

ESSAYS

ENVIRONMENTAL LAW AT 50: A CUTTING-EDGE JOURNAL EXAMINING THE CENTRAL ISSUES OF OUR TIME

BY

MICHAEL C. BLUMM*

This Paper, a celebratory essay marking the 50th anniversary of the first issue of Environmental Law, the nation's oldest and most comprehensive law student-edited environmental law review, discusses the background of the founding of the journal in 1970 and surveys the many symposia and leading articles it has published over the years. The output has been fairly astonishing in terms of the breadth of coverage and the innovative environmental ideas advanced. The Essay notes the numerous authors who have published in Environmental Law more than once, and an appendix catalogs some thirty years of publishing the articles of distinguished environmental visitors to Lewis & Clark Law.

I.	INTRODUCTION	2
II.	ORIGINS	4
III.	EVOLUTION.....	7
IV.	CONTINUING SIGNIFICANCE.....	13
V.	CONCLUSION	16
	APPENDIX: ARTICLES BY DISTINGUISHED ENVIRONMENTAL LAW VISITORS.....	17

*Jeffrey Bain Faculty Scholar & Professor of Law, Lewis & Clark Law School. Thanks to Janice Weis (Associate Dean & Director, Environmental, Natural Resources, and Energy Law Program), Lucy Brehm (Associate Director, Environmental, Natural Resources, and Energy Law Program), and Mitchell Thielemann (3L, Lewis & Clark Law) for help with the footnotes.

I. INTRODUCTION

A half-century ago, in 1970, eight years after the publication of *Silent Spring*¹ and just a year after pictures from the moon landing showed the interconnectedness and vulnerability of planet Earth,² Lewis & Clark Law School became the first law school to publish a journal dedicated to the then-nascent field of environmental law.³ It was a providential decision, one that proved to be a harbinger of the school's great success over the last half-century in assembling its top-rated environmental program,⁴ its rich and unrivaled curriculum,⁵ its unmatched environmental clinics,⁶ its consistent success in

¹ RACHEL CARSON, *SILENT SPRING* (1962). It is not too much to claim that *Silent Spring* inspired the modern environmental movement, as the book aimed “at igniting a democratic activist movement that would not only question the direction of science and technology but would also demand answers and accountability.” *Silent Spring*, THE LIFE AND LEGACY OF RACHEL CARSON, <https://perma.cc/8SU4-MGE6> (last visited Oct. 20, 2019). Carson's book was serialized in three parts in *The New Yorker*, where it was read by President Kennedy before it was published in the summer of 1962. The book, based on six years of Carson's research on the effects of commonly used pesticides like DDT on human health and the environment, advocated allowing citizens to challenge government policies that were often the product of polluters' lobbying, foreshadowing environmental legislation's reliance on citizen suits for enforcement. *Id.*

² See Christopher Riley, *Apollo 40 Years On: How the Moon Missions Changed the World For Ever*, THE GUARDIAN (Dec. 15, 2012), <https://perma.cc/5FGY-EYKH> (discussing “Earthrise,” an Apollo 8 portrait of a vibrant-blue planet, contrasted with the barren, brown-grey horizon of the moon, which drew attention to Earth's apparent fragility, prompting one commentator to remark that “on the way to the moon, we discovered Earth”).

³ ENVTL. LAW, <https://perma.cc/NTM5-4WH4> (last visited Jan. 25, 2020).

⁴ Lewis & Clark Law School's environmental law program is currently ranked #1 in the country in U.S. News & World Report, *Best Environmental Law Programs*, U.S. NEWS & WORLD REPORT, <https://perma.cc/8CSK-BMRB> (last visited Jan. 25, 2020), and has been ranked #1 or #2 for each of the last twenty years.

⁵ Lewis & Clark Law offers a rotating selection of over forty environmental law courses each year, plus a number of intensive summer school courses; an annual Endangered Species Act training for the U.S. Forest Service; and LL.M. and M.S.L. programs (the latter for non-lawyers) in Environmental, Natural Resources, and Energy Law. See *Law Courses Catalog: Environmental, Natural Resources, and Energy Law 2019–2020*, LEWIS & CLARK LAW SCH., <https://perma.cc/65WS-MKMS> (last visited Jan. 25, 2020); *Law Courses Catalog: Summer 2019*, LEWIS & CLARK LAW SCH., <https://perma.cc/2KSL-KGQF> (last visited Jan. 25, 2020); *Environmental, Natural Resources, & Energy Law: Specialized Training*, LEWIS & CLARK LAW SCH., <https://perma.cc/BZD3-HRWY> (last visited Jan. 25, 2020); *Environmental, Natural Resources, & Energy Law: Degrees*, LEWIS & CLARK LAW SCH., <https://perma.cc/9PGM-8WME> (last visited Jan. 25, 2020). The LL.M. program will soon be available via distance-learning in addition to the residential program. *Newsroom: LLM in Environmental Law Now Offered Online*, LEWIS & CLARK LAW SCH. (Jan. 14, 2019), <https://perma.cc/5QCP-4LHN>.

⁶ The Northwest Environmental Defense Center, the law school's first environmental practical skills offering, which offers first-year students exposure to case work, is also celebrating its 50th year. *Northwest Environmental Defense Center*, LEWIS & CLARK LAW SCH., <https://perma.cc/FH56-HWWQ> (last visited Jan. 25, 2020). Earthrise Law Center, formed in 1996 by Professors Craig Johnston and Dan Rohlif, and now under the leadership of Professors Tom Buchele and Allison LaPlante, offers select students an

environmental moot courts,⁷ and its graduates who have gone on to fill important positions throughout the country in environmental and natural resources law.⁸ None of this was foreordained when *Environmental Law* was founded the year of the first Earth Day.⁹

As we celebrate the first fifty years of the journal, it is worth a look back to its origins, its evolution, and continuing importance to a legal field that has only grown in importance since 1970, and today is central to efforts to manage the ongoing effects of climate change due to atmospheric pollution. This is a brief effort to do so.

opportunity to work on cases involving non-profit conservation organizations in all aspects of environmental and natural resources law, from protecting endangered species and imperiled ecosystems to preventing and reducing air and water pollution. *Earthrise Law Center: About Us*, LEWIS & CLARK LAW SCH., <https://perma.cc/4EFX-LLQK> (last visited Jan. 25, 2020); *Earthrise Law Center: 20 Year Retrospective*, LEWIS & CLARK LAW SCH., <https://perma.cc/8MGP-M9RP> (last visited Jan. 25, 2020). The International Environmental Law Project, headed by Professors Chris Wold and Erica Lyman, trains the next generation of international environmental advocates through work with governments, non-governmental organizations, and international institutions on international environmental law and policy issues like climate change, biodiversity conservation, oceans and fisheries, and trade and the environment. *International Environmental Law Project*, LEWIS & CLARK LAW SCH., <https://perma.cc/SW4A-JS3T> (last visited Jan. 25, 2020); *International Environmental Law Project: Faculty*, LEWIS & CLARK LAW SCH., <https://perma.cc/BMF4-Z9EB> (last visited Jan. 25, 2020). The Animal Law Clinic, under the direction of Professor Kathy Hessler (see her article, Kathy Hessler, *The Role of the Animal Law Clinic*, 60 J. LEGAL ED. 263 (2010)), works on local, national, and international animal law issue on legislative, administrative, and transnational issues as well as research, advocacy, and strategic planning. *Animal Law Clinic*, LEWIS & CLARK LAW SCH., <https://perma.cc/HJN6-WHDC> (last visited Jan. 25, 2020); *Law Faculty: Kathy Hessler*, LEWIS & CLARK LAW SCH., <https://perma.cc/ay3f-28ct> (last visited Jan. 25, 2020). In the fall of 2019, a new farmed animal law litigation clinic will start, headed by Delci Winders. *Newsroom: New Animal Law Litigation Clinic to Focus on Farmed Animals*, LEWIS & CLARK LAW SCH. (May 2, 2019), <https://perma.cc/F42Z-GPJ5>. No other law school has so many different clinics serving students and clients in this manner.

⁷ The Lewis & Clark Moot Court teams, under the direction of Professor Johnston, have been perennial contenders for national honors, reaching the semi-finals twenty-two times in twenty-eight years, making the finals fifteen times, and winning seven national championships (no other school has won more than five times). *Environmental, Natural Resources, & Energy Law: LC's Environmental Moot Court Team Continues Record of Success*, LEWIS & CLARK LAW SCH. (Mar. 11, 2019), <https://perma.cc/4TAZ-UZSA>.

⁸ For a sampling of the wide variety of positions now filled by L&C graduates, see *Environment, Natural Resources & Energy Law: Careers & Alumni*, LEWIS & CLARK LAW SCH., <https://perma.cc/LHL2-B74V> (last visited Jan. 25, 2020); for a look at L&C grads at the Environmental Protection Agency, see *Alums in Leadership Roles at EPA*, LEWIS & CLARK LAW SCH., <https://perma.cc/WCM6-J59G> (last visited Jan. 25, 2020); for alums in the Pacific Islands, see *Alumni Manage Environmental Resource Issues in Pacific Islands*, LEWIS & CLARK LAW SCH., <https://perma.cc/CZ9S-LZML> (last visited Jan. 25, 2020). Since 1995, the school has honored several alums each year as Distinguished Environmental Graduates, now numbering over sixty. *Environment, Natural Resources & Energy Law: Distinguished Graduates*, LEWIS & CLARK LAW SCH., <https://perma.cc/M8WF-RRWC> (last visited Jan. 25, 2020).

⁹ The first Earth Day, the brainchild of Sen. Gaylord Nelson (D-Wisc.), was celebrated on April 22, 1970. *Meet Gaylord Nelson, THE FOUNDER OF EARTH DAY, GAYLORD NELSON & EARTH DAY*, <https://perma.cc/UK35-UNTD> (last visited Jan. 25, 2020). That spring *Environmental Law* published its first issue. See 1 ENVTL. L. (1970).

II. ORIGINS

Legendary faculty member Billy Williamson was the instigator behind the founding of *Environmental Law*.¹⁰ Billy had been the motivating force the year before in establishing the on-campus non-profit organization, the Northwest Environmental Defense Center (NEDC), staffed by volunteer law students and attorneys.¹¹ NEDC has since grown to retain an executive director, its own staff attorney, and student law clerks. Williamson's far-sightedness in founding both NEDC and *Environmental Law* is now remembered every year when the school's environmental alumni select a Williamson Public Interest Environmental Law award winner from the graduating class, given to the person whose commitment, vision, leadership, and creativity in the public interest environmental law field demonstrates a commitment to continue the work after law school.¹²

1970 was a tumultuous year in American history and a formative one for modern environmental law.¹³ The year began with President Nixon signing the National Environmental Policy Act (NEPA) into law on the first day of the new decade.¹⁴ NEPA, the so-called Magna Carta of the environment,¹⁵ declared a national goal to maintain conditions in which man and nature can co-exist in productive harmony in order to promote efforts to prevent or eliminate damage to the environment and biosphere and protect the health and welfare of man, and increase understanding of ecological systems and natural resources.¹⁶ NEPA called for early public involvement in government decision making and required public disclosure of the environmental consequences of all proposed federal actions.¹⁷ The heart of the statute was to make federal agencies evaluate practicable alternative courses of action to foster its

¹⁰ Douglas K. Newell, Tribute, *Bill Williamson: A Tribute*, 31 ENVTL. L. 190, 192 (2001).

¹¹ See *Northwest Environmental Defense Center (NEDC)*, LEWIS & CLARK LAW SCH. <https://perma.cc/27J9-GZ4E> (last visited Jan. 25, 2020) (NEDC, a volunteer organization non-profit organization now headed by Executive Director Mark Riskedahl, has been an on-campus presence for 50 years, empowering law students to work with lawyers on cases, fill leadership roles within the organization, and launch public interest law careers).

¹² See *What's What Law Student Handbook: Awards and Scholarships*, LEWIS & CLARK LAW SCH., <https://perma.cc/Q6YP-6FZA> (last visited Jan. 25, 2020).

¹³ The reference to "modern" environmental law aims to connote the fact that environmental law has a pedigree antedating 1970. See, e.g., Michael C. Blumm, *Debunking the 'Divine Conception' Myth: Environmental Law Before NEPA*, 37 ECOLOGY L.Q. 269 (2010) (reviewing KARL BROOKS, *BEFORE EARTH DAY: THE ORIGINS OF AMERICAN ENVIRONMENTAL LAW, 1945-1970* (U. Kans. Press, 2009)).

¹⁴ National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852 (codified as amended at 42 U.S.C. §§ 4321-4370h (2012)).

¹⁵ See, e.g., Daniel R. Mandelker, *The National Environmental Policy Act: A Review of Its Experience and Problems*, 32 WASH. U. J.L. & POL'Y 293, 293 (2010).

¹⁶ NEPA, 42 U.S.C. § 4331 (2012).

¹⁷ *Id.* § 4332(2)(C) (2012) (public involvement and disclosure).

goals,¹⁸ including making federal agencies fulfill their responsibilities “as trustee[s] of the environment for succeeding generations” and promote uses that ensure “the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.”¹⁹

The first issue of *Environmental Law* was published in the spring of 1970, with Professor Williamson as the sole faculty advisor, featuring a message from President Nixon to the editors praising them for undertaking an effort to search for positive answers to what he called the “great question of the Seventies, which is whether we shall surrender to our surroundings or whether we shall make our peace with nature and begin to make reparations for the damage we have done to our air, our land and our water.”²⁰ Nixon’s apparent chief competitor at the time in the upcoming 1972 election, Sen. Edmund Muskie (D-Me.), contributed an article for the inaugural issue, outlining an environmental agenda for the nation.²¹ Famed environmental litigator, Victor Yannacone, authored an article on NEPA.²² Supreme Court Justice William O. Douglas offered an article on ocean pollution.²³ The journal made an early significant mark on the field.

That same spring of 1970, and just six days after the first Earth Day celebrations, President Nixon ordered U.S. combat troops to invade Cambodia on April 28, in an effort to prevent North Vietnamese troops from attacking South Vietnam from their Cambodian sanctuaries.²⁴ The invasion poured fuel on the fires of a largescale anti-war movement on college campuses nationwide, no doubt exacerbated by the reinstatement of the military draft six months before.²⁵ The widespread protests resulted in the shooting and killing of four students by national

¹⁸ *Id.* § 4332(2)(iii). The regulations promulgated by the Council on Environmental Quality, an agency created by Title II of NEPA, *id.* § 4342, declare that the duty to consider alternatives is “the heart” of the NEPA process. 40 C.F.R. § 1502.14 (2017).

¹⁹ 42 U.S.C. § 4331(b)(1), (3). Congress’ recognition of the trustee responsibilities of federal agencies and the promise no environmental degradation have been largely ignored by the courts.

²⁰ Richard Nixon, *Letter*, 1 ENVTL. L. 1 (1970).

²¹ Edmund S. Muskie, *An Environmental Program for America*, 1 ENVTL. L. 2 (1970). Muskie ended up losing the Democratic nomination to Sen. George McGovern (D-S.D.), who in turn was soundly defeated in the 1972 election by President Nixon, who won all but one state. *See, e.g., United States Presidential Election of 1972 Primary Campaign*, ENCYC. BRITANNICA, <https://perma.cc/F2WW-7FV9> (last visited Jan. 25, 2020).

²² Victor J. Yannacone, Jr., *National Environmental Policy Act of 1969*, 1 ENVTL. L. 8 (1970).

²³ William O. Douglas, *Environmental Problems of the Oceans: The Need for International Controls*, 1 ENVTL. L. 149 (1971).

²⁴ *See* Andrew Glass, *Nixon Authorizes Invasion of Cambodia, April 28, 1970*, POLITICO (Apr. 28, 2015), <https://perma.cc/S6GL-JURD> (noting that neither Secretary of State William Rodgers nor Secretary of Defense Melvin Laird were consulted in advance concerning the Cambodian invasion, and top staffers on the National Security Council, including Henry Kissinger, resigned in protest).

²⁵ Wesley Abney, *Live from Washington, It’s Lottery Night 1969!*, HISTORYNET, <https://perma.cc/6MDP-JL2R> (last visited Jan. 25, 2020).

guardsmen at Kent State University²⁶ and two more at Jackson State University.²⁷ The protests disrupted college campuses nationwide, with many schools going out on strike for the remainder of the academic year.²⁸ Although the demonstrations failed to stop the war, they did encourage the Senate to repeal the 1964 Gulf of Tonkin resolution, thought to authorize the buildup of troops in Vietnam, in June, on an 81–10 vote.²⁹

In some respects, the Vietnam protests—on the heels of the Civil Rights movement of the early 1960s³⁰—created an era of activism that fueled the environmental movement.³¹ Thus, it was unsurprising that

²⁶ See Jeff Wallenfeldt, *Kent State Shooting*, ENCYC. BRITANNICA, <https://perma.cc/9WW3-SR9Z> (last updated Aug. 22, 2019).

²⁷ See Whitney Blair Wyckoff, *Jackson State: A Tragedy Widely Forgotten*, NAT'L PUB. RADIO (May 3, 2010), <https://perma.cc/XVE8-Z8TF>.

²⁸ See Zoe Altaras, *The May 1970 Student Strike at UW*, ANTIWAR & RADICAL HISTORY PROJECT – PAC. NW. (2014), <https://perma.cc/N349-55YQ> (recalling the student strike at the University of Washington) (“One of the greatest successes of the strike was that it educated people about current issues and moved thousands of students from apathy to action. The level of awareness about political and civil rights issues significantly increased. The strike also resulted in a ‘New University’ where professors taught free classes to students on strike issues. Finally, the strike had an effect on each individual who participated. The students felt empowered to know they were making a real change. Years later in an interview with the Seattle Civil Rights and Labor History Project, US District Court Judge Ricardo Martinez spoke about his involvement in the May 5, 1970, freeway march with pride and mentioned he enjoyed telling his daughters about the experience. Although the strike didn’t result in the drastic change that was being demanded, the UW and hundreds of other universities won small victories and that affected the lives of thousands of student strikers. Many of these students continued to fight for civil rights and efforts to end the Vietnam War throughout their college and professional careers.”) (citations omitted).

²⁹ See *Senate Repeals Tonkin Gulf Resolution*, HISTORY.COM, <https://perma.cc/4SXX-8B4Y> (noting that the repeal was sponsored by Sen. Bob Dole (R-Kan.), later a presidential nominee). The Tonkin Gulf Resolution of 1964, which passed the Senate 88–2 and the House unanimously, was a response to an alleged attack by North Vietnamese patrol torpedo boats on USS Maddox when the destroyer was in international waters in the Gulf of Tonkin. The resolution authorized the president “to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.” H.R.J. Res. 1145, 88th Cong. (1964); see EDWIN E. MOÏSE, *TONKIN GULF AND THE ESCALATION OF THE VIETNAM WAR* (1996). The Senate voted to repeal the resolution on June 24, 1970, and the repeal was later included in the Foreign Military Sales Act that Nixon signed into law in January 1971. See *Gulf of Tonkin Resolution Is Repealed Without Furor*, N.Y. TIMES (Jan. 14, 1971), <https://perma.cc/DPQ9-N2LV>. Two years later, in 1973, Congress passed the War Powers Resolution, over Nixon’s veto, in an effort to restore limits on presidential authority to send U.S. forces into hostilities without congressional consultation and a formal declaration of war. War Powers Resolution, 50 U.S.C. §§ 1541–1548 (2012). The resolution remains in effect today.

³⁰ See, e.g., TAYLOR BRANCH, *PARTING THE WATERS: AMERICA IN THE KING YEARS*, 1954–63 (1988).

³¹ See Adam Rome, “Give Earth a Chance”: *The Environmental Movement and the Sixties*, 90 J. AM. HIST. 525, 547 (2003) (“For many intellectuals, therefore, the movement to end the war and the movement to protect the environment became aspects of one all-encompassing struggle. Many critics pointed to the complicity of the corporate world in

the chief political supporter of the first Earth Day, Sen. Gaylord Nelson (D-Wis.), was also a staunch antiwar opponent.

The enactment of NEPA, the Earth Day celebrations, and the founding of *Environmental Law* were hardly all the environmental achievements in that tumultuous year of 1970.³² For example, before the year was out, President Nixon created the Environmental Protection Agency,³³ and he then signed into law the Clean Air Act Amendments of 1970 on the last day of the year, December 31st, 1970.³⁴ From NEPA on the first day of the year to the Clean Air Act on the last, the founding of *Environmental Law* came at a propitious time.

III. EVOLUTION

The 1970s were a decade of overwhelming environmental legislation. Students of environmental law, as I was then, were simply inundated with new legislative initiatives, from what is now called the Clean Water Act Amendments of 1972,³⁵ the Endangered Species Act of 1973,³⁶ the Resource Conservation and Recovery Act of 1976,³⁷ the

environmental devastation abroad and at home. The same companies that profited from the defoliation campaign in Vietnam also profited from the wanton use of toxic chemicals in the United States. According to some critics, the war and the environmental crisis both followed from the deadly logic of technocracy. In Vietnam, Americans destroyed towns to 'save' them; at home, Americans degraded the environment to make 'progress.' According to other critics, the heart of the problem lay instead in the Western drive to conquer the world, to remake societies and landscapes at will. The war in Vietnam was akin to the war Americans had waged against Indians and wilderness.”)

³² Also in 1970: 18 year-olds obtained the right to vote; the Beatles broke up; Jimi Hendrix died at 27; the Public Broadcasting Service and the comic, *Doonesbury*, began; the North Tower of the World Trade Center became the tallest building in the world; and Lieutenant William Calley went on trial for killing twenty-two Vietnamese civilians in the My Lai Massacre, in which twenty-six American servicemen were charged with killing 300–500 Vietnamese civilians. Only Calley was convicted, serving 3-1/2 years of house arrest. *See 1970 in the United States*, WIKIPEDIA, <https://perma.cc/5CAH-VGUC>.

³³ The agency was proposed by President Nixon in Reorganization Plan No. 3 on July 9, 1970 following transmission of his 37-point environmental agenda to Congress. *See The Origins of EPA*, U.S. ENVTL. PROT. AGENCY, <https://perma.cc/JRA8-KMWN> (last updated Nov. 19, 2018). The reorganization plan was transmitted to Congress, which approved it after hearings, and the plan went into effect, officially creating the EPA in December. William Ruckelshaus was appointed the agency's first administrator. *Id.*

³⁴ The 1970 amendments, Pub. L. 91-604, 84 Stat. 1709 (Dec. 31, 1970), establishing comprehensive federal controls over stationary and mobile sources of air pollution and representing the first modern federal environmental regulatory program, were actually the fourth set of substantive amendments to a statute first enacted in 1955. *See Evolution of the Clean Air Act*, U.S. ENVTL. PROT. AGENCY, <https://perma.cc/62ZJ-Z6PX> (last visited Jan. 25, 2020).

³⁵ Federal Water Pollution Control Act Amendments of 1972, Pub. L. No. 92-500, 86 Stat. 816 (codified as amended at 33 U.S.C. §§ 1251–1387 (2012)).

³⁶ Endangered Species Act of 1973, Pub. L. No. 93-205, 87 Stat. 884 (codified as amended at 16 U.S.C. §§ 1531–1544 (2012)).

³⁷ Resource Conservation and Recovery Act of 1976, Pub. L. No. 94-580, 90 Stat. 2795 (codified as amended at 42 U.S.C. §§ 6901–6092k (2012)).

Comprehensive Environmental Responsibility, Liability and Compensation Act of 1980,³⁸ and so forth. It seemed as if there were no end to the legislative fixes that Congress was willing to enact.

And then, after enactment of the Alaska National Interest Conservation and Lands Act in in the lame-duck session of 1980,³⁹ the environmental legislative revolution suddenly stopped. The incoming Reagan Administration and a new Republican Senate would be much more skeptical of new environmental initiatives, and divided government would characterize the rest of the decade and continue well into the 1990s.⁴⁰ The 1970s environmental decade of legislation would never be repeated.⁴¹ That hardly meant a slowdown in environmental law, however, as administrative and judicial interpretations proliferated. But it did mean that environmental statutes became difficult to enact and often impossible to update to keep pace with scientific and technological advances.

Environmental Law kept pace with these developments, growing from three issues a year to four in 1981–1982, once producing a volume embracing a full 2,321 pages.⁴² As Professor John Leshy, then Interior Solicitor, explained on the journal’s twenty-fifth birthday in 1995, *Environmental Law* became “a bible in this field;” in his tribute, Leshy mentioned articles by several well-known figures as well as unusual articles during the early 1990s that illustrated the great variety of subjects the journal has continued to publish over the years.⁴³

³⁸ Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767 (codified as amended at 42 U.S.C. §§ 9601–9675).

³⁹ Alaska National Interest Lands Conservation Act, Pub. L. No. 96-487, 94 Stat. 2371 (1980) (codified as amended at 16 U.S.C. §§ 3101–3233 (2012)).

⁴⁰ See, e.g., Michael C. Blumm, *Twenty Years of Environmental Law: Role Reversals Between Congress and the Executive, Judicial Activism Undermining the Environment, and the Proliferation of Environmental (and Anti-Environmental) Groups*, 20 VA. ENVTL. L.J. 5, 6–10 (2001) (describing the “congressional retreat” in environmental law and some creative regulatory interpretations of statutes by administrative agencies).

⁴¹ Although Congress did substantially amend the Clean Air Act in 1990, Pub. L. No. 101-549, 104 Stat. 2399, none of the major environmental statutes have been significantly amended since, although there have been occasional public lands protection statutes enacted, like the National Wildlife Refuge System Improvement Act of 1997, Pub. L. No. 105-57, 111 Stat. 1252 (codified as amended at 16 U.S.C. § 668dd–668ee), the Omnibus Public Land and Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 991 (reserving numerous federal parklands, wildlife refuges, and wilderness areas); and the John D. Dingell, Jr. Conservation, Management, and Recreation Act, Pub. L. No. 116-9, 133 Stat. 580 (2019) (same).

⁴² 21 ENVTL. L. (1991).

⁴³ John D. Leshy, *Challenges to Environmental Law*, 25 ENVTL. L. 967, 968 (1995) (referencing *Environmental Law* articles by Joe Sax, Charles Wilkinson, Sen. Mark Hatfield (R-Or.), former Sen. Majority Leader George Mitchell (D-Me.), Sen. Joe Biden (D-Del.), former EPA Administrator Bill Reilly, Cong. Henry Waxman (D-Cal.), Fritjof Capra, Stephen J. Gould, President Bill Clinton, and Interior Secretary Bruce Babbitt). Leshy also mentioned the following articles as reflections of the breadth of the journal’s coverage: *The Regulation of Genetically Engineered Plants: Is Peter Rabbit Safe in Mr. McGregor’s Transgenic Vegetable Patch?*, *Amending the Endangered Species Act: The Ransom of Red Chief*, and *Other Related Topics, What Chief Seattle Said, The Environmental Policies of*

In the same anniversary issue in which Lesly wrote, Denis Hayes, national coordinator of the first Earth Day, explored environmental law's challenges in the mid-1990s.⁴⁴ Well-known law professors Robert Adler, J.B. Ruhl, and L&C's own Susan Mandiberg also contributed.⁴⁵ In the volume containing that anniversary issue were symposia (sometimes called colloquia) on the then recent Supreme Court decision in *Dolan v. City of Tigard*,⁴⁶ on "Who Runs the (Columbia) River?," and on President Clinton's New Land Policies.⁴⁷ The following year the journal produced an epic cumulative index of its first quarter-century that was over 300 pages and is still well worth consulting today.⁴⁸

Over the ensuing twenty-five years, *Environmental Law* continued to feature a dizzying variety of issues. A sampling of symposia includes those on Northwest Water Law,⁴⁹ another on management of the Columbia River,⁵⁰ on habitat conservation plans under the Endangered Species Act,⁵¹ on population law,⁵² on international environmental law,⁵³

Saint Thomas Aquinas, A Superfund Trivia Test, NEPAWOCKY: A Panegyric Verse (by L&C Law prof., Brian Blum), *Everything You Need to Know About Environmental Law You Learned in Kindergarten*, and *What Outrages Me About the Endangered Species Act*. *Id.* at 969 (citations omitted). Lesly also contributed an important article on the contributions of the Bruce Babbitt-led Interior Department, of which he had a first-hand view. John D. Lesly, *The Babbitt Legacy at the Department of the Interior: A Preliminary View*, 31 ENVTL. L. 199 (2001).

⁴⁴ Denis Hayes, *Environmental Law and Millennial Politics*, 25 ENVTL. L. 953 (1995).

⁴⁵ Robert W. Adler, *Addressing Barriers to Watershed Protection*, 25 ENVTL. L. 973 (1995); J.B. Ruhl, *Section 7(a)(1) of the "New" Endangered Species Act: Rediscovering and Redefining the Untapped Power of Federal Agencies' Duty to Conserve Species*, 25 ENVTL. L. 1107 (1995); Susan F. Mandiberg, *The Dilemma of Mental State in Federal Regulatory Crimes: The Environmental Example*, 25 ENVTL. L. 1165 (1995).

⁴⁶ 512 U.S. 374 (1994).

⁴⁷ 25 ENVTL. L. (1995). The latter symposium included articles by law profs John Lesly, Oliver Houck, the late Joe Feller, Allan Miller, and Mary Wood.

⁴⁸ *Twenty-Five Year Index*, 26 ENVTL. L. (1996).

⁴⁹ *Symposium on Northwest Water Law*, 26 ENVTL. L. 141 (1996) (articles by Michael C. Blumm, David H. Getches, Reed D. Benson, James D. Crammond, Shauna M. Whidden, and Joy Ellis); *Symposium on Northwest Water Law*, 27 ENVTL. L. 21 (1997) (articles by Michael C. Blumm, Michael A. Schoessler, Christopher R. Beckwith, Janis E. Carpenter, Karen A. Russell, and Jack Sterne); *Symposium on Water Law*, 28 ENVTL. L. 881 (1998) (articles by Reed D. Benson, Janet C. Neuman, Michael C. Blumm *et al.*, Jack K. Sterne, Robert N. Caldwell, and Krista Koehl). These symposia were the result of the Northwest Water Law and Policy Project, a grant-funded project that also produced a number of quality unpublished analyses of water law in the Northwest, *Law Ctrs. & Insts.: NW Water Law & Policy Project*, LEWIS & CLARK LAW SCH., <https://perma.cc/NNJ9-XYDD> (last visited Jan. 25, 2020); and also the newsletter, *Big River News, Law Ctrs. & Insts.: Big River News*, LEWIS & CLARK LAW SCH., <https://perma.cc/33SS-ACT3> (last visited Jan. 25, 2020).

⁵⁰ *The Second Annual "Who Runs the River?" Colloquium*, 26 ENVTL. L. 651 (1996) (articles by Michael C. Blumm, Al Alexanderson, Ken Casavant, Roy Hemmingway, Charles Ray, and Don Sampson).

⁵¹ *Symposium on Habitat Conservation Plans*, 27 ENVTL. L. 755 (1997) (articles by John Kostyack, Donald C. Baur & Karen L. Donovan, John M. Gaffin, Daniel A. Hall, and Zygmunt J.B. Plater).

on takings law,⁵⁴ on energy law,⁵⁵ on the Clean Water Act on its thirtieth anniversary,⁵⁶ on the Endangered Species Act on its thirtieth anniversary,⁵⁷ on public lands management,⁵⁸ on the rule of capture and its consequences,⁵⁹ on the effects of Oregon Ballot Measure 37 that attempted to revolutionize takings law in the state,⁶⁰ on Western instream flows,⁶¹ on law, science, and the environment,⁶² on environmental justice,⁶³ on greening the electric grid,⁶⁴ on the Clean Air

⁵² *Symposium on Population Law*, 27 ENVTL. L. 1097 (1997) (articles by Virginia D. Abernethy, Paula Abrams, Reed Boland, Harold Coward, Paul R. Ehrlich & Anne H. Ehrlich, Robert M. Hardaway, James Salzman, and Elizabeth Spahn).

⁵³ *International Environmental Symposium*, 29 ENVTL. L. 103 (1999) (articles by Ian A. Bowles et al., Tannetje Bryant & Keith Akers, and Corinne Sam).

⁵⁴ *Takings Law Symposium*, 29 ENVTL. L. 811 (1999) (articles by J. Peter Byrne, David F. Coursen, John D. Echeverria, Susan M. Stedfast, and Glenn P. Sugameli).

⁵⁵ *2002 Energy Law Symposium*, 32 ENVTL. L. 297 (2002) (articles by Steven Ferrey, Richard L. Ottinger & Rebecca Williams, Arnold W. Reitze Jr., and Joseph P. Tomain).

⁵⁶ *Symposium, The Clean Water Act Turns 30: Celebrating Its Past, Predicting Its Future*, 33 ENVTL. L. 27 (2003) (articles by Robert W. Adler, Michael C. Blumm & William Warnock, Robin K. Craig, Craig N. Johnston, and Susan F. Mandiberg).

⁵⁷ *Symposium, The Endangered Species Act Turns 30*, 34 ENVTL. L. 287 (2004) (articles by Mark R. Thompson, Zygmunt J.B. Plater, Michael C. Blumm & George Kimbrell, Federico Cheever & Michael Balster, Holly Doremus, Robert L. Fischman, Daniel J. Rohlf, J.B. Ruhl, Mary C. Wood, Derek O. Teaney, and Mark R. Thompson).

⁵⁸ *Symposium, Public Lands Management at the Crossroads: Balancing Interests in the 21st Century*, 34 ENVTL. L. 1013 (2004) (articles by Ethan R. Hasenstein, Sandra Zellmer, Jan G. Laitos & Rachael B. Reiss, Joseph M. Feller, Robert L. Glicksman, and Jesse B. Davis); *see also* Arnold Reitze, *The Control of Air Pollution on Indian Reservations*, 46 ENVTL. L. 893 (2016); John Ruple & Mark Capone, *NEPA, FLPMA, and Impact Reduction: An Empirical Assessment of BLM Resource Management Planning in the Mountain West*, 46 ENVTL. L. 953 (2016).

⁵⁹ *Symposium, The Rule of Capture and its Consequences*, 35 ENVTL. L. 647 (2005) (articles by Frank Lupo, Lea VanderVelde, Michael C. Blumm & Lucus Ritchie, Debra L. Donahue, Dale D. Goble, Jason S. Johnston, Bruce M. Kramer & Owen L. Anderson, John C. Nagle, and James R. Rasband); *see also* M. Alexander Pearl, *The Tragedy of the Vital Commons*, 45 ENVTL. L. 1021 (2005).

⁶⁰ *Symposium, Ballot Measure 37: The Redrafting of Oregon's Landscape*, 36 ENVTL. L. 1 (2006) (articles by Eric T. Freyfogle, David J. Hunnicutt, Caroline E.K. MacLaren, Leslie Marshal Lewallen, Timothy Sandefur and Steven Geoffrey Gieseler, William K. Jaeger, Edward J. Sullivan, Tim Bernasek, Jona Maukonen, and Robert Liberty).

⁶¹ *Symposium, Western Instream Flows: Fifty Years of Progress and Setbacks*, 36 ENVTL. L. 1113 (2006) (articles by Courtney Watts, Charles Wilkinson, Janet Neuman, Anne Squier, Gail Achterman, Michael C. Blumm, David H. Becker, Joshua D. Smith, Charlton H. Bonham, Adell L. Amos, Reed D. Benson, and Ruth Mathews).

⁶² *Symposium, Law, Science, and the Environment Forum: A Meeting of the Minds*, 37 ENVTL. L. 931 (2007) (articles by Daniel J. Rohlf, Elizabeth C. Brodeen, David E. Adelman, Mary J. Angelo, Mark T. Brown, Deborah M. Brosnan, Robert G. Hetes, Thomas O. McGarity, J.B. Ruhl, and Sidney A. Shapiro).

⁶³ *Symposium, Environmental Justice: Making It a Reality*, 38 ENVTL. L. 367 (2008) (articles by Morgan J. Wyenn, Julie Falendar, Brook M. Brisson, Robert D. Bullard, Paul Mohai, Robin Saha, Beverly Wright, Robert W. Collin, Eileen Gauna, Daria E. Neal, Catherine A. O'Neill, Rebecca K. Smith, and Lisa Widawsky).

⁶⁴ *Symposium, Greening the Grid: Building a Legal Framework for Carbon Neutrality*, 39 ENVTL. L. 927 (2009) (articles by Melissa Powers, Duncan Delano, Joseph P. Tomain,

Act at Forty,⁶⁵ on animal migration and conservation,⁶⁶ on the Migratory Bird Treaty Act,⁶⁷ on the Supreme Court's decision in *Sackett v. EPA*, concerning Clean Water Act enforcement,⁶⁸ on point versus nonpoint regulation under the Clean Water Act in the wake of Supreme Court's decision in *Decker v. NEDC*,⁶⁹ on the Wilderness Act at Fifty,⁷⁰ on the public trust doctrine,⁷¹ on the Clean Water Act's jurisdictional rule,⁷² on food law,⁷³ and on the Trump Administration and environmental law.⁷⁴

Environmental Law had thirtieth and fortieth anniversary issues⁷⁵ and *festschrifts* for retiring faculty members, Jim Huffman, Janet

Steven Ferrey, Jim Rossi, Irma S. Russell, Rachel E. Salcido, Joshua P. Fershee, and Alice Kaswan).

⁶⁵ Symposium, *The Clean Air Act at a Crossroads: Turning 40, Confronting Climate Change*, 40 ENVTL. L. 1123 (2010) (articles by Teresa B. Clemmer, Robert L. Glicksman, Lesley K. McAllister, Craig N. Oren, and Arnold W. Reitze Jr.).

⁶⁶ *Symposium: Animal Migration and Conservation*, 41 ENVTL. L. 277 (2011) (articles by Robert L. Fischman, Jonathan W. Atwell, Dawn M. O'Neal, Ellen D. Ketterson, Peter P. Marra, David Hunter, Anne M. Perrault, Paul M. Cryan, Heather L. Reynolds, Keith Clay, Thomas T. Moore, Jeffrey B. Hyman, Andrea Need, William W. Weeks, Vicky J. Meretsky, Elizabeth A. Baldwin, Kathleen A. Miller, David N. Cherney, Jamison Colburn, and Steven L. Yaffee).

⁶⁷ Symposium, *The Migratory Bird Treaty Act: Reshaping a Powerful Conservation Tool*, 42 ENVTL. L. 577 (2012) (articles by Nolan Shutler, Kalyani Robbins, and Mitsuhiko A. Takahashi).

⁶⁸ Symposium, *Fall Essay Series*, 42 ENVTL. L. 991 (2012) (articles by Adrienne L. Thompson, Craig N. Johnston, Albert Ferlo, Tom Lindley, and Joel A. Mintz).

⁶⁹ 43 ENVTL. L. 757 (2013) (articles by Allison LaPlante, Lia Comerford, Meline G. MacCurdy & Daniel L. Timmons).

⁷⁰ Symposium, *The Wilderness Act at 50*, 44 ENVTL. L. 285 (2014) (articles by Don Gourlie, Joseph M. Feller, Michael C. Blumm, Lorena M. Wisheart, John C. Nagle, Mark Squillace, Robert L. Glicksman, Sandra B. Zellmer, John D. Leshy, Elisabeth Long, and Eric Biber); *see also* Eric T. Freyfogle, *Wilderness and Culture*, 44 ENVTL. L. 1149 (2014).

⁷¹ *Symposium: Public Trust Doctrine*, 45 ENVTL. L. 267 (2015) (articles by Ryan Shannon, Mary C. Wood, Dan Galpern, James L. Huffman, Gerald Torres, Michael C. Blumm, Lynn S. Schaeffer, Alexandra B. Klass, John C. Dernbach, Robin K. Craig, and Erin Ryan); *see also* Richard J. Lazarus, *Judicial Missteps, Legislative Dysfunction, and the Public Trust Doctrine*, 45 ENVTL. L. 1139 (2015), which drew this response, Michael C. Blumm, *Two Wrongs? Correcting Professor Lazarus's Misunderstanding of the Public Trust Doctrine*, 46 ENVTL. L. 481 (2016).

⁷² Symposium, *Controversies Surrounding the 2015 Clean Water Rule*, 46 ENVTL. L. 275 (2016) (introduction by Emma Bruden) (articles by Erin Ryan, William Funk, Michael C. Blumm, Steven M. Thiel, Patrick Parenteau, Craig N. Johnston, Gerald Torres, Rachael Salcido, and Karrigan Bork).

⁷³ Symposium, *Twenty-First Century Food Law: What's On Our Plates?*, 47 ENVTL. L. 541 (2017) (articles by Laurie J. Beyranevand, Sidney A. Shapiro, Rebecca Bratspies, Robin Kundis Craig, Jamie Konopacky, Laurie Ristino, Roberta F. Mann, Margaret S. McCabe, and Anastasia Telesetsky).

⁷⁴ Symposium, *Environmental Law Under Trump*, 48 ENVTL. L. 263 (2018) (articles by Dave Owen, Kalyani Robbins, Michael C. Blumm, Olivier Jamin, and Patrick Parenteau).

⁷⁵ 30th Anniversary, 30 ENVTL. L. 1 (2000) (articles by Cong. Earl Blumenauer, Judge Richard Cudahy, Jim Huffman, and Sen. Ron Wyden & Peter Van Tuyn); 40th Anniversary, 40 ENVTL. L. 1 (2010) (articles by Ann Morgenstern Reynolds

Neuman, and Bill Funk.⁷⁶ Continuing features of the journal included an annual review of significant Ninth Circuit opinions, begun in 1990,⁷⁷ annual contributions of Distinguished Environmental Visitors, begun in 1988,⁷⁸ and a regular feature of short commentary, *Clear the Air*, initiated in 1991.⁷⁹

This brief review hardly does justice to the vibrant scholarship that has appeared in the journal, however.⁸⁰ It is safe to say that no other

(Environmental Law's first Editor-in-Chief, L&C Law professor Ron Lansing, David Driesen, the late John Nagle, and Brad Mank).

⁷⁶ Festschrift, *The Water Law Scholarship of Jim Huffman and Janet Neuman*, 42 ENVTL. L. 1 (2012) (articles by Dan Tarlock, Bo Abrams, Jonathan Adler, Robin Craig, Keith Hirokawa, Buzz Thompson, Barb Cosens, Reed Benson, and Sandi Zellmer); *Festschrift in Honor of Professor William Funk*, 49 ENVTL. L. 659 (2019) (articles by Sidney Shapiro, Peter Strauss, Craig Johnston, Victor Flatt, Robin Kundis Craig, William Funk, and Jim Huffman).

⁷⁷ See *The Birth of the Ninth Circuit Environmental Review*, Note, 21 ENVTL. L. lxii (1991).

⁷⁸ *Environmental, Natural Resources, and Energy Law Distinguished Visitors*, LEWIS & CLARK LAW SCH., <https://perma.cc/VLX9-C5J2> (last visited Jan. 25, 2020). The articles by distinguished visitors are collected in the Appendix to this article. Worth noting is the fact that no fewer than fourteen of these professors have contributed multiple articles to *Environmental Law* over the years. John Leshy and J.B. Ruhl currently hold the record among the group at five articles a piece.

⁷⁹ Professor Carl Tobias became a regular contributor to this commentary, focusing on procedural issues of interest to environmental litigators. See, e.g., *A Millennial Update on Procedural Issues in Environmental Litigation*, 30 ENVTL. L. 227 (2000). For his contributions, see, e.g., Carl Tobias, *Letter to the Editor*, 22 ENVTL. L. 412 (1992); Carl Tobias, *Letter to the Editor*, 23 ENVTL. L. 381 (1993); Carl Tobias, *Pleadings and Sanctions in Environmental Cases*, 24 ENVTL. L. 317 (1994); Carl Tobias, *More on Pleading and Sanctions in Environmental Cases*, 25 ENVTL. L. 253 (1995); Carl Tobias, *Natural Resources and the Ninth Circuit Split*, 28 ENVTL. L. 411 (1998); Carl Tobias, *Appellate Study Panel Issues Final Report*, 29 ENVTL. L. 493 (1999); Carl Tobias, *A Federal Appellate Court Update*, 31 ENVTL. L. 1097 (2001). For an example of a lively interchange generated by *Clear the Air*, see the response of Charles C. Mann & Mark Plummer, 32 ENVTL. L. 589 (2002) to Zygmunt Plater, *Law and the Fourth Estate: Endangered Nature, the Press, and the Dacey Game of Democratic Governance*, 32 ENVTL. L. 1 (2002), and Plater's reply to Zygmunt Plater, 32 ENVTL. L. 591 (2002). Another spirited back-and-forth took place between Judge Greg Hobbs and myself, concerning his critique of the so-called "Long's Peak" report on Western water law reforms (*reprinted at* NAT'L RESOURCES LAW CTR., *America's Waters: A New Era of Sustainability; Report of the Long's Peak Working Group on National Water Policy*, 24 ENVTL. L. 125 (1994)). His critique, Gregory Hobbs, Jr., *Ecological Integrity, New Western Myth: A Critique of the Long's Peak Report*, 24 ENVTL. L. 157 (1994), engendered my response, see Michael Blumm, *The Rhetoric of Water Reform Resistance: A Response to Hobbs' Critique of Long's Peak*, 24 ENVTL. L. 171 (1994), prompting his reply, see Gregory Hobbs, Jr., *Interpreting the Ecological Integrity Myth*, 24 ENVTL. L. 1185 (1994), eliciting my retort, see Michael Blumm, *Pinchot, Property Rights, and Western Water*, 24 ENVTL. L. 1203 (1994).

⁸⁰ At the risk of overlooking people, worth noting are the multiple contributions of these non-L&C Law professors, reading like a "who's who" in Environmental Law teaching: Robert 'Bo' Abrams, Jonathan H. Adler, Reed D. Benson, Eric Biber, George Cameron Coggins, Barbara A. Cosens, Daniel H. Cole, the late Federico Cheever, Robin Kundis Craig, Jason J. Czarnecki, David M. Driesen, Myrl L. Duncan, Harrison 'Hap' Dunning, Daniel C. Esty, David S. Favre, the late Joseph M. Feller, Steven Ferrey, Robert L. Fischman, Victor B. Flatt, Eric T. Freyfogle, Robert L. Glicksman, Dale D. Goble, Keith

law journal has consistently produced articles on the breadth of environmental issues as those examined in *Environmental Law* over the last half-century.⁸¹

IV. CONTINUING SIGNIFICANCE

During the past decade, *Environmental Law* has continued presenting cutting-edge legal scholarship. For example, long before there was controversy over the president's authority to diminish the size of national monuments, the journal featured articles on judicial review of monument directives.⁸² Combatting climate change was front and center in the 2010 Clean Air Act symposium.⁸³ And nearly every ensuing volume of the journal has featured several provocative climate change-related articles. A cursory review counts at least twenty in just the years 2010 to 2018 alone.⁸⁴

H. Hirokawa, Oliver A. Houck, Stephen M. Johnson, Alexandra B. Klass, Robert B. Keiter, Bruce M. Kramer, James E. Krier, Howard A. Latin, Richard J. Lazarus, John D. Leshy, Bradford C. Mank, Gary D. Meyers, Thomas O. McGarity, Joel A. Mintz, Andrew Morris, the late John Copeland Nagle, Dave Owen, Patrick A. Parenteau, Richard J. Pierce, Jr., Zygmunt J.B. Plater, James Salzman, Arnold W. Reitze, Jr., Nicholas A. Robinson, Kalyani Robbins, William H. Rodgers Jr., Carol M. Rose, J.B. Ruhl, Sidney A. Shapiro, Mark Squillace, Barton 'Buzz' Thompson, Carl W. Tobias, Gerald Torres, Joseph P. Tomain, Clifford J. Villa, Charles F. Wilkinson, Mary C. Wood, and Sandra B. Zellmer.

⁸¹ Most environmental law journals produce fewer than four issues a year. Of the longstanding ones, only *Ecology Law Quarterly* and *BC Environmental Affairs* have regularly published four times a year, although usually producing far fewer pages than *Environmental Law*.

⁸² Kelly Y. Fanizzo, *Separation of Powers and Federal Land Management: Enforcing the Direction under the Antiquities Act*, 40 ENVTL. L. 765 (2010); Peter Morris, *Monumental Seascape Modification Under the Antiquities Act*, 43 ENVTL. L. 173 (2013); Jayni Foley Hein, *Monumental Decisions: One-Way Levers Towards Preservation in the Antiquities Act and Outer Continental Shelf Lands Act*, 48 ENVTL. L. 125 (2018).

⁸³ Symposium, *The Clean Air Act at a Crossroads: Turning 40, Confronting Climate Change*, 40 ENVTL. L. 1123 (2010).

⁸⁴ See, e.g., Douglas A. Kysar, *What Climate Change Can Do About Tort Law*, 41 ENVTL. L. 1 (2011); William Boyd & James Salzman, *The Curious Case of Greening Carbon Markets*, 41 ENVTL. L. 73 (2011); Thomas M. Gremellion, *Setting the Foundation: Climate Change Adaptation at the Local Level*, 41 ENVTL. L. 1221 (2011). Mark Squillace & Alexander Hood, *NEPA, Climate Change, and Public Lands Decision Making*, 42 ENVTL. L. 469 (2012); Kevin L. Doran & Angela M. Cifor, *Does the Federal Government Own Pore Space Under Private Lands in the West? Implications of the Stock-Raising Homestead Act of 1916 for Geologic Storage of Carbon Dioxide*, 42 ENVTL. L. 527 (2012); Mark L. Belleville, *The Key Stone in the Carbon Tariff Wall: The Alberta Oil Sands and the Legality of Taxing Imports Based on Their Carbon Footprint*, 43 ENVTL. L. 365 (2013); Alex Ritchie, *Scattered and Dissonant: The Clean Air Act, Greenhouse Gases, and Implication for the Oil and Gas Industry*, 43 ENVTL. L. 461 (2013); Mark Williams & Sharmila Murthy, *Reconciling the Carbon Market and the Human Right to Water: The Role of Suppressed Demand under the Clean Development Mechanism and the Gold Standard*, 43 ENVTL. L. 517 (2013); David Takacs, *Environmental Democracy and Forest Carbon (REDD+)*, 44 ENVTL. L. 71 (2014); David P. Vincent, *AES v. Steadfast and the Concept of Foreseeability in Climate Change Litigation*, 44 ENVTL. L. 201 (2014); Chris Wold & Amelia Schlusser, *Increasing Mitigation Ambition: Establishing "Mitigation*

Other recent cutting-edge articles included those on biodiversity conservation,⁸⁵ on controlling “takes” under the Endangered Species Act,⁸⁶ creating a sustainable, renewable energy economy,⁸⁷ examining “orphan shares” and CERCLA liability,⁸⁸ exploring solar energy development on Southwestern public lands,⁸⁹ improving evidence fact-finding by international courts,⁹⁰ explaining the historical rationale for environmental regulation,⁹¹ pricing whaling harvests,⁹² portraying the dilemma of human wildlife restoration efforts in wilderness areas,⁹³ examining Chinese natural resources and biodiversity law,⁹⁴ comparing

Reference Points” To Trigger Mandatory Greenhouse Gas Reductions, 44 ENVTL. L. 225 (2014); David Driesen, *Putting a Price on Carbon: The Metaphor*, 44 ENVTL. L. 695 (2014); Noah Sachs, *Climate Change Triage*, 44 ENVTL. L. 993 (2014); Victor Flatt & Heather Payne, *Not One Without the Other: The Challenge of Integrating U.S. Environment, Energy, Climate, and Economic Policy*, 44 ENVTL. L. 1079 (2014); Howard A. Latin, *Climate Change and EPA Disincentives*, 45 ENVTL. L. 19 (2015); John J. Perona, *A Dry Century in California: Climate Change, Groundwater, and a Science-Based Approach for Preserving the Unseen Commons*, 45 ENVTL. L. 641 (2015); Christopher D. Ahlers, *Wood Burning, Biomass, Air Pollution, and Climate Change*, 46 ENVTL. L. 49 (2016); A. Dan Tarlock & Deborah M. Chizewer, *Living with Water in a Climate-Changed World: Will Federal Flood Policy Sink or Swim?*, 46 ENVTL. L. 491 (2016); Travis O. Brandon, *Nationwide Permit 13, Shoreline Armoring, and the Important Role of the U.S. Army Corps of Engineers in Coastal Climate Change Adaptation*, 46 ENVTL. L. 537 (2016); A. Dan Tarlock, *Western Water Law and the Challenge of Climate Disruption*, 48 ENVTL. L. 1 (2018); Ofer Tur-Sinai, *Patents and Climate Change: A Skeptic’s View*, 48 ENVTL. L. 211 (2018).

⁸⁵ Andrew Long, *Global Climate Governance to Enhance Biodiversity and Well-Being: Integrating Non-State Networks and Public International Law in Tropical Forests*, 41 ENVTL. L. 95 (2011).

⁸⁶ Jason Totoiu, *Quantifying, Monitoring, and Tracking “Take” Under the Endangered Species Act: The Promise of a More Informed Approach to Consultation*, 41 ENVTL. L. 165 (2011).

⁸⁷ Kyle Carlson, *SEED: Sustainable Environmental and Economic Developments—A Call to Incorporate Verifiable Sustainability Ratings into NEPA Reviews*, 43 ENVTL. L. 145 (2013); Melissa Powers, *Sustainable Energy Futures*, 43 ENVTL. L. 211 (2013); Inara Scott, *“Dancing Backward in High Heels: Examining and Addressing the Disparate Regulatory Treatment of Energy Efficiency and Renewable Resources*, 43 ENVTL. L. 255 (2013); George B. Wyeth & Beth Termini, *Regulating for Sustainability*, 45 ENVTL. L. 663 (2015).

⁸⁸ Kenneth K. Kilbert, *Neither Joint nor Several: Orphan Shares and Private CERCLA Actions*, 41 ENVTL. L. 1045 (2011).

⁸⁹ Slobhan McIntyre & Timothy Duane, *Water, Work, Wildlife, and Wilderness: The Collaborative Federal Public Lands Planning Framework for Utility-Scale Solar Energy Development in the Desert Southwest*, 41 ENVTL. L. 1093 (2011).

⁹⁰ Cymie Payne, *Mastering the Evidence: Improving Fact Finding by International Courts*, 41 ENVTL. L. 1191 (2011).

⁹¹ William L. Andreen, *Of Fables and Federalism: A Re-Examination of the Historical Rationale for Federal Environmental Regulation*, 42 ENVTL. L. 627 (2012).

⁹² Hope M. Babcock, *Putting a Price on Whales to Save Them: What Do Morals Have to Do with It?*, 43 ENVTL. L. 1 (2013).

⁹³ Sean Kammer, *Coming to Terms with Wilderness: The Wilderness Act and the Problem of Wildlife Restoration*, 43 ENVTL. L. 83 (2013).

⁹⁴ Wenxuan Yu & Jason J. Czarnecki, *Challenges in China’s Natural Resources Conservation and Biodiversity Legislation*, 43 ENVTL. L. 125 (2014).

the Supreme Court's treatment of health care and environmental law,⁹⁵ explaining how frames of reference shape environmental law,⁹⁶ providing a history of environmental policy innovation,⁹⁷ examining the federalism of hydraulic fracking regulation,⁹⁸ suggesting a new interpretation of the origins of the Clean Air Act,⁹⁹ exploring environmental cleanups by the military,¹⁰⁰ critically looking at the Supreme Court's invention of constitutional standing,¹⁰¹ providing an archive of audio recordings of environmental law Supreme Court arguments,¹⁰² explaining administrative agency bias in environmental decision making,¹⁰³ examining the marketing of conserved water,¹⁰⁴ exploring catch shares and ocean groundfish management,¹⁰⁵ claiming that criminal law can help save the environment,¹⁰⁶ calling for consistent statutory approach to federal environmental enforcement, comparing environmental management in the United States and Europe, advocating a modernizing of the Columbia River Treaty,¹⁰⁷ critiquing alleged state supremacy concerning fish and wildlife management on federal lands,¹⁰⁸ renewing a call for pollution taxes,¹⁰⁹

⁹⁵ James R. May, *Healthcare, Environmental Law, and the Supreme Court: An Analysis Under the Commerce, Necessary and Proper, and Tax and Spending Clauses*, 43 ENVTL. L. 233 (2013).

⁹⁶ James Salzman & Martin Doyle, *Turning the World Upside Down: How Frames of Reference Shape Environmental Law*, 44 ENVTL. L. 1 (2014).

⁹⁷ Daniel J. Fiorino, *Streams of Environmental Innovation: Four Decades of EPA Policy Reform*, 44 ENVTL. L. 723 (2014).

⁹⁸ Rachael Rawlins, *Planning for Fracking on the Barnett Shale: Soil and Water Contamination Concerns and the Role of Government*, 44 ENVTL. L. 135 (2014); Albert C. Lin, *Fracking and Federalism: A Comparative Approach to Reconciling National and Subnational Interests in the United States and Spain*, 44 ENVTL. L. 1039 (2014).

⁹⁹ Christopher D. Ahlers, *Origins of the Clean Air Act: A New Interpretation*, 42 ENVTL. L. 75 (2015).

¹⁰⁰ Jennifer Ann Neuhauser, *U.S. Military Responsibility for Environmental Cleanups in Contingency Environments*, 45 ENVTL. L. 129 (2015).

¹⁰¹ Bruce J. Terris, *Ex Nihilo—The Supreme Court's Invention of Constitutional Standing*, 45 ENVTL. L. 849 (2015).

¹⁰² Brian S. Tomasovic, *Soundscape History and Environmental Law in the Supreme Court*, 45 ENVTL. L. 895 (2015).

¹⁰³ Robert R. Kuehn, *Bias in Environmental Agency Decision Making*, 45 ENVTL. L. 957 (2015).

¹⁰⁴ Mark Squillace & Anthony McLeod, *Marketing Conserved Water*, 46 ENVTL. L. 1 (2016).

¹⁰⁵ Suzanne Iudicello & Sherry Bosse Lueders, *A Survey of Litigation Over Catch Shares and Groundfish Management in the Pacific Coast and Northern Multispecies Fisheries*, 46 ENVTL. L. 157 (2016).

¹⁰⁶ Rena Steinzor, *How Criminal Law Can Help Save the Environment*, 46 ENVTL. L. 209 (2016).

¹⁰⁷ Thomas G. Bode, *A Modern Treaty for the Columbia River*, 47 ENVTL. L. 81 (2017).

¹⁰⁸ Martin Nie et al., *Fish and Wildlife Management on Federal Lands: Debunking State Supremacy*, 47 ENVTL. L. 797 (2017).

¹⁰⁹ David M. Driesen, *Emissions Trading Versus Pollution Taxes: Playing "Nice" with Other Instruments*, 48 ENVTL. L. 29 (2017).

reviewing state endangered species legislation,¹¹⁰ criticizing the abandonment of compensatory mitigation as permit conditions,¹¹¹ examining ecosystem services in the Trump Administration,¹¹² and exploring the role of eco-labeling in encouraging sustainable consumer choices.¹¹³ A particularly provocative article critiqued law school education for its “ecologically dismissive subtexts;”¹¹⁴ another applied a “Cubism” property rights analysis to transboundary pollution problems.¹¹⁵ These are just samples; they don’t actually capture the full diversity of scholarship *Environmental Law* has published during the past decade.

V. CONCLUSION

One innovation of *Environmental Law*’s that has been evident from its beginning in 1970 has been the way in which it gave full author status to student notes and comments, refusing to relegate student authors to the back of a note or comment, or worse. Although treating students as full authors has become more commonplace over the years, in 1970 it was unheard of.

But *Environmental Law*’s chief contribution has been to the scholarship of the field itself, as from President Nixon’s letter¹¹⁶ forward, the journal has published the most diverse and in-depth scholarship of any environmental law review. It has also proved to be a model for other journals.¹¹⁷ And it has done so for a half-century, through fifty editorial boards, consistently vindicating Billy Williamson’s prescient vision, perhaps beyond his wildest dreams.

One envisions the next half-century of *Environmental Law* as being even more consequential than its first half-century. The beneficiaries will be widespread.

To the next half-century of *Environmental Law*, the nation’s oldest and most comprehensive student-edited law review.

¹¹⁰ Robert L. Fischman et. al, *State Imperiled Species Legislation*, 48 ENVTL. L. 81 (2018).

¹¹¹ Dave Owen, *The Conservative Turn Against Compensatory Mitigation*, 48 ENVTL. L. 265 (2018).

¹¹² Kalyani Robbins, *Complementary Authority and the One-Way Ratchet: Ecosystem Services Property, Regulation. And Wildlife Conservation*, 48 ENVTL. L. 291 (2018).

¹¹³ Jason J. Czarnecki et al., *Crafting Next Generation Eco-Label Policy*, 48 ENVTL. L. 409 (2018).

¹¹⁴ Don Ellinghausen, Jr., *Unnatural Foundations: Legal Education’s Ecologically-D dismissive Subtexts*, 41 ENVTL. L. 681, 683–84 (2011).

¹¹⁵ Robert H. Cutting, *“One Man’s Ceilin’ is Another Man’s Floor”*: *Property Rights as a Double-Edged Sword*, 31 ENVTL. L. 819, 851–52 (2001).

¹¹⁶ Nixon, *supra* note 20.

¹¹⁷ *Washington and Lee Law Journal Rankings*, WASH. & LEE (2019), <https://perma.cc/6W9E-T37C>. According to the Washington and Lee Law Journal Rankings, there are now 81 journals on environmental, natural resources, and land use law and 18 on energy law.

APPENDIX: ARTICLES BY DISTINGUISHED ENVIRONMENTAL LAW VISITORS
In chronological order, with additional articles by frequent contributors:

Daniel A. Farber, *Risk Regulation in Perspective: Reserve Mining Revisited*, 21 ENVTL. L. 1321 (1991).

James E. Krier & Mark Braunstein, *The Political Economy of Barry Commoner*, 20 ENVTL. L. 11 (1990); *On Integrated Pollution Control*, 22 ENVTL. L. 119 (1992).

William H. Rodgers, Jr., *Superfund Trivia Test: A Comment on the Complexity of the Environmental Laws*, 22 ENVTL. L. (1992); *see also* *Judicial Review of Risk Assessments: The Role of Decision Theory in Unscrambling the Benzene Decision*, 11 ENVTL. L. 301 (1981); *NEPA at Twenty: Mimicry and Recruitment in Environmental Law*, 20 ENVTL. L. 485 (1990); *Judicial Regrets and the Case of the Cushman Dam*, 35 ENVTL. L. 397 (2005).

Harrison C. Dunning, *Confronting the Environmental Legacy of Irrigated Agriculture in the West: The Case of the Central Valley Project*, 23 ENVTL. L. 943 (1993); *see also* *The Public Trust: A Fundamental Doctrine of American Property Law*, 19 ENVTL. L. 515 (1989).

Carol M. Rose, *Given-ness and Gift: Property and the Quest for Environmental Ethics*, 24 ENVTL. L. 1 (1994); *Scientific Innovation and Environmental Protection: Some Ethical Considerations*, 32 ENVTL. L. 755 (2002); *Environmental Law Grows Up (More or Less), and What Science Can Do to Help*, 9 LEWIS & CLARK L. REV. 273 (2005); Michael E. Rose, *Spike the Trees to Save the Forests?*, 18 ENVTL. L. 365 (1988).

Robert J. Fowler, *International Environmental Standards for Transnational Corporations*, 25 ENVTL. L. 1 (1995).

Gerald Torres, *Taking and Giving: Police Power, Public Value, and Private Right*, 26 ENVTL. L. 1 (1996); *see also*, Craig N. Johnston & Gerald Torres, *Normal Farming and Adjacency: A Last Minute Gift for the Farm Bureau*, 46 ENVTL. L. 395 (2016).

Richard J. Lazarus, *Fairness in Environmental Law*, 27 ENVTL. L. 705 (1997); *see also* *Celebrating Tahoe-Sierra*, 33 ENVTL. L. 1 (2003); *Judicial Missteps, Legislative Dysfunction, and the Public Trust Doctrine: Can Two Wrongs Make It Right?*, 45 ENVTL. L. 1139 (2015).

Oliver A. Houck, *Are Humans Part of Ecosystems?*, 28 ENVTL. L. 1 (1998); *see also* *Prior Appropriation in Louisiana*, 23 ENVTL. L. 384 (1993); *Reflections on the Endangered Species Act*, 25 ENVTL. L. 689

(1995); *Rumors of My Demise . . . A Review of Break Through: From the Death of Environmentalism to the Politics of Possibility*, 38 ENVTL. L. 627 (2008).

Suedeem G. Kelly, *The New Electric Power Houses in America: Will They Transform Your Life?*, 29 ENVTL. L. 285 (1999).

Barton H. Thompson, Jr., *Tragically Difficult: The Obstacles to Governing the Commons*, 30 ENVTL. L. 241 (2000); *see also A Federal Act to Promote Integrated Water Management: Is the CZMA a Useful Model?*, 42 ENVTL. L. 201 (2012).

John D. Leshy, *The Babbitt Legacy at the Department of the Interior: A Preliminary View*, 31 ENVTL. L. 199 (2001); *see also Granite Rock and the States' Influence over Federal Land Use*, 18 ENVTL. L. 99 (1988); *Natural Resources Policy in the Clinton Administration: A Mid-Course Evaluation from Inside*, 25 ENVTL. L. 679 (1995); *Challenges to Environmental Law*, 25 ENVTL. L. 967 (1995); *Legal Wilderness Its Past and Some Speculations on its Future*, 44 ENVTL. L. 549 (2014).

Zygmunt J.B. Plater, *Law and the Fourth Estate: Endangered Nature, the Press, and the Dacey Game of Democratic Governance*, 32 ENVTL. L. 1 (2002); *see also The Embattled Social Utilities of the Endangered Species Act—A Noah Presumption and Caution Against Putting Gasmasks on the Canaries in the Coalmine*, 27 ENVTL. L. 845 (1997); *Endangered Species Act Lessons Over 30 Years and the Legacy of the Snail Darter, A Small Fish in a Pork Barrel*, 34 ENVTL. L. 289 (2004).

Robert V. Percival, *"Greening" the Constitution: Harmonizing Environmental and Constitutional Values*, 32 ENVTL. L. 809 (2002).

David H. Getches, *Water Wrongs: Why Can't We Get It Right the First Time?*, 34 ENVTL. L. 1 (2004); *see also Changing the River's Course: Western Water Policy Reform*, 26 ENVTL. L. 157 (1996).

Nicholas A. Robinson, *IUCN as Catalyst for a Law of the Biosphere: Acting Globally and Locally*, 35 ENVTL. L. 249 (2005); *see also Nicholas A. Robinson & Gary R. Waxmonsky, The U.S.-U.S.S.R. Agreement to Protect the Environment: 15 Years of Cooperation*, 18 ENVTL. L. 403 (1988).

Eric T. Freyfogle, *Goodbye to the Public-Private Divide*, 36 ENVTL. L. 7 (2006); *see also Water Rights and the Common Wealth*, 26 ENVTL. L. 27 (1996).

Robert Glennon, *Tales of French Fries and Bottled Water: The Environmental Consequences of Groundwater Pumping*, 37 ENVTL. L. 3 (2007).

Lisa Heinzerling, *Climate Change in the Supreme Court*, 38 ENVTL. L. 1 (2008).

Christopher Schroeder, *Global Warming and the Problem of Policy Innovation: Lessons from the Early Environmental Movement*, 39 ENVTL. L. 285 (2009).

J.B. Ruhl, *Climate Change Adaptation and the Structural Transformation of Environmental Law*, 40 ENVTL. L. 363 (2010); *see also* Section 7(a)(1) of the “New” Endangered Species Act: *Rediscovering and Redefining the Untapped Power of Federal Agencies’ Duty to Conserve Species*, 25 ENVTL. L. 1107 (1995); *The Case of the Speluncean Polluters: Six Themes of Environmental Law, Policy, and Ethics*, 27 ENVTL. L. 343 (1997); *The Battle Over Endangered Species Act Methodology*, 34 ENVTL. L. 555 (2004); *Ecosystem Services and the Clean Water Act: Strategies for Fitting New Science into Old Law*, 40 ENVTL. L. 1381 (2010).

Douglas A. Kysar, *What Climate Change Can Do About Tort Law*, 41 ENVTL. L. 1 (2011).

Hope M. Babcock, *Putting a Price on Whales to Save Them, What Do Morals Have to Do With It?*, 43 ENVTL. L. 1 (2013).

James Salzman (with Martin Doyle), *Turning the World Upside Down: How Frames of Reference Shape Environmental Law*, 44 ENVTL. L. 1 (2014); *see also* *Sustainable Consumption and the Law*, 27 ENVTL. L. 1243 (1997); *Seattle’s Legal Legacy and Environment Reviews of Trade Agreements*, 31 ENVTL. L. 501 (2001).

Michael A. Livermore & Richard L. Revesz, *Interest Groups and Environmental Policy: Inconsistent Positions and Missed Opportunities*, 45 ENVTL. L. 1 (2015).

Rena Steinzor, *How Criminal Law Can Help Save the Environment*, 46 ENVTL. L. 209 (2016).

Dan Esty, *Red Lights to Green Lights: From 20th Century Environmental Protection to 21st Century Sustainability*, 47 ENVTL. L. 1 (2017).

A. Dan Tarlock, *Western Water Law and the Challenge of Climate Disruption*, 48 ENVTL. L. 1 (2018); *see also* *The Legacy of Schodde v. Twin Falls & Water Co.: The Evolving Reasonable Appropriation*

Principle, 42 ENVTL. L. 37 (2012); A. Dan Tarlock & Deborah M. Chizewer, *Living with Water in a Climate-Changed World: Will Federal Flood Policy Sink or Swim?*, 46 ENVTL. L. 491 (2016); Edward Sullivan & A. Dan Tarlock, *The Western Urban Landscape and Climate Change*, 49 ENVTL. L. 931 (2019).

Sarah Krakoff, *Environmental Injustice and the Limits of Possibilities for Environmental Law*, 49 ENVTL. L. 229 (2019).

Alexandra B. Klass, *U.S. Energy Transitions in the Trump Administration*, 50 ENVTL. L. (forthcoming December 2020); see also Alexandra B. Klass, *The Public Trust Doctrine in the Shadow of State Environmental Rights Laws: A Case Study*, 45 ENVTL. L. 431 (2015).