

# UF ELULP

## Environmental & Land Use Law

FREDRIC G. LEVIN COLLEGE OF LAW • FALL 2014



Mary Jane Angelo

### LETTER FROM THE DIRECTOR

I am pleased to update you on activities in the ELULP and to share some exciting news about the program in this newsletter. First, I am thrilled to welcome our newest faculty member, Amy Stein, to the UF ELULP family. Professor Stein comes to us from Tulane University Law School. Her expertise in energy law and climate change law will enhance our curriculum and provide new opportunities for our students in these growing areas of law. You can read more about Professor Stein's background and expertise elsewhere in this newsletter. The slower pace of the summer has provided me with an opportunity to reflect on my career as well as on the ELULP. As I suspect is the case with many environmental lawyers, my love of the natural world was the impetus for my career both as an agency environmental lawyer and in my current position as an environmental law professor and director of the ELULP. Unfortunately, many of us who enter this profession because of our love of nature often find that spending time in the outdoors takes a back seat to our work and other aspects of our busy lives. Last year I made a commitment to myself to spend more time in nature and specifically to kayak on one of Florida's water bodies every week that I was in town. While I did not completely

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## Amy Stein Joins ELULP Faculty

Amy Stein has joined the faculty of the Environmental and Land Use Law Program as an associate professor of law. She will be teaching Energy Law and Policy, Climate Change Law and Torts.

"I am extremely excited to be joining such a top-notch environmental program," she said.

Stein focuses her scholarship on clean energy, environmental law, and climate change law and policy. "Energy law has spilled over into so many other fields that everyone should have a basic understanding of the administrative, regulatory, market, and environmental issues facing energy development today. I look forward to working with such bright and engaged UF students to provide them with the foundation necessary to continue to explore both the historical and cutting edge issues relevant to navigating our energy future," she said.

Her recent publications address energy storage, "Reconsidering Regulatory Uncertainty: A Path Forward for Energy Storage," in 41 Fla. St. U. L. Rev., (forthcoming 2014); the federal government's role in developing renewable energy, "Renewable Energy Through Agency Action," 84 U. Colo. L. Rev. 651, (forthcoming 2013); the

federalism implications of subnational control over siting of electricity generation, "The Tipping Point of Federalism," 45 Conn. L. Rev. 217 (2012); and the deficiencies of climate change analysis in NEPA documents, "Climate Change Under NEPA: Avoiding Cursory Consideration of Greenhouse Gases," 81 U. Colo. L. Rev. 473 (2010), all of which can be accessed at <http://ssrn.com/author=1216973>.

Her most recent work was selected for presentation at Columbia Law School's Sabin Colloquium on Innovative Environmental Law Scholarship, Minnesota Law School's Legal and Policy Pathways for Energy Innovation conference, UT-Austin's Electricity conference, Northwestern's Federalism and Energy Conference, and the Electric Power Executive Conference.

Previously, she was an associate professor of Law at Tulane Law School, an adjunct professor in the environmental studies program at the George Washington



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meet my goal, I was able to kayak most weeks and spend a considerable amount of time enjoying Florida's beautiful waters. This experience reminded me of why I entered this career in the first place and provided me with a greater awareness of the serious environmental threats faced by Florida's springs, rivers, lakes, wetlands and estuaries. It is easy to get so caught up in our legal work that we lose our connection to the environment that we seek to protect. Maintaining a connection to the natural world and having an understanding of how nature operates are critical to being an effective environmental lawyer and to having a fulfilling career in this field. I always tell my students that two of the best aspects of being an environmental lawyer are that you frequently engage in interdisciplinary work with scientists and that, sometimes, you get to go outside. I believe UF's ELULP has done a fantastic job of showing students the connections between our legal work and the environment.

As you can see in this newsletter, the ELULP has a long history of providing many interdisciplinary opportunities for students, including many courses that get students out into the field to see firsthand the natural world to better understand environmental problems and solutions to those problems. In this newsletter, we highlight some of those interdisciplinary courses including our field courses in Costa Rica, Belize, and the Everglades, as well as interdisciplinary conservation clinic projects. We also include a profile of Professor Richard Hamann, whose teaching and research have centered on interdisciplinary work and field courses in wetlands and water law. I hope you enjoy reading about our interdisciplinary courses, projects, and activities as well as learning about some of the recent activities of faculty and students in the ELULP program.

— Mary Jane Angelo, Director of ELULP

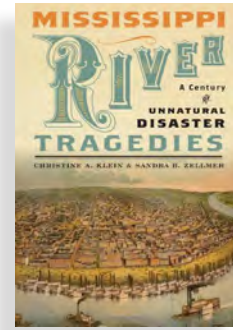
## STEIN

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University, and a visiting associate professor of legal research and writing, acting associate director of the Legal Research and Writing Program, and co-director of the scholarly writing program at the George Washington University Law School. Prior to her academic appointments, she practiced as an environmental and litigation associate for Latham & Watkins LLP in the firm's Washington, D.C., and Silicon Valley offices. She is a member of the District of Columbia, Illinois, and California state bars.

She received her J.D. from the University of Chicago Law School and her bachelor's degree in Environmental Studies from the University of Chicago.

## Professor Klein Publishes New Book



Christine A. Klein published *Mississippi River Tragedies: A Century of Unnatural Disaster* (NYU Press 2014, with Sandra Zellmer). The book reveals how humans — often with the best of intentions — remade the Mississippi into an unnatural river. This transformation had the unintended consequence of magnifying the impacts of otherwise natural storms and hurricanes, thereby setting the stage for “unnatural disaster.”

## UF Law Alum Joins Pace Faculty

Nadia B. Ahmad (JD 05) has joined the faculty of Pace Law School as a visiting assistant professor. This fall she is co-teaching Natural Resources Law. A recent LL.M. graduate of Denver Law Environmental & Natural Resources Law, Professor Ahmad's research explores the intersections of energy law and the environment and draws on international investment law, energy justice, corporate best practices and corporate social responsibility. She also writes about women's legal rights in South Asia and the Middle East.

Prior to joining Pace Law School, she worked in the Denver office of Noble Energy, a multinational oil and gas company, focusing on division orders, oil and gas title, and post-production royalty matters in the Denver-Julesburg Basin. Additionally, as a Legal Fellow with the Colorado-based NGO, Sustainable Development Strategies Group, Professor Ahmad analyzed foreign mining and natural resource development laws for compliance with sustainable development principles. Earlier, Professor Ahmad was an attorney in private practice in Florida and handled civil litigation, real property, land use and zoning, corporate and employment law matters. While at UF Law, she served as Executive Editor of the Florida Journal of International Law and received the Virgil Hawkins Fellowship.

### University of Florida Levin College of Law Environmental and Land Use Law Program

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ELULP Professor Richard Hamann, sixth from left, with ELULP students in Costa Rica.

## Hamann Epitomizes Interdisciplinary, Innovative Teaching and Research

Richard Hamann was immersed in law from an early age. “Since my father worked in the law library for Betty Taylor (long-time Legal Information Center director and former acting dean), I feel certain I must have been wheeled into the stacks in my stroller and somehow imprinted on the smell of the Southern Reporter.”

That unconventional beginning of a career in legal education epitomizes Hamann's unique method of experiential learning that extends far beyond the traditional classroom.

Hamann will retire next year after four decades at the University of Florida, first as an undergraduate in political science, then as a J.D. student, then as a research assistant at the Eastern Water Law Center, and today as a teacher and researcher at the Center for Governmental Responsibility and ELULP program.

Hamann typifies the same individualism as his father who lived in a tent at the Gainesville airport with other veterans after WWII. Hamann grew up listening to the tales of his father, who graduated from UF and practiced law in Miami. Although born in Gainesville, Hamann moved to South Florida at an early age and grew to love the adventures the region offered him.

“I loved listening to the trials and tribulations of him and his colleagues, but I had no intention of becoming a lawyer. Nature was my love and with a hunting camp in the Fakahatchee Strand and a succession of boats, I had plenty to explore.”

His plans changed one cold day in Colorado. During college, Hamann's interests shifted from zoology to political science, with an emphasis on Latin America, and he received his bachelor's degree in it. After graduation, he hitchhiked from the U.S. to Colombia, and later he began working in construction in Denver.

“One day during a blizzard as I stood on a scaffolding removing hurricane clips that someone had been put on

backwards, I noticed that my boots were frozen and thought ‘I need to work inside.’ That night an old friend called and reported that she was taking the LSAT and applying to Florida. I decided to do the same.”

He admittedly enjoyed law school “to the exclusion of everything else” and after graduation, didn't want to leave Gainesville. Fortunately, the late Frank Maloney (former dean) needed a research assistant, so Hamann was hired by Dan Fernandez, then-director of the Eastern Water Law Center, for a short-term project. There he applied for a grant and secured two more years of funding, beginning Hamann's long history of successful grant applications. Ultimately, when the Eastern Water Law Center moved to the Center for Governmental Responsibility, Hamann moved too. He's been at CGR since, including a stint as acting director. “I don't particularly like administrative jobs and have never desired another.”

That move began his career in project-driven, funded research. Hamann soon was asked to teach a four-credit course on state and federal environmental law in 1984. “I covered everything from sovereign lands to water pollution control and hazardous waste. One thing I learned from that class was the importance of a targeted exam. I made the mistake of giving the students an 11-page fact pattern that raised every issue we covered in the class. People wrote in longhand back then, and the students came out of that exam with cramped hands and vacuous stares. It was horrible for them, and then I had to grade the papers, which was horrible for me.”

That first class began a long friendship with former student Ralf Brookes, now an environmental and land use and local government attorney who practices throughout Florida. “One of my best memories from the class was of Ralf Brookes. I was going to a conference in D.C. and told him that if he could get there, I could get him admitted. To my amazement, he drove 16 hours, arrived just before it started and got a lot out of it.

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The Florida Department of Environmental Protection's Coral Reef Conservation Program presents the new Our Florida Reef's Marine Planner Decision Support Tool to Community Working Group members. The Tool uses Geographical Information Systems to assist stakeholder groups with marine management strategy development concerning spatial parameters. (Photo by Caitlin Pomerance)

## ELULP Graduate Begins NOAA Fellowship

UF law graduate Caitlin Pomerance advises students to “keep their eyes and mind open for opportunities and never give up.” She personifies her own advice. She has made the transition from UF’s Conservation Clinic to becoming a 2013 Guy Harvey Scholar to her current work as the 2014 NOAA Coastal Management Fellow.

She is well on her way to her goal of becoming an international ocean policy expert. “I envision myself facilitating communication between nations that leads to international compromise aimed at protecting and conserving our ocean resources,” she said. “The NOAA Coastal Management Fellowship throws me into the intricate world of coastal and ocean policy and provides me with hands-on experience facilitating amicable discussion between interest groups with varying points of view.”

In August she was preparing for a field experience with stakeholders. Her fellowship began by working with Community Working Groups in Southeast Florida to assist with the implementation of a stakeholder-driven coral reef management plan for the reef tract that runs from Stuart to Miami. The next step is implementing strategies to reduce coastal construction impacts to Southeast Florida’s coral reef tract. Finally, she will be reaching out to various interest groups throughout Southeast Florida as part of an educational and outreach campaign that highlights the resources available to the community for reporting and handling coral reef impacts such as anchor damage and marine debris.

She credits her experience in the ELULP program for prepar-

ing her for the fellowship. “With the advice and mentoring of the ELULP professors, externship opportunities provided through the program, and experience from working in the Conservation Clinic, I feel confident beginning my fellowship,” she said. “In particular, my experience in the Conservation Clinic implementing a locally-driven marine protected area in the Bahamas provided me with the skill set I need to use stakeholder input to develop a Southeast Florida Coral Reef Management Strategy.”

Pomerance’s two-year fellowship will give her the opportunity for on-the-job training. She also is active in other ways. In summer 2013 she rode her bicycle 4,000 miles from Baltimore to San Francisco to raise funds for cancer research. Along with two other UF law graduates, Saira Fida and Amanda Broadwell, she is one of the founders of Debris Free, a pending 501(c) (3) non-profit organization that aims to inspire local communities to responsibly manage the lifecycle of plastics and waste as part of a global initiative to eradicate marine debris. Debris Free ([www.debrisfree.org](http://www.debrisfree.org)) bases its implementation strategy on the 5Rs – reduce, reuse, recycle, recollect, redesign – in highlighting the need for communities to reduce their desire for single-use consumables. Debris Free inspires sustainable lifestyles through interactive outreach campaigns and consulting.

Prior to attending UF law, she received her B.A. from the University of Miami in Ecosystem Science and Policy. She is a surfer and diver and says she spends all of her free time either enjoying or protecting our oceans.

## ELULP LL.M. Grad Enjoys Washington Work

When Alexis Segal heard fellow UF law alum Carol Browner speak at the annual Public Interest Environmental Conference, she didn’t realize that she soon would be following in the footsteps of Browner, a former EPA Administrator and Presidential advisor on the environment.

Segal (LL.M. 13) is serving as the Ecosystems Policy Advisor in the Land and Water Division at the White House Council on Environmental Quality through an Everglades Foundation Fellowship. She analyzes and advises the Administration leadership on restoration policy strategies for federal water policy and large-scale ecosystem restoration initiatives which include the Everglades, Chesapeake Bay, California Bay Delta, the Great Lakes and the Gulf Regions.

Working with a broad cross section of federal agencies from the Federal Emergency Management Agency (FEMA) to the Department of the Interior to the Environmental Protection Agency (EPA) to the State Department, Segal coordinates interagency working groups within the federal government and frequently meets with stakeholders from nonprofit, local government, tribal and private sectors from around the U.S. to discuss issues and opportunities to promote resilience of the natural infrastructure and to continue effective restoration initiatives.

Segal appreciates her experiences at UF Law, “I apply the knowledge I gained at UF Law every day at work and am proud to understand how the U.S. statutory framework creates opportunity for some of the best environmental policy development in the world.”

She also credits her time in the ELULP program for expanding her learning beyond law and for helping her understand the interdisciplinary nature of policy development.

“The ELULP program broadened my horizons as to what was possible with a law degree. Between the field courses and Conservation Clinic, I was able to study in Belize, to advise on a marine managed area in the Bahamas and to explore the entire range of the Everglades. The curriculum also allowed me to take courses outside the law school that were very worthwhile. These experiences, added to the excellent teaching and curriculum in the law school, gave me a solid foundation from which to build. Perhaps more importantly, my experience at UF provided me with a more global vision as to how our legal world intersects with policy, science and local communities.”

She works within the Executive Offices of the President, an experience she calls “equally exciting, challenging and intense. Every day I am learning something new.” A special reward in her job, she said, is applying her knowledge about



Alexis Segal founded Biscayne Bay Waterkeeper in January 2011.

the Florida Everglades and restoration successes in Florida to her current work.

As her term in Washington nears an end in December, Segal has some advice for other UF law students. “Find a professor or two you click with and don’t be shy to ask for their insight. UF law faculty have a breadth of knowledge and experience every law student should tap into, as well as a range of opportunity for on-the-ground experiences through clinics, travel experiences and field courses.” She also recommends exploring departments outside the law school while at UF. “Law school is a great time to pursue all of your interests. This also provides a more well rounded perspective of the law. But for the ELULP program, I would not have known about this opportunity at CEQ and it has been a wonderful experience.”

Prior to enrolling at UF Law, Segal practiced corporate law in New York City. She also headed Biscayne Bay Waterkeeper. At UF Law, she was a Climate Institute Fellow and worked with the UF Law Conservation Clinic to assist a Bahamian non-profit to establish a marine reserve zone and research facility in Long Island, Bahamas. She received her J.D. from Emory University School of Law and B.S. from Georgetown University.





Former Florida Gov. Buddy MacKay (JD 61) speaks at the 2014 Public Interest Environmental Conference. (Photo by Elise Giordano 4JM)

## Environmental Conference Examines Sustainable Agriculture Issues

Former Florida Gov. Buddy MacKay and Columbia University Professor and Vertical Farm Project Director Dickson Despommier headlined the 20th annual Public Interest Environmental Conference at UF law in February.

Environmental and legal experts discussed “Feeding the Future: Shrinking Resources, Growing Population and a Warming Planet” with more than 200 participants in tracks on agricultural frontiers, natural resources, and legal/regulatory issues.

Jack Payne, senior vice president for agriculture and natural resources at the University of Florida’s Institute of Food and Agricultural Sciences, kicked off the central theme with an opening talk on the current challenges and opportunities Florida agriculturists face. Sarah Bittleman, senior agricultural counselor for the Environmental Protection Agency, discussed how agriculturists, environmentalists and others can collaborate to meet common interests – an ongoing theme of the conference.

“Thirsty Agriculture, Thirsty Springs: Who Gets to Drink from the CUP?” kept with that theme of collaboration from its diverse panel members to its topic. Robert L. Knight, a scientist and president of the Florida Springs Institute; Wayne Flowers (JD 75), an attorney from Lewis, Longman & Walker, P.A.; and MacKay talked about agricultural water use and how it affects Florida springs. Agriculture is

the second largest sector in Florida’s economy and is one of the biggest competing interests for water, Flowers said. The question is, to whom should the limited number of consumptive (water) use permits go, and why? Making the case for agriculture as a top competing interest, Flowers noted that if agriculturists don’t have access to water, food supply would go down and prices would shoot up. What use best serves the public interest?” he said. “Agriculture has a very important place.”

Gov. MacKay, who worked on several water projects as the late Gov. Lawton Chiles’ lieutenant governor, said the competition for water in Florida is not a new problem. He compared the current issue to when he was faced with Hillsborough and Pinellas counties sucking down water while competing for growth in the 1990s. Their overconsumption left nearby Pasco County nearly dry. “I have seen this movie before. I know the plot, and some of the players are even the same,” MacKay said.

Pasco County represents Florida’s springs, and Hillsborough and Pinellas represent today’s competing interests, including agriculture – one of the biggest, he said. In order to protect the springs, the most endangered ecosystem in Florida, it’s going to take more than policy framework or regulation.

“When all else fails,” MacKay said, “we’re going to have to work together.”



## UF Law Costa Rica program joins international consortium

The UF Law Costa Rica Program is partnering with the Organization for Tropical Studies (OTS) and UF’s Center for Latin American Studies, enhancing efforts to build interdisciplinary bridges between law, policy and the social and natural science of conservation and sustainable development. With administrative offices, classrooms and three internationally renowned field stations in Costa Rica, OTS is a consortium of U.S. and international universities and institutions focused on tropical research and education. Using OTS field stations as policy laboratories, the program explores the issues of sustainable development through the lens of the ecosystems and communities that surround the stations at La Selva, Palo Verde and Las Cruces.

**A skills emphasis:** Practicums lie at the heart of the program. Law and graduate students from the U.S., Costa Rica and elsewhere develop their knowledge and skills through an integrated suite of courses that coalesce around efforts to find practical, policy-relevant solutions to issues of immediate importance to the conservation and sustainable development community.

**A field-based approach:** For policymakers and those advising them, conservation and sustainable development issues are best understood where they occur. Each week the Program embarks on extended visits to OTS field stations and their neotropical context – rivers, wetlands, forests (wet, dry and cloud), beaches and mountains. They will also visit indigenous communities, meet with farmers and land owners, and encounter unique sustainable development projects – all grist for collaborative problem-solving approaches.

## Visiting International Faculty

Professor Roberto Virzo of the University of Sannio in Benevento, Italy, will offer a course on “Law of the Sea” this year. He previously taught the same course at UF law.

The course provides a survey of international law of the sea and focuses on the legal regime established by both customary international law and the United Nations Convention on the Law of the Sea (UNCLOS). It covers the topics of: internal waters; territorial sea; international straits and archipelagos; contiguous

zone; exclusive economic zone; continental shelf; high seas and the international seabed area; management and conservation of living resources (including fisheries); protection and preservation of marine environment; and settlement of law of the sea disputes.

## ELULP Awards Degrees, Certificates

The Environmental and Land Use Law Program awarded LL.M. degrees to two students, Chelsea Ann Dalziel (a land use attorney with Pinellas County) and Jaclyn Marie Lopez (an attorney with the Center for Biological Diversity).

An additional seven J.D. graduates received certificates in environmental and land use law. They are Nicholas Barshel, Amanda Broadwell, Brian Davis, Carly Grimm, Jon Morris, Zachary Rogers and Alexander Wilkins.

## ELULP Students Participate in Summer Experiential Learning

Twelve ELULP students participated in summer experiential learning in 2014. They are Gentry Mander (3L), The World Bank, Guatemala City, Guatemala; Christopher Johns (3L), Harvard Food Law and Policy Clinic, Boston, MA; Elizabeth Turner (3L), U.S. Environmental Protection Agency, Office of General Counsel, Honors Program, Washington, D.C.; Melissa Fedenko (3L), U.S. Environmental Protection Agency, Office of Enforcement, Washington, D.C.; Bruce Groover (3L), Defenders of Wildlife, Washington, D.C.; Daniel Fontana (3L), Alachua County Environmental Protection Department, Gainesville; William White (3L), Hopping Green & Sams, Tallahassee; Nathalie Vergoulias (3L), Florida Inland Navigation District, Miami; Sara Frick (2L), Hillsborough County Environmental Protection Commission; Amanda Hudson (2L), Public Trust Environmental Law Institute; Adrian Mahoney (2L), Audubon, Miami; and Jennifer Lomberk (2L), Alachua County Forever, Gainesville.

## First Rumberger Fellows Selected

UF law students Chris Johns (3L) and Elizabeth Turner (3L) were selected as the inaugural E. Thom Rumberger Everglades Foundation Fellows. The fellows program was led by Rumberger’s law firm, Rumberger, Kirk & Caldwell, and UF law to honor the late attorney known for his work on landmark environmental and constitutional cases.

The two students were introduced to the Everglades Foundation Board in February. “For the rest of the day the staff and Board were talking about how proud they were to be part of preparing new environmental leaders,” said Jon Mills, UF Law Dean Emeritus and Director of the Center for Governmental Responsibility. Mills serves on the Everglades Board and worked with Rumberger on numerous cases. He also worked to establish the Rumberger Fellowship.



## Conservation Clinic Maintains National, International Work

The Conservation Clinic continues to maintain a robust portfolio of domestic and international projects. Here are just a couple of the highlights from the 2013-2014 academic year. Supported by a grant from the Florida Department of Economic Opportunity the Clinic worked with the town of Yankeetown and the Friends of the Withlacoochee Gulf Preserve to develop a strategy to incorporate sea level rise adaptation policy as a form of community's economic development. The town owns the Withlacoochee Gulf Preserve (WGP), a small estuarine protected area that will be on the front lines of the rising sea. Alachua Conservation Trust, another long time clinic client, holds a conservation easement over the WGP, which includes an education center overlooking the marsh. This unique relationship lends itself to promoting Yankeetown and the WGP as a center for natural resource adaptation education and research. In the 2013-2014 academic year the Clinic teamed up with the UF Watershed Ecology Lab and assisted the town and the WGP with a science plan and an economic development plan, explicitly adopting by resolution natural resource adaptation as an explicit town policy. The results were presented at the NOAA sponsored "Social Coast Forum" in Charleston, South Carolina under the title "Using Blue Infrastructure, Adaptation Science and Education-based Tourism to Drive a Sustainable Economy in a Rural Coastal Community."

In the international arena, the clinic has continued its work with Florida's island neighbor – the Bahamas. A Program Development Support grant from Florida Sea Grant has enabled the clinic to launch the South Florida-Bahamas Ecoregional Initiative. The project aims to provide law and policy support and exchange to the Bahamas National Trust, a quasi-governmental entity charged with managing the country's protected areas, while addressing issues of mutual interest. As part of the effort, BNT has commissioned a series of white papers. The first in this series addresses the law of vessel groundings, a matter of considerable interest in an archipelagic nation with extensive coral reefs. The clinic and Florida Sea Grant will also support a bi-national meeting in South Florida to discuss issues addressed by the white paper series, such as transboundary commercial and recreational fishing pressure, dredging and sand transport.

Clinic student associates continue to convert their applied clinic research into accessible publications across a variety of forums including scholarly journals, practice-oriented publications, and the University of Florida Institute for Food and Agricultural Institute's internal peer-review publication process.

- Grimm, Carly, Broadwell, Amanda & Ankersen, Thomas T., Feeling the Squeeze: The Troubled Future of Lateral Beach Access in Florida, 35:3 Environmental and Land Use Law Section Reporter (The Florida Bar, March 2014)
- Rebleich, Jesse, Private Property Rights vs. The Public Trust Doctrine: Do Any Uses Survive a Transfer of Sovereign Submerged Lands from the Public to the Private Domain? 35:1 Environmental and Land Use Law Reporter (the Florida Bar, September 2013).
- Culp, Samantha, Faerber, Melissa & Ankersen, Thomas T., The Tiff over TIF: Extending Tax Increment Financing to Municipal Maritime Infrastructure, 34:3 Environmental and Land Use Law Section Reporter (The Florida Bar, April, 2013)
- Linhoss, Anna Cathey, Chambers, Lisa Gardner, Wozniak, Kevin and Ankersen, Tom, A Multi-Disciplinary Review of Current Sea Level Rise Research in Florida, Florida Sea Grant Technical Publication # 193 (February, 2013)
- Wozniak, Kevin, Garin Davidson, and Thomas T. Ankersen. Florida's Coastal Hazards Disclosure Law: Property Owner Perceptions of the Physical and Regulatory Environment. Florida Sea Grant Technical Publication # 194 (2012)
- Ankersen, Thomas T., Richard Hamann, and Byron Flagg. Anchoring Away: Government Regulation and the Rights of Navigation in Florida. Florida Sea Grant Technical Paper # 180 (1999, rev. 2012)
- Lingle Benjamin R. & Ankersen, Thomas T., A Legal Analysis of DEP's New ERP Exemption for Small-Scale Living Shorelines, 4:32 Environmental and Land Use Law Section Reporter (The Florida Bar, June 2011)
- Novak, Susan, Florida's forgotten ports: Will the small ports of Florida survive the rise of the condo? 23 Florida Journal of International Law 103-123 (2011)
- University of Florida Conservation Clinic, Sea Grant Law and Policy Journal: Special Issue: Focus on Florida, Volume 4, No. 1 (2011)
- Ankersen, Thomas T., Introduction to the Special Issue: Focus on Florida
- Sharbaugh, Kevin, Take Me to the Water: Florida's Shrinking Public Access to the Waterfront and the Steps to Preserve It 4
- Choate III, James F., Sea Level Rise Planning for Florida's Nuclear Energy Infrastructure: A Wait and "Sea" Approach? 28
- Hotaling, Althea S., Lingle, Benjamin R., and Ankersen, Thomas T., Comprehensive Seagrass Restoration Planning in Southwest Florida: Science, Law and Management 61
- Matthews, Joseph, Redefining the Territorial Sea in the Clean Water Act: Replacing Outdated Terminology and Extending Regulatory Jurisdiction 114

## Wolf Lecture Examines Property Rights, Climate Change

Professor Daniel A. Farber of the University of California at Berkeley delivered the seventh annual Wolf Family Lecture at the UF Levin College of Law in March. He spoke on "Property Rights and Climate Change: Challenges and Opportunities." Farber is the Sho Sato Professor of Law and the co-director of the Center for Law, Energy, and the Environment at UC Berkeley. A member of the American

Academy of Arts and Sciences and a Life Member of the American Law Institute, Farber serves on the editorial board of Foundation Press and as editor-in-chief of Issues in Legal Scholarship. The Wolf Family Lecture Series was endowed by a gift from UF Law Professor Michael Allan Wolf, who holds the Richard E. Nelson Chair in Local Government Law, and his wife, Betty.



Florida Everglades

## Angelo Joins Interdisciplinary Everglades Water Research Team

ELULP Director Mary Jane Angelo is participating on a six-member interdisciplinary University of Florida research team this fall that will conduct a technical review of the options to move water from Lake Okeechobee to the Everglades. The Florida Senate contracted for the research project, which will conclude with a report by the UF team in early 2015.



The research team includes Project Leader Wendy Graham, Director, UF Water Institute; Karl Havens, Director, Florida Sea Grant College Program; Thomas Frazer, Director, UF School of Natural Resources and Environment; K. Ramesh Reddy, Chair, UF/IFAS Department of Soil and Water Science; Peter Frederick, Research Professor, Wildlife Ecology and Conservation; and Angelo.

For decades, planning has been underway to develop solutions to these problems. Currently, the Comprehensive Everglades Restoration Plan is being implemented by the U.S. Army Corps of Engineers, the South Florida Water Man-

agement District, and the U.S. Department of Interior.

The UF research team will review relevant reports and documents and interview scientists and engineers at the lead management agencies. They also will gather information from agencies, organizations and individuals with expertise on issues related to reducing regulatory discharges from Lake Okeechobee to the estuaries and to increasing the flow of water from the lake to the Everglades.

The Florida Senate authorized an independent review of agency-adopted plans to ensure that the plans are technically sound and to seek innovative and new approaches to moving the water.

The UF research team is charged with developing a final report to the Florida Senate, including a summary and assessment of this regional water management issue, including an inventory and assessment of current and proposed restoration plans developed by state and federal agencies and stakeholders, as well as any identified by the review team; future uncertainties that could affect restoration plans; and policy and project options for improving water management.

Prior to joining the UF law faculty in 2004, Professor Angelo served as Senior Assistant General Counsel to the St. Johns River Water Management District, Palatka, Florida; and was an attorney in the U.S. Environmental Protection Agency, Washington, D.C.



## UF Law Professor Cohn Instrumental in 'Green' Corporations Law

UF Law Professor Stuart Cohn was a principal in drafting a new law that allows corporations in Florida to form a "benefit corporation" or "social purpose corporation", thus allowing them to contribute in a significant way to greater social causes and look beyond the bottom line. The new law went into effect in Florida on July 1.



Cohn worked with state Senator Jeff Clemens (D-Lake Worth) and Rep. Pat Rooney, Jr., (R-Palm Beach), the legislation's sponsors.

Professor Cohn said the idea of benefit corporations arose a few years ago when he was appointed by the Corporations, Securities & Financial Services Committee of the Business Law Section of The Florida Bar to head up a study of this new form of enterprise and to draft legislation. He headed the project and was assisted by UF Law student James Glover.

"The idea of a benefit corporation has been around for several years and now over 25 states have adopted some form of legislation allowing it. Those of us who worked on this project believe that Florida's legislation may be the best in the country, as we provide socially-minded entrepreneurs greater choice and freedom than exists in most other states," Cohn said. "Socially-minded entrepreneurs and investors who want to engage in for-profit companies that undertake substantial and significant public interest activities can do so without fear of running up against traditional corporate doctrine regarding maximization of profit. We are likely to see a growth in Florida in public-interest type corporations. Right now, only not-for-profit corporations can engage in such substantial activities, but those corporations are not able to make and distribute profits to investors, which limits their attractiveness to obtaining capital."

## UF Law Offers Foreign Field Study Opportunities

UF law's ELULP offered two foreign field study opportunities this academic year, one in Belize during spring break and one in Costa Rica during the summer.

"Sustainable Development: Law, Policy & Practice" was offered during spring break, 2014, in Belize for 2L, 3L, and LL.M.

students. The two-credit, eight-day course was hosted by the Belize Foundation for Research and Environmental Education (BFREE). Students traveled through Belize to delve into international and domestic law issues concerning protected areas, indigenous land rights, intellectual property in biological diversity, water, mining and energy, cultural resources, fisheries and coral reef conservation – all within the context of national pressures for human development. In addition to domestic Belizean law and international development law and policy, students were exposed to the unique legal framework of the commonwealth Caribbean.

"Conservation and Sustainable Development: Law, Policy and Professional Practice," the summer abroad program, was an interdisciplinary policy-focused program consisting of three linked courses integrating international and comparative sustainable development law and policy, contemporary issues in tropical conservation and development, and professional skills for practitioners. The program consisted of a foundational course in international sustainable development law and policy; a topical course in water, wetlands and wildlife conservation, and a sustainable development practitioner skills course. All three courses were integrated through practicums based around current issues of conservation and development in Costa Rica and elsewhere, jointly developed by U.S. and Costa Rican faculty. Costa Rican law and graduate students as well as young professionals participated. The course included lectures at the Organization for Tropical Studies headquarters, site visits to international and domestic institutions in San Jose such as the Inter-American Court for Human Rights, and field trips to biological field stations of topical relevance to the course.



ELULP students and faculty in Costa Rica

## UF Environmental Moot Court Team Named Quarterfinalist

The UF law Environmental Moot Court team was named a quarterfinalist at the Pace Law National Environmental Law Moot Court Competition, which took place Feb. 20-22, 2014. Elizabeth Turner (3L), Melissa Fedenko (3L) and Zachary Rogers (JD 14) competed against teams from more than 75 other schools, and were judged on oral argument performance and brief writing skills. This year's competition focused on issues in the Clean Water Act relating to citizen suits, navigability of waterways and point source definitions. Rogers also received an award for Best Oralist Honorable Mention, among more than 200 participants.

Ralf still operates that way."

Brookes calls Hamann "an inspiration for generations of young environmental lawyers from all over Florida", noting that "he has always been there to encourage new law students and young lawyers to follow our dreams and pursue what most interests each of us individually as students and attorneys, both personally as well as professionally. He broke the mold we expected of law professors. His classes involved field work not just lectures. His field trips involved canoes not just bus rides. And most of us were amazed to discover he had planted his own longleaf pine restoration forest in what has evolved into his own private park! His receptions have become a highlight of the annual public interest conference where lawyers and students mingle by the light of a very large campfire swapping stories and dreams. Many a great idea was kindled by these gatherings. We all look to Richard Hamann constantly for advice on water law, wetlands and other issues. And we all look to Richard as a polestar of true north in his unwavering yet calm approach to some very contentious issues we face on a daily basis."

Hamann's career has taken him throughout the world. He's worked in Mexico, Central America, Brazil and southern Africa. "One of the most challenging [projects] was a consultancy that [conservation clinic director] Tom Ankersen and I had in Zambia in 1995 to draft a new national parks and wildlife law and recommend the terms for safari hunting concessions that would provide for greater community participation in both the benefits and management. There were so many different stakeholders and so many different versions of reality that it was exceedingly difficult to develop an understanding of the status quo, much less make good recommendations. But I think we did a great job."

While Hamann has been an integral part of the ELULP program since its inception, he credits other faculty for the beginnings – Dean Maloney, Julian Juergensmeyer, and Fletcher Baldwin. "Alyson Flournoy really institutionalized it and now we have a deeply talented group led by Mary Jane Angelo [another one of Hamann's former students]. We just need to bring in another generation."

Hamann recognizes the importance of former students as resources for the program. "They keep us – faculty and students – in touch with the needs and the knowledge of practicing lawyers. They are facing the issues that we need to educate our students

about, and I draw upon their experiences as much as possible."

With the diverse nature of environmental law, Hamann reaches across campus frequently, working most closely with the Florida Sea Grant and UF's Water Institute.

"It's an interdisciplinary world. Our students will work as parts of interdisciplinary teams and they have to learn how scientists, engineers, planners and other professionals think and how they can contribute their particular expertise to solving the problems of their clients. They cannot do it alone."

For several years, he worked on the IGERT (Integrative Graduate Education and Research Traineeship) program, a National Science Foundation-funded project focusing on adaptive management in water, wetlands and watersheds. The interdisciplinary UF program included four colleges, 15 academic departments, three research centers and links with international wetlands research centers.

Hamann recently served a four-year term on the St. Johns River Water Management District Governing Board. In that position, he embraced his role in public policy decisionmaking. "I think everyone, not just environmentalists, needs to be involved in public policy decisions. But I do believe that environmental interests are often under-represented and out-gunned in public policy debates because the economic incentives to do the wrong thing are so strong. It's important for good people to advocate for the public interest and most of our students want to do that."

As retirement approaches, Hamann says he still has a few more courses to teach and hopes to write an article reviewing how the Florida Water Resources Act has been tested by political, economic and climatic stress. He admits that his "most daunting task is cleaning out my office. Hercules would be challenged."

After he retires, he has a few plans. "My house needs to be rebuilt; my boat needs a lot more time on the water; I am trying to restore longleaf pines on my land; and I will probably spend a lot more time helping Alachua Conservation Trust with land management.

"Having spent most of my professional life working with water, much of my private life involves working with fire. I am a certified prescribed burner and wildland firefighter. My goal with my own land is get it to the point that I can manage it with matches. After spending a week recently with a logging crew producing chips for the biomass plant, I'm getting closer to that goal."

## 2015 Spring ELULP Capstone Colloquium Speakers Selected

"Emerging Topics in Land Use and Sustainable Energy" is the theme for the 2015 Spring Environmental Capstone Colloquium, as announced by Christine Klein, Chesterfield Smith Professor and Director of the LL.M. Program in Environmental and Land Use Law. While the exact dates and presentation titles have not been finalized, the speakers who will participate are: Bruce Huber, Associate Professor of Law, Notre Dame Law School; Ashira Ostrow, Associate Professor of Law, Maurice A. Deane School of Law at Hofstra

University; Uma Outka, Associate Professor of Law, University of Kansas School of Law; Sara Schindler, Associate Professor of Law, University of Maine School of Law; and Amy Stein, Associate Professor of Law, University of Florida Levin College of Law. The Capstone Colloquium is funded by contributions from Hopping Green & Sams and Al Malefatto, shareholder of Lewis Longman & Walker, P.A. For additional information, please contact Program Assistant Lena Hinson (hinson@law.ufl.edu).

Produced in the UF Law Communications Office for the Environmental and Land Use Law Program. For Information, contact ELULP Director Mary Jane Angelo at Box 117625, Gainesville, FL 32611-7625; e-mail [angelo@law.ufl.edu](mailto:angelo@law.ufl.edu); phone (352) 273-0777; fax (352) 392-9419; [www.law.ufl.edu/academics/concentration/elul](http://www.law.ufl.edu/academics/concentration/elul)

## Giving to the Environmental and Land Use Law Program

We depend on our environmental law alumni and friends to support our programs, and you have helped us gain national recognition as one of the top programs in the U.S. Your support allows us to offer enhanced learning experiences for our students through activities such as the environmental moot court competition, summer abroad program in Costa Rica, Public Interest Environmental Conference, Conservation Clinic, environmental speaker series, and externship opportunities. Fellowships for our J.D. and LL.M. students allow us to recruit and enroll the top candidates for our program. If you would like to make a donation to our program, please complete the form below and return it to us at the address provided.

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