economic consequences of over-fishing.

Keynote speaker Margie Eugene Richard, a former teacher from Norco, La. and winner of the 2003 Goldman Environmental Prize, was a highlight of the conference, with her inspiring tale and dedication to the hard work of getting the facts necessary to protect her community's health.

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Experts from academia and the private sector examined the impact of billboard legislation at the Nelson Symposium.

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The UF College of Law's Costa Rica Program will continue to bring U.S., Caribbean and Latin American law students together, thanks to a three-year grant renewal through the MacArthur Foundation. For the past five years, the Costa Rica Program has given students from UF and other American law schools the opportunity to study and do comparative research side-by-side with law students and young attorneys from other countries.

"This cross-cultural aspect of the Costa Rica Program distinguishes it from other law school study abroad programs and greatly enhances the experience for all," said Conservation Clinic Director Tom Ankersen (above).

More about the UF-Costa Rica Summer Study Program is available online at http://conservation.law.ufl.edu/summer_costarica or by contacting Ankersen at ankersen@law.ufl.edu or 352-392-2237.

SEMINAR NOTED

A UF College of Law seminar on Animal Rights and the Law taught by Adjunct Professor David Hoch received recognition recently and a unique opportunity from the ABA Section on Environment, Energy & Resources. The ABA Section selected the seminar and one each from the universities of Virginia and Memphis to participate in its first Law School Writing Competition. The Section's Law School Programs Committee will consider the top five papers from each of the three seminars for publication on the ABA Section's website. Details are online www.abanet.org/environ/committees/lawstudents/home.html.

Student Conservation Efforts Pay Off

UF law student Erika Zimmerman (3L) worked through the school's Conservation Clinic on a petition to UNESCO on behalf of the clinic's client in Belize to list the Belize Barrier Reef as a threatened world heritage site under the World Heritage Convention.

"The petition is particularly noteworthy because it served as the model for two simultaneously-filed petitions involving Mt. Everest and a World Heritage site in Peru," said Environmental and Land Use Law Director Alyson Flournoy. "Since there is no preconceived format for these petitions, Erika developed this one, which was emulated by the NGOs (non-governmental organizations) submitting the other two. All three petitions are based in part on the impacts of climate change on these world heritage resources, and included supporting letters from some of the world's leading reef scientists."

Clinic Director Tom Ankersen provided editorial support, and the petition was further edited by the client, the Belize Institute of Environmental Law and Policy (BELPO), prior to submission, but the work was primarily done by Zimmerman.

"The petition demonstrates what our best students can do when they are motivated," said Flournoy.

The submissions were noted by the *New York Times* and BBC.

"This is what I came to law school to do," said Zimmerman.

The concept for the petition originated as an idea presented at the NGO Environmental Law Alliance Worldwide (E-LAW) 2002 annual meeting in Guadalajara, Mexico, which BELPO attended. Work began with the efforts of the University of Florida/University of Costa Rica Joint Program in



A paper UF law student Erika Zimmerman wrote for Professor Joan Flocks' Environmental Justice Seminar Fall 2004 semester on the use of traditional ecological knowledge in global climate change policies won the NYU *Environmental Law Journal's* writing competition and will be published in their summer edition.

Environmental Law and its Conservation Clinic to evaluate the legal status of protection of the entire Mesoamerican reef system. Zimmerman provided research support, with Ankersen's assistance.

Working with BELPO and other environmental law NGOs, the Joint Program Conservation Clinic in Costa Rica helped examine different threats to the multi-national reef system. Support for the Joint Program was provided by the John D. and Katherine T. MacArthur Foundation and to E-LAW from the Summitt Foundation, which allowed the participation of environmental lawyers from each of the reef countries, including Belize.

Technology allowed Zimmerman to work on the project from Gainesville.

"I worked on the petition while here in the Conservation Clinic, only communicating with our client in Belize via e-mail," said Zimmerman.

More information and photos are online at www.climatelaw.org/media/UNESCO.petitions.release.

UF Law Field Trips Bring Teaching to Life

Prairie Creek — By Alyson Flournoy

Professor Tom Ankersen, students from the Conservation Clinic and Environmental and Land Use Law Society, and I took a canoe and kayak field trip on Prairie Creek in October. The trip was led by Lars Andersen, a local guide, outfitter and natural historian who authored the book *Paynes Prairie* and writes a column called “On the Wild Side” for *Adventure Magazine*.

The opportunity to paddle Prairie Creek was a rare one, a benefit of historic water levels following Hurricanes Frances and Ivan. The creek has been inaccessible for much of the past decade, but had overflowed its banks for hundreds of feet in either direction. This provided the paddlers a chance to glide under the cathedral-like cypress trees in the floodplain. The corresponding challenges were finding the course of the flooded creek and picking one’s way among downed trees and vines.



Students heard from Andersen and Professor Ankersen about the creek’s significance in Florida water law as the site of the first reservation of water for a natural system. Farsighted managers of the adjacent Paynes Prairie State Preserve have reserved water from the creek for the ecological benefit of the prairie. Students also had the chance to see the man-made dike separating the creek and prairie and the water control structure that connects them.

Gum Slough Slog — By Tom Ankersen

Students, faculty and friends of the Environmental and Land Use Program braved wintry weather in January to dive into one of Florida’s last best places. Led by unofficial program outfitter Lars Andersen of Adventure Outfitters, Inc., the group traveled to this hidden gem somewhere southwest of Gainesville and slogged their way upslough in canoes and kayaks along a narrow, barely discernible channel, dodging deadfalls until the canopy opened to reveal an Ichetucknee-like spring run culminating in a refreshing series of springs, for those who bravely took the plunge. (Only one boat capsized.)

In a time when the quality of Florida’s springs is declining due to a variety of anthropogenic insults, Gum Slough stands out as one of the most pristine springs left in the state. With the assistance of CGR Florida water law specialist Richard Hamann, the UF



Law Conservation Clinic has been assisting the Silver Springs Working Group with proposed springshed legislation to protect these remarkable natural resources.

This work is highlighted on the Clinic’s website: <http://conservation.law.ufl.edu>.

Four leading environmental scholars headlined the inaugural Levin College of Law Environmental & Land Use Law Speaker Series this spring. The series is sponsored by Hopping Green & Sams P.A., Tallahassee; Lewis Longman & Walker P.A., West Palm Beach; and The Florida Bar Environmental & Land Use Law Section. Speakers included:

- **Wendy E. Wagner, University of Texas, Feb. 18, 2005.** Leading authority on use of science by environmental policymakers; one of seven attorneys on the American Bar Association’s National Conference of Lawyers & Scientists.
- **Barbara Knuth, Cornell University, March 18, 2005.** Chairs the Department of Natural Resources and co-leader of Human Dimensions Research. She has written extensively on environmental and natural resources planning, management and policy processes.
- **James Salzman, Duke University, March 25, 2005.** An editor of *Environmental Impact Assessment*, and principal liaison for the Trade & Environment Policy Advisory Committee.
- **Rebecca Tsosie, Arizona State University, April 1, 2005.** Specializes in Indian law, property, bioethics and critical race theory, and is executive director of the ASU Indian Legal Program and its Lincoln Professor of Native American Law & Ethics. She is co-author of a federal Indian law casebook, and serves as a Supreme Court Justice for Fort McDowell Yavapai Nation.

U F L a w M a g a z i n e

The Conservation Clinic and John Henry Hankinson — 1979 UF law graduate, former EPA regional administrator and executive director of the St. Johns River Water Management District — will be featured in the next issue of *UF Law* magazine, to be mailed to the college’s alumni in May. The Winter 2005 issue is available online at www.law.ufl.edu.

The conference also hosted Costa Rican presidential candidate and economist Ottón Solís, who was Minister of Planning and Economy in the Oscar Arias administration and founded the Citizens' Action Party, a third-party movement in Costa Rica that emphasizes social equity and environmental issues. Solís spoke on international free trade agreements and their environmental impact.

Billboards Law: Regulating the Signs of the Times

Marking the anniversary of the federal Highway Beautification Act (HBA), outdoor advertising industry leaders and prominent billboard opponents discussed the economic benefits and constitutional and environmental pitfalls of laws regulating roadside signs at the Fourth Annual Richard E. Nelson Symposium series Feb. 11.

Although the HBA has been in place for 40 years, the law is still a topic of heated debate among advertisers, government officials and environmentalists. Florida has about 22 billboards for every 10 miles of highway and is second in the nation in the number of billboards that fail to conform to the law.

Alternative Grounds: Defending the Environment in an Unwelcome Judicial Climate

The Presidential election of 2004 raised important questions about the future of federal and state laws designed to protect the environment, according to UF Law Professor Michael Allan Wolf, Richard E. Nelson Chair in Local Government Law.

To discuss these and other concerns, a select group of national experts on environmental law gathered at the conference, "Alternative Grounds: Defending the Environment in an Unwelcome Judicial Climate," sponsored by the Nelson Chair and the Environmental Law Institute (ELI) in Washington, D.C. Papers presented at the conference will be published in a volume edited by Professor Wolf and published by the ELI.

The University of Florida will host the 2006 National Association of Environmental Law Societies conference in conjunction with the Public Interest Environmental Conference March 9-11, 2006.



ELULP Faculty Discuss New Initiatives



Environmental and Land Use Law faculty held a day-long retreat in October to discuss new initiatives. Participating were (from left) Jeff Wade, Joan Flocks, Tom Ankeren, Mary Jane Angelo, Christine Klein, Thomas Ruppert, Mark Fenster and Richard Hamman.

"Drawing on the large, committed law faculty we now have, and the rich interdisciplinary possibilities of a major research university, we have a unique opportunity to develop innovative courses and programs," said Program Director Alyson Flournoy.




MORE INFORMATION

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2004-05 PUBLICATIONS

- Professor **Mary Jane Angelo** completed "Crouching Textualist, Hidden Intentionalist: Reclaiming Our Stolen 'Green Destiny' out of the Judicial Sparring Over the Interpretation of Environmental Statutes," forthcoming in *Alternative Grounds: Defending the Environment in an Unwelcome Judicial Climate* (Michael Wolf ed.; ELI).  Angelo
- Professor **Tom Ankeren** completed "Inside the Polygon: Emerging Community Tenure Systems and Forest Resource Extraction," in Zarin & Schminck, eds., *Working Forests in the Tropics: Conservation Through Sustainable Management* (Columbia Press, 2005) (with Greenville Barnes); "Applying Clinical Legal Education to Community Smart Growth: the University of Florida Conservation Clinic," in Knaap & Wiewel, eds., *University Efforts to Encourage Smart Growth* (Lincoln Institute for Land Policy, forthcoming 2005) (with Nicole Kibert); "Bioregional and Conservation Planning on Costa Rica's Osa Peninsula," *Futures Journal* (forthcoming 2005) (with Kevin Regan and Steven A. Mack); and "Regional Perspectives on Latin American Conservation" (book review), in *Journal of Conservation Biology* Vol. 18, No. 5 (October 2004).  Ankeren
- Professor **Mark Fenster** published "Taking Formalism, Regulatory Formulas: Exactions and the Consequences of Clarity," *92 Cal. L. Rev.* (2004). The article also was selected for inclusion in the *2005 Zoning and Planning Law Handbook*.  Fenster

- CGR Social Policy Division Director **Joan Flocks** has two articles in review at health science and policy-related journals: "Stakeholder Analysis of Florida Farmworker Housing" (with A. Burns), and "The Implications of Florida Farmworker Knowledge of Pesticides, with J., S. Albrecht, P. Monaghan and A. Bahena).  Flocks
- Professor **Alyson Flournoy** contributed to the multi-author book *A New Progressive Agenda for Public Health and the Environment* (Christopher Schroeder & Rena Steinzor eds., Carolina Academic Press 2004). Her chapter titled "Following the Court Offroad in Norton v. Southern Utah Wilderness Alliance" will appear in *Alternative Grounds: Defending the Environment in an Unwelcome Judicial Climate* (Michael Wolf ed.; ELI forthcoming).  Flournoy
- Professor **Christine Klein** completed a new casebook, *Natural Resources Law: A Place-Based Book of Problems and Cases* (Aspen Publishers, forthcoming 2005) (with Federico Cheever and Bret C. Birdsong), a chapter on Florida water law for *Waters and Water Rights* (Robert E. Beck, ed., Matthew Bender & Co. Inc. rev. Vol. 6, forthcoming 2005), and the article "On Integrity: Some Considerations for Water Law," which will appear in *56 Alabama L. Rev.* (2005).  Klein
- CGR International Trade Law Program Director **Steve Powell** recently published "The Place of Human Rights Law in World

- Trade Organization Rules," *16 Fla. J. Int'l L.* 219 (2004), and completed "Regional Economic Arrangements and the Rule of Law in the Americas: The Human Rights Face of Free Trade Agreements," (forthcoming in the *Fla. J. Int'l L.* in Spring 2005), and "The WTO Cotton Subsidies Decision: The Agreement on Agriculture Takes a Bite Out of U.S. Agricultural Policy," (co-authored with UF agricultural economist Dr. Andrew Schmitz, forthcoming in the *Drake Journal of Agricultural Law*, Summer 2005).  Powell
- Professor **Michael Allan Wolf** published "Yes, Thankfully, Euclid Lives," *73 Fordham L. Rev.* (2004) (with Haar), and has contributed a chapter to and edited *Alternative Grounds* (ELI, forthcoming).  Wolf
- Professor **Danaya Wright** published "A New Time For Denominators: Toward A Dynamic Theory Of Property in Regulatory Takings' Relevant Parcel Analysis," *34 Environmental Law* 175-245, (2004). The article also was selected for inclusion in the *2005 Zoning and Planning Law Handbook*.  Wright