En v i r o n mEn t a n d n a t u r a l rEs o u r cEs la w Pr o g r a m

2009

E n v i r o n m e n t a l a n d N a t u r a l R e s o u r c e s L a w P r o g r a m

U N I V E R S I T Y O F D E N V E R
Sturm College of Law
Learn environmental and natural resources law at the confluence

The confluence of tradition and innovation. The University of Denver has a long and rich tradition of excellence in environmental and natural resources work. DU’s founders created the school in 1864, five years after prospectors streamed into the area seeking gold and 11 years before Colorado became the Centennial State. When the law school was founded in the 1890s, some of its first offerings were natural resources courses in water rights and mining law.

Today the Environmental and Natural Resources Law Program (ENRLP) at the DU Sturm College of Law is one of the nation’s finest. U.S. News & World Report has consistently ranked our program in the top 16 or above for the past five years, and in 2007, we received an honor shared by only two other law schools in the country: the American Bar Association’s Award for Distinguished Achievement in Environmental Law and Policy.

The confluence of environmental and natural resources practice experience: The Sturm College of Law is located at the gateway to the Rocky Mountains, minutes away from myriad year-round recreational happenings. Denver is also the hub of federal, state, private, and public interest activities, making it the premier law center in the country outside of Washington, D.C. Through our Environmental Law Clinic and our extensive Environmental and Natural Resources Internship Program, we offer our students rich opportunities to apply what they learn in the classroom to the practice of law, and to bring what they learn in practice back to the classroom.

The Sturm College of Law can guarantee most second- and third-year law students practice experience or internships for credit with:
- national and regional offices of many federal environmental and natural resources agencies such as the U.S. Department of Justice, the Department of the Interior, and the U.S. Environmental Protection Agency;
- state and federal courts—Denver is the seat of the 10th Circuit Court of Appeals;
- state and urban agencies, such as the Colorado Attorney General and the Denver City Attorney;
- leading law firms;
- national and international environmental public interest groups; and
- Fortune 500 mining and energy companies with local offices.

The confluence of variety in faculty and programs: DU Law’s ENRLP faculty teach and write in traditional and cutting-edge natural resource and environmental areas. Our required courses of more than 30 course offerings annually cover topics such as public lands, energy and water, climate change, and environmental law, policy, and regulation.

The Sturm College of Law also offers one of the few regular courses in land conservation transactions nationwide, and we house the Rocky Mountain Land Use Institute, whose annual conference draws to our campus more than 500 land use planners and lawyers from across the nation.

Not only do our programs provide a balance between development and conservation perspectives, but it also balances our strong reputation for legal scholarship with important practical skills opportunities. Our students actively participate in student-led organizations, our natural resources moot court competitions the last four years, and numerous groundbreaking conferences.

We also have a unique laboratory component in our Environmental and Natural Resources Law & Policy Graduate Program that has become one of the most prominent in the nation, attracting students from across the world.

Gold was discovered at the confluence of the South Platte River and Cherry Creek in downtown Denver. You will discover gold as well when you study environmental and natural resources law at the DU Law confluence.

KK DuVivier
Associate Professor of Law
Director, Environmental and Natural Resources Law Program
University of Denver Sturm College of Law
www.law.du.edu/enrlp
**Professor Jan Laitos**

**Selected Scholarship**

- *Hornbook on Natural Resources Law* (West 2002).

---

**Law of Property Rights Protection** (Aspen, updated with supplements through 2009) is a leading treatise addressing how the Constitution serves as a limit on government’s ability to regulate and restrict private property. It addresses Takings Clause, Contract Clause, Due Process Clause, and Equal Protection restrictions on government land use regulations as well as prohibitions against retroactive laws and government actions adversely affecting vested rights. It has been cited by the U.S. Supreme Court, lower federal courts, and state courts.

---

**Professor Rock Pring**

**Selected Scholarship**


---

**Human Rights in Natural Resource Development: Public Participation in the Sustainable Development of Mining and Energy Resources** (Oxford University Press, co-edited and co-authored by Professor Pring). The book is a comprehensive, integrated collection of chapters by 21 world experts in international energy and environmental law using natural resource examples to present a modern view of the law, policy, and practice of public participation. Reviewers have termed it “innovative,” “impressive,” “timely,” “a valuable contribution to scholarship in this area,” and “a highly original volume that will be of interest to academics, developers, and governments alike.”
Natural Resources Law: A Place-Based Book of Problems and Cases, second edition (Aspen Publishers 2009, with Christine A. Klein and Bret C. Birdsong). By using specific examples from locations across the country, authors Klein, Cheever, and Birdsong evoke the intensity of debate that arises out of disputes over natural resources. Creating context through a place-based approach, the authors illuminate policy and breathe life into statutory interpretation. Students from every part of the country will find something to relate to their own experience in the panoply of issues located in this casebook.

International Environmental Law & Policy for the 21st Century, with George Pring, Transnational Publishers (2003). This important treatise on international law and policy is the successor to an earlier acclaimed volume. The book provides an in-depth study of significant developments in this frontier area of international law, analyzing the strengths and weaknesses of the evolving principles, leading conventions, and customary practices. It points to the emerging challenges in critical areas such as climate change, desertification, marine pollution, biotechnology, international trade and the environment and human rights. It concludes with identifying the unfinished agenda in this fast-developing field. The next edition will be released in winter 2010.
Professor Ed Ziegler

Selected Scholarship

- “Urban Planning and Place Based Crime Prevention in the United States,” 11 CITY PLANNING AND HOUSING LAW YEARBOOK (Pantheon-Sorbonne University of Paris I 2008).

Ed Ziegler’s Rathkopf’s The Law of Zoning and Planning is a leading urban planning and zoning law treatise designed and written for attorneys, professors, students, and judges. This five-volume treatise is cited and quoted by the U.S. Supreme Court and is widely cited by both federal and state appellate courts throughout the country. It provides coverage of current law as well as trends in the law and analysis of critical and problematic urban planning law issues related to the powers and procedures of local zoning and planning authorities and the constitutional and statutory limitations on government’s zoning and urban planning powers.

Professor Bob Hardaway

Selected Scholarship

- POPULATION, LAW, AND THE ENVIRONMENT (Praeger Press 1994)
- PREVENTIVE LAW IN CORPORATE PRACTICE (Lexis-Nexis 2008)

Population, Law, and the Environment examines the population theories of Thomas Malthus and applies them to the environment, showing the interrelationship between the population explosion, environmental laws, abortion law, family planning, immigration, and economic growth. It makes the case that current environmental law is fundamentally misdirected toward consumption and per unit emissions rather than the total number of consumption units produced by an expanding population, and that by doing so ignores the greater threat to the environment, taking three steps backward for every step forward in finding environmental solutions.
Professor Mike Harris

SELECTED SCHOLARSHIP

As director of the Environmental Law Clinic, Professor Mike Harris and DU Law students helped FRIENDS WITH ANIMALS win their case, FRIENDS OF ANIMALS v. KENN SALAZAR (Civil Action 04-01660). The decision: The Interior Department’s U.S. Fish and Wildlife Service violated the Endangered Species Act (ESA) by issuing a blanket exemption allowing trophy hunting at U.S. ranches of endangered African antelopes.

“Standing in the Way of Judicial Review: Assertion of the Deliberative Process Privilege in APA Cases,” 53 SAINT LOUIS U. L. J. 349 (2009). In its relatively short life, the deliberative process privilege has become one of the most predominate privileges exercised by the federal government and is now routinely asserted in a wide array of litigation against the government in response to public information requests and to withhold information from Congress. This article seeks to examine the use of the privilege as it specifically applies to judicial review of informal government rulemaking under the federal Administrative Procedures Act, or APA. The article finds that use of the privilege is inconsistent with “hard look” review under the APA in that it may be used by the government to shield an agency’s reliance on evidence outside the scope of its statutory authority, as well as wholly biased, one-sided decisions.

Professor KK DuVivier

SELECTED SCHOLARSHIP

As director of the Environmental Law Clinic, Professor Mike Harris and DU Law students helped FRIENDS WITH ANIMALS win their case, FRIENDS OF ANIMALS v. KENN SALAZAR (Civil Action 04-01660). The decision: The Interior Department’s U.S. Fish and Wildlife Service violated the Endangered Species Act (ESA) by issuing a blanket exemption allowing trophy hunting at U.S. ranches of endangered African antelopes.

“Jousting at Wind Mills: When Wind Power Development Collides with Oil, Gas, and Mineral Development,” 55 ROCKY MTN. MIN. L. INST. This article addresses the expansive surface footprint of wind farms and the mounting conflicts between wind and oil, gas, and mineral development. Although wind has become a marketable resource similar to minerals, many believe it should simply be considered part of the surface estate. Traditionally, surface uses are subservient to dominant mineral estates. If wind is classified as a mineral, however, then courts may treat its development as having equal dignity to oil, gas, or other minerals. Such a result will better ensure our nation’s future because it will motivate traditional extractive industries to move over and make room for alternative renewable energy sources.

“Standing in the Way of Judicial Review: Assertion of the Deliberative Process Privilege in APA Cases,” 53 SAINT LOUIS U. L. J. 349 (2009). In its relatively short life, the deliberative process privilege has become one of the most predominate privileges exercised by the federal government and is now routinely asserted in a wide array of litigation against the government in response to public information requests and to withhold information from Congress. This article seeks to examine the use of the privilege as it specifically applies to judicial review of informal government rulemaking under the federal Administrative Procedures Act, or APA. The article finds that use of the privilege is inconsistent with “hard look” review under the APA in that it may be used by the government to shield an agency’s reliance on evidence outside the scope of its statutory authority, as well as wholly biased, one-sided decisions.


“As director of the Environmental Law Clinic, Professor Mike Harris and DU Law students helped FRIENDS WITH ANIMALS win their case, FRIENDS OF ANIMALS v. KENN SALAZAR (Civil Action 04-01660). The decision: The Interior Department’s U.S. Fish and Wildlife Service violated the Endangered Species Act (ESA) by issuing a blanket exemption allowing trophy hunting at U.S. ranches of endangered African antelopes.”

Don C. Smith
Director, ENVIRONMENTAL & NATURAL RESOURCES LAW & POLICY GRADUATE PROGRAM

There are a multitude of issues related to integrating more renewable energy-generated energy (e.g., biomass, solar, wind) into the total electricity portfolio. Beginning with the January/February 2009 issue of Renewable Energy Focus (Elsevier Science Ltd.), Don Smith comments on the challenges and opportunities U.S. utilities face in integrating renewable energy. Among the topics he has or will be writing about are transmission line string, financial challenges faced by primarily fossil fuel-based utilities, and the impact of federal climate change-related legislation on the utilities sector.

James Van Hemert
Executive Director, Rocky Mountain Land Use Institute

James Van Hemert directs Rocky Mountain Land Use Institute’s zoning code reform initiatives, the Sustainable Community Development Code, a framework that guides local governments by incorporating sustainability principles in their regulatory codes. He has written chapters on food production and local governments by incorporating sustainability principles in their plans, in faculty, and its students have provided leadership in the development, understanding, and application of environmental law and related fields.

The program has regularly been ranked among the best environmental law programs in the nation by U.S. News & World Report, ranking number 15 in 2009. It also received the prestigious American Bar Association Award for Distinguished Achievement on Environmental Law and Policy in 2007. Our graduates regularly find employment in many areas of environmental and natural resources law.

The ENRLP emphasizes both theoretical and experiential knowledge, and offers extraordinary opportunities to put classroom learning, practical experience, and community service. Students examine domestic and international environmental policy, processes, and standards and explore practical and ethical contributions to current and future environmental and natural resources issues.

Program Snapshot:
The Environmental and Natural Resources Law Program (ENRLP) at the University of Denver Sturm College of Law is one of the oldest and most extensive environmental law programs in the nation. Under the direction of the program, its faculty, and its students have provided leadership in the development, understanding, and application of environmental law and related fields.

The program has regularly been ranked among the best environmental law programs in the nation by U.S. News & World Report, ranking number 15 in 2009. It also received the prestigious American Bar Association Award for Distinguished Achievement on Environmental Law and Policy in 2007. Our graduates regularly find employment in many areas of environmental and natural resources law.

The ENRLP emphasizes both theoretical and experiential knowledge, and offers extraordinary opportunities to put classroom learning, practical experience, and community service. Students examine domestic and international environmental policy, processes, and standards and explore practical and ethical contributions to current and future environmental and natural resources issues.

Curriculum:
Coursework for all JD candidates begin with two general introductory courses:

1. Environmental Law - (L4220) Covers the major federal laws and programs for environmental protection, such as the National Environmental Policy Act, Clean Water Act, Clean Air Act, Toxic Substances Control Act, and the Resource Conservation and Recovery Act.

2. Natural Resources Law - (L4549) Covers the primary natural resources subject matter areas: water law, mining law, oil and gas law, public land law, and energy law.

In addition we regularly offer a range of traditional classroom courses for more advanced students, including:

- Animal Law
- Climate Change Law and Policy
- Comparative Latin American Mining Law
- Economics of Natural Resources Projects and Transactions
- Energy Law
- Environmental Ethics and Justice
- European Union Environmental Law and Policy
- Federal Wildlife Law
- Growth Management and Sustainable Development
- Hazardous Waste and Toxic Substances
- International and Comparative Mining Law
- International Environmental Law
- International Trade and Environment
- Land Conservation Transactions
- Land Use Planning
- Mining Law
- Native American Natural and Cultural Resources
- Negotiation of Natural Resource Agreements
- Oceans and Coastal Law and Policy
- Oil and Gas Law
- Public Lands and Resources Law
- Renewable Energy and Project Finance
- Sustainable Development and Trade Water Law

The following new courses will be offered in the 2010-2011 academic year:

- Community Relations in Natural Resource Development Projects
- Comparative Latin American Mining Law
- Trade and the Environment
- Urban Environmental Law
- Urban Planning Law, Growth, and Sustainable Development: An International Perspective

Projects:
- Climate Change: Re-Imagining Cities After Oil, Urban Land Use Pattern for a Post Carbon World, chapter in Degrees of Development.
- Renewable energy for the 21st Century: Policy, Law, Markets, Technology
- Trade and the Environment
- Urban Environmental Law
- Urban Planning Law, Growth, and Sustainable Development: An International Perspective
Environmental Law Clinic

The Environmental Law Clinic (ELC) at the College of Law was originally established in January 1995 in partnership with the Denver Public Interest Environmental Law Firm. From its inception, the ELC has taken on and won important public lands and biodiversity protection cases. In 2008, the Sturm College of Law hired its first tenured environmental law clinical director, Mike Harris. The ELC selects cases for educational value, integrating clinic expertise into classroom teaching. The clinic’s cases, and the students who worked on them have been covered in ‘The Wall Street Journal,’ ‘The New York Times,’ ‘Los Angeles Times,’ ‘The Denver Post,’ and others.

Beginning in 2009-2010, the ELC will offer two distinct tracks for clinical students: the traditional Federal Wildlife/ Resources Program (FWP) and the new Colorado Urban Project (CUP). Students who select the FWP track will gain significant hands-on experience in litigation under the Endangered Species Act, the National Environmental Policy Act, the Administrative Procedure Act, and the national Forest Management Act. Students who select the CUP track will learn to utilize both federal and state laws to tackle the growing urban environmental issues along the Front Range, including the federal Clean Water Act, federal Clean Air Act, local land use planning, and environmental justice policies.

LLM, Master’s, and Certificate Program

The Graduate Studies Program in Environmental and Natural Resources Law and Policy is administered as an independent program within the Sturm College of Law. All courses offered by the graduate program are open to JD students. Offering two degrees—the LLM and Master of Resources Law Studies (MRLS)—and a Certificate in Natural Resources Law Studies, the ENRLP program has seen steady growth for a decade. The program attracts an increasing number of foreign lawyers to DU: There were 10 countries (not including the United States) represented in the May 2009 graduating class.

Water Law Review

The Water Law Review seeks to provide a unique, high-quality forum for sharing ideas, information, legal analyses, and policy analyses concerning water law issues. It is the intent of the editorial board and staff to make the Water Law Review a valuable resource for the practitioner, the scholar, and the policy maker.

The Review primarily emphasizes water law issues, understanding, however, that nothing exists in isolation, neither in law nor in nature. Therefore, it is the express policy of the Review to solicit and to publish scholarly works that discuss water law as it affects and is affected by related areas, legal or otherwise. To that end, the Review publishes articles by nationally recognized experts, practitioners, officials, scholars, and others involved in the fields of water law and water planning.

Internships

The Environmental/Natural Resources Law Internship Program (ENRLIP) includes the leading federal, state, and local public interest environmental law agencies; international, national, and local public interest organizations; private law firms; and corporations. The internship program provides students the opportunity to acquire real experience in environmental and natural resources law practice. Students generally take internships for 3 units of credit during summer, fall, and spring semesters.

The ENRLIP is a very popular offering, open to JD students in good standing after completion of their first year and to students in the LLM and MRLS programs. Enrollment is normally in the range of 40 to 50 students per year. The result is a contribution of thousands of pro bono hours of service provided to the Denver legal community by DU Law students.

Natural Resources Moot Court Competitions

ENRLIP faculty work with the Natural Resources Law Society and the Moot Court Board to put on an intercollege natural resources moot court competition each year. This competition involves natural resources cases and requires students to write briefs. This competition also acts as an initial screening process for selecting the Sturm College of Law team for the National Environmental Moot Court Competition at Pace Law School in New York.

Rocky Mountain Land Use Institute

The mission of the Rocky Mountain Land Use Institute (RMLUI) is to serve the public as the West’s leading interdisciplinary, nonpartisan forum for research and education on the legal and public policy dimensions of development, growth management, and the environment.

The signature event organized by the institute is the annual land use conference, a world-class event attracting approximately 600 participants, including this country’s leading land use legal practitioners and academics. This is the largest public interest conference held at the University of Denver and one of the largest land use conferences held in the United States. The RMLUI provides myriad opportunities for law students to engage in its programs and activities. The institute supports the student Land Use Law Society by providing a lecture series and an unparalleled support base offering direct access to practitioners in the field. ENRLIP faculty serve on the advisory boards of the RMLUI and make significant contributions to both the planning and presentation of the annual conference.
Project POTICO (Palm Oil, Timber, Carbon Offsets) is a bold, three-year, multi-million dollar initiative fully funded by NewPage to preserve endangered virgin rainforests in Indonesia. NewPage sources only legally harvested fiber from suppliers under strict standards, without exception.

None of their wood fiber comes from old growth forests, rainforests or forests of exceptional conservation value.

This brochure was printed by Egan Printing Company, the only Tri-Certified (FSC/SFI/PEFC) printer in Colorado that also utilizes solar energy to power its presses.

Printed on recycled paper with VOC Free Soy Ink