Penn State Environmental Law Review

Volume 12 | Number 2

Article 1

6-1-2004

Front Matter

Follow this and additional works at: https://elibrary.law.psu.edu/pselr

Recommended Citation

Front Matter, 12 Penn St. Envtl. L. Rev. (2004).

This Front Matter is brought to you for free and open access by the Law Reviews and Journals at Penn State Law eLibrary. It has been accepted for inclusion in Penn State Environmental Law Review by an authorized editor of Penn State Law eLibrary. For more information, please contact ram6023@psu.edu.

VOLUME 12, NUMBER 2, SUMMER 2004

TABLE OF CONTENTS

ARTICLES

An Analysis of the 2001 National Energy Policy: Is a Domestic Production-based Oil Policy Appropriate for the United States?	307
The Role of the Confederated Tribes of the Colville Reservation in Fighting to Protect and Clean-up the Boundary Waters of the United States: A Case Study of The Upper Columbia River and Lake Roosevelt Environment	335
and Jennifer Sanscrainte	333
COMMENTS Military Aviation Naise and its Effects	
Military Aviation Noise and its Effects on Domesticated and Wild Animals	367
A WHALE OF A TALE: The Sea of Controversy Surrounding The Marine Mammal Protection Act and the U.S. Navy's Proposed Use of the SURTASS-LFA Sonar System Colleen C. Karpinsky	389
Vieques' Struggle for Freedom: Environmental Litigation, Civil Disobedience, and Political Marketing Proves Successful	419

ISSN: 1546-3427

PENN STATE ENVIRONMENTAL LAW REVIEW



Abbreviate as Penn St. Envtl. L. Rev.

The Penn State Environmental Law Review is published twice a year by the students of the Dickinson School of Law of the Pennsylvania State University. The Journal seeks to publish materials discussing all aspects of environmental issues. In an effort to broaden the scope of the Journal, we are also interested in publishing articles discussing issues outside the traditional realm of environmental law, such as risk assessment, toxicology and epidemiology. Please note that views expressed in the Journal are the views of the authors and do not necessarily reflect the policies or opinions of the Journal, its editorial board and staff members, or the Dickinson School of Law of the Pennsylvania State University.

The editors of the Penn State Environmental Law Review encourage submission of unsolicited articles for future publication in the Journal. Interested authors should submit their manuscripts to the Articles Editor, Penn State Environmental Law Review, 150 South College Street, Carlisle, PA 17013. Unfortunately, the Journal cannot return submitted manuscripts unless a self-addressed, stamped envelope is also enclosed. Submissions should be typed and double-spaced. If submitting a work on diskette, please use the latest versions of WordPerfect or Microsoft Word.

Citations substantially conform with A Uniform System of Citation (17th ed. 2000), copyright by the Columbia Law Review, Harvard Law Review, University of Pennsylvania Law Review and the Yale Law Journal

The Penn State Environmental Law Review is printed on recycled paper by Joe Christensen, Inc., 1540 Adams Street, Lincoln, NE 68521, (800) 228-5030.

LOCATION

The Penn State Environmental Law Review is located at 150 South College Street, Carlisle, PA 17013, phone (717) 240-5006 and fax (717) 241-3511.

SUBSCRIPTIONS

Rates are \$25.00 per year domestic; \$30.00 per year foreign surface mail; and \$40.00 per year foreign air mail. Issues are mailed at book rate. Patron rate, entitling the patron to a listing in the Journal, is \$50.00 per year. Back issues are available upon request at \$10.00 per issue. Address all subscription and business inquiries to the Penn State Environmental Law Review, at the address above. Unless notice to the contrary is received by the Journal, it is assumed that a renewal of subscription is desired.

Non-Discrimination Policy Statement

This publication is available in alternative media on request.

The Pennsylvania State University is committed to the policy that all persons shall have equal access to programs, facilities, admission, and employment without regard to personal characteristics not related to ability, performance, or qualifications as determined by University policy or by state or federal authorities. It is the policy of the University to maintain an academic and work environment free of discrimination, including harassment. The Pennsylvania State University prohibits discrimination and harassment against any person because of age, ancestry, color, disability or handicap, national origin, race, religious creed, sex, sexual orientation, or veteran status. Discrimination or harassment against faculty, staff, or students will not be tolerated at The Pennsylvania State University. Direct all inquiries regarding the nondiscrimination policy to Doris Orner, Human Resources Officer, The Dickinson School of Law, 150 South College Street, Carlisle, PA 17013-2899; tel (717) 240-5284. U.Ed. DSL 03-

COPYRIGHT © 2004 BY THE DICKINSON SCHOOL OF LAW OF THE PENNSYLVANIA STATE UNIVERSITY, CARLISLE, PA 17013.

ALL RIGHTS RESERVED

MEMBER, NATIONAL CONFERENCE OF LAW REVIEWS



2003-2004 EDITORIAL BOARD

Editor-in-Chief
HOLLY SHOUP-BRUCH

Managing Editor
Josh Patrick Parecki

Business Editor Leah Weldon

Articles Editors
JONATHAN COY
KATHLEEN RYDER

Solicitation Editor Penelope Campoli Comment Editors

JODI BRITTON RAY GHANER

Notes Editor
Nathalie Armas

Senior Editors

SHERI COOVER COLLEEN KARPINSKI CATHY CYKOWSKI AIMEE KRATOVIL JESSICA FINCH JOHN E. SWIFT IV

Associate Editors

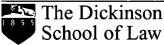
Brendan S. Bacon Christopher B. Connard Elizabeth A. Johnson Ann C. O'Donnell Jennifer M. Smitrovich

Faculty Advisor Leslie M. MacRae Ryan R. Blake Zachary R. Gates Paraskevi Kikrilis Rakhi J. Patel Mark R. Vlaun

Publication Manager Karen Robey Andrew R. Christ Timothy A. Hayden Robert E. McDivitt Evan B. Rudnicki Matthew J. Walker

Publication Assistant SHERRY MILLER

PENNSTATE



THE DICKINSON SCHOOL OF LAW

BOARD OF GOVERNORS

Hon. Helen S. Balick

Retired

Wilmington, DE

Zygmunt R. Bialkowski, Jr., Esq.

Partner, Morgolis Edelstein

Scranton, PA

Ward A. Bower, Esq.

President, Altman Weil Inc.

Newtown Square, PA

William R. Caroselli, Esq.

Senior Partner, Caroselli, Beachler, McTierran

& Conboy

Pittsburgh, PA

Hon. J. Michael Eakin

Supreme Court of Pennsylvania

Harrisburg, PA

Anthony C. Falvello, Esq.

Partner, The Falvello Law Firm

Sugarloaf, PA

Nicholas J. Fiore, Esq.

Jersey City, NJ

Kathleen P. Galop, Esq.

Preservation Possibilities

Madison, NJ

Hubert X. Gilroy, Esq.

Partner, Broujos & Gilroy, P.C.

Carlisle, PA

M. Fletcher Gornall, Esq.

Retired

Erie, PA

Joseph M. Harenza, Esq.

Partner, Stevens & Lee, P.C.

Reading, PA

Shaun D. Henry, Esq.

Associate, McNees Wallace & Nurick

Harrisburg, PA

Hon. Jan R. Jurden

Delaware Superior Court Judge

Wilmington, DE

Lewis Katz, Esq.

Katz Ettin Levine Kurzweil & Weber P.C.

Cherry Hill, NJ

Edwin L. Klett, Esq.

Senior Partner, Klett, Lieber, Rooney &

Schorling

Pittsburgh, PA

Dr. Sidney D. Kline, Jr.

President, Stevens & Lee, P.C.

Reading, PA

Melissa L. Klipp, Esq.

Partner, Drinker, Biddle & Shanley, LLP

Florham Park, NJ

Joan Dawley Maher, Esq.

Consultant

Carlisle, PA

James G. McLean, Esq.

Marion, McDonough & Lucas, P.C.

Pittsburgh, PA

Hon. G. Thomas Miller

Partner, Miller & Miller

Harrisburg, PA

Leslie Anne Miller, Esq.

Office of General Counsel

Harrisburg, PA

H. Laddie Montague, Jr., Esq.

Partner, Berger & Montague

Philadelphia, PA

Joseph Nadel, Esq.

Of Counsel, Berger, Nadel & Vannelli, P.C.

San Francisco, CA

Christylee Peck, Esq.

Rhoads & Sinon, LLP

Philadelphia, PA

Arthur L. Piccone, Esq.

Senior Partner, Hourigan, Kluger & Quinn,

P.C.

Wilkes-Barre, PA

Hon. Sylvia H. Rambo

United States District Judge

Harrisburg, PA

Lisa Watson Repko, Esq.

Thomas Jefferson University

Philadelphia, PA

Hon. Thomas J. Ridge

Director, Homeland Security

Washington, DC

Dale F. Shughart, Jr., Esq.

Dale F. Shughart Law Office

Carlisle, PA

Donald C. Smaltz, Esq.

Greenberg, Fields & Whitcomb, LLP

Torrence, CA

J. Rodman Steele, Jr., Esq.

Partner, Ackerman & Senterfitt

West Palm Beach, FL

Tracy L. Steele, Esq.

Morgan, Lewis & Bockius LLP

Philadelphia, PA

Donald C. Taylor, Esq.

Chairman of the Board, Cooch & Taylor, P.A. Wilmington, DE

Nathan H. Waters, Jr., Esq.

Solicitor/Chief Legal Officer, Harrisburg

School District Harrisburg, PA Sandor Yelen, Esq.

Yelen Law Office Wilkes-Barre, PA

Hon, LeRoy S. Zimmerman

Special Counsel, Eckert Seamans Cherin &

Mellott, LLC Harrisburg, PA

TRUSTEES EMERITI

Mary L. Buckman, Esq. Louise F. Deller Dr. Robert M. Frey Hon. John B. Hannum Tom P. Monteverde, Esq. Dr. Edward N. Polisher Robert C. Royce, Esq. Hon. Ila Jeanne Sensenich William U. Smith, Esq.

ADMINISTRATION

Donald C. Taylor, A.B., J.D.

Chair, Board of Governors

Philip J. McConnaughay, B.A., J.D.

Dean

Robert S. Arp, B.S., J.D.

Director, Development & External Affairs

Janice Austin, B.S.

Assistant Dean for Admissions and Financial

Susan Bogart, B.A., M.A.

Director, Financial Aid

Gicine Brignola, B.S., J.D.

Assistant Dean, Career Services

Harvey A. Feldman, B.A., J.D., LL.M.

Associate Dean, Academic Affairs

Randy Fulton, B.A.

Director of Business Services

Kelly Jones, B.A.

Assistant Director, Communications

Joan E. Kamowski

Bursar

Nancy J. LaMont, B.A., J.D.

Assistant Dean for Administration

Michael Mogill, B.A., J.D.

Associate Dean of Student Affairs

Doris L. Orner, B.S., C.P.A.

Controller, Financial Officer, Human Resources

Representative

Alice M. Peet

Registrar

LIBRARY

James R. Fox, B.A., M.S., J.D.

Director of Library

Cecily A.H. Giardina, B.A., M.L.S., J.D.

Associate Law Librarian

Debra Jones, B.A., M.S.

Associate Law Librarian

Richard Paone, M.S.L.S., J.D.

Assistant Law Librarian

Gail Partin, B.S., M.L.S., J.D. Associate Law Librarian

Mark Podvia, B.A., J.D., M.S.L.S. Associate Law Librarian/Archivist

Judy L. Swarthout, B.A., M.S., M.L.S., J.D.

Associate Law Librarian

FULL TIME FACULTY

Robert M. Ackerman

Director, Center for Dispute Resolution and

Professor of Law

B.A., Colgate University

J.D., Harvard Law School

Larry Cata Backer

Professor of Law

B.A., Brandeis University

M.A., Harvard University

J.D., Columbia University School of Law

Carlos Ball

Professor of Law

B.A., Tufts University

J.D., Columbia University School of Law

LL.M., Cambridge University

William B. Barker

Professor of Law

B.A., State University of New York at Buffalo; J.D., State University of New York at Buffalo School of Law

Thomas E. Carbonneau

Elsie deR. Orlando and Samuel P. Orlando

Distinguished Professor of Law

A.B., Bowdoin College

B.A., M.A., Rhodes Scholar, St. John's

College, Oxford University

M.A., University of Virginia

J.D., University of Virginia School of Law

LL.M., Columbia University School of Law

J.S.D., Columbia University School of Law

Lance Cole

Associate Professor of Law

B.S., University of Arkansas;

J.D., Harvard Law School

Beth E. Cook

Joseph B. Kelly Lawyering Skills Professor

A.B., Cornell University

J.D., George Washington University Law

Center

LL.M., George Washington University Law

Center

Louis F. Del Duca

Associate Dean, A. Robert Noll Professor of

Law and

Director, Center for International and

Comparative Law

A.B., Temple University;

J.D., Harvard Law School;

Dott. di Giur., University of Rome

Stephen M. Dodd

Joseph B. Kelly Lawyering Skills Professor

B.A., Harvard University

J.D., The Dickinson School of Law

Susan Beth Farmer

Professor of Law

B.A., Wellesley College;

J.D., Vanderbilt University Law School

Stephanie T. Farrior

Associate Professor of Law

B.A., Macalester College;

M.A., University of Pennsylvania;

J.D., The American University;

LL.M., Harvard Law School

Harvey A. Feldman

Associate Dean, Professor of Law

B.A., University of Pennsylvania;

J.D., The Dickinson School of Law;

LL.M., George Washington University National

Law Center

James R. Fox

Director, Law Library; Professor of Law

B.A., Otterbein College;

J.D., Ohio State University College of Law;

M.S., Drexel University

Robert Gatter

Assistant Professor of Law

B.A., John Hopkins University

M.A,. Medical College of Wisconsin

J. D., University of Pennsylvania Law School

Gary S. Gildin

The Hon. G. Thomas Miller and Anne G.

Miller Chair in Advocacy

Director, Miller Center for Public Interest

Advocacy

B.A., University of Wisconsin;

J.D., Stanford University School of Law

Peter G. Glenn

Professor of Law

B.A., Middlebury College;

J.D., University of Pennsylvania School of Law

Julie Goldscheid

Assistant Professor of Law

B.S., Cornell University

M.S.W., Hunter College School of Social Work

J.D., New York University School of Law

Edward W. Haughney

Professor of Law

Brooklyn College;

LL.B., St. John's University School of Law;

M.S., George Washington University National

Law Center

Eileen M. Kane

Assistant Professor of Law

B.A. Hunter College

J.D. Fordham University School of Law

Ph.D. Cornell University

Christine H. Kellett

Professor of Law

B.A., University of New Mexico;

J.D., The Dickinson School of Law

John Knox

Associate Professor of Law

B.A., Rice University;

J.D., Stanford University School of Law

Leslie M. MacRae

Co-Director, Agricultural Law Center

Professor of Law

B.A., University of Virginia;

J.D., Baylor University School of Law;

LL.M., University of Miami School of Law;

LL.M., Temple University School of Law

Camille C. Marion

Joseph B. Kelly Lawyering Skills Professor

B.S., University of Scranton;

J.D., The Dickinson School of Law

Philip J. McConnaughay

Dean and Donald J. Farage Professor of Law

B.A., University of Illinois

J.D., University of Illinois College of Law

Michael A. Mogill

Associate Dean, Professor of Law

B.A., University of Illinois;

J.D., Northeastern University School of Law;

LL.M., Temple University

Francis J. Mootz, III

Professor of Law

B.A., University of Notre Dame

A.M., Duke University Graduate School

J.D., Duke University School of Law

Jane Muller-Peterson

Joseph B. Kelly Lawyering Skills Professor

B.A., M.A. Macalester College

J.D. University of Wisconsin

Perrie H. Naides

Joseph B. Kelly Lawyering Skills Professor

A.B. University of California, Berkley

J.D. University of Iowa, College of Law

Ph.D. University of California, San Francisco

Michael J. Navin

Co-Director, Agricultural Law Center

Professor of Law

B.S., University of Connecticut

J.D., University of Connecticut

Katherine C. Pearson

Professor of Law

B.A., University of Arizona;

M.A., University of New Mexico;

J.D., University of Miami School of Law

Thomas M. Place

Professor of Law

B.A., Marquette University;

J.D., Marquette University Law School;

Reginald Heber Smith Fellow, University of

Pennsylvania Law School

Mary Kaye Polacheck

Writing Specialist

B.S., Villanova University;

B.A., Villanova University;

M.A., Villanova University;

J.D., Villanova University

Carla D. Pratt

Assistant Professor of Law

B.A., East Texas State University

J.D., Howard University School of Law

Robert E. Rains

Professor of Law

B.A., Michigan State University;

J.D., Harvard Law School

Jane Rigler

Professor of Law

B.A., University of Iowa;

J.D., Florida State University College of Law;

LL.M., New York University School of Law

Victor C. Romero

Professor of Law

B.A., Swarthmore College;

J.D., University of Southern California Law

Center, Los Angeles

Geoffrey R. Scott

Professor of Law

B.A., Valparaiso University;

J.D., Valparaiso University School of Law;

LL.M., Yale University School of Law

Andre Smith

Visiting Assistant Professor of Law

B.S. Universisty of Maryland

J.D., Howard University School of Law

LL.M., Georgetown University School of Law

Richard Storrow

Visiting Assistant Professor of Law

B.A., Miami University

M.A., Columbia University

J.D., Columbia University

Laurel S. Terry

Professor of Law

B.A., University of California at San Diego;

J.D., University of California at Los Angeles

School of Law

Nancy Welsh

Associate Director, Center for Dispute

Resolution and

Associate Professor of Law B.A., Allegheny College;

J.D., Harvard Law School

ADJUNCT FACULTY

Paul A. Adams

Adjunct Assistant Professor of Law Shumaker Williams, P.C. Camp Hill, PA

Nicholas Bybel, Jr.

Adjunct Assistant Professor of Law Shumaker Williams, P.C. Harrisburg, PA

John W. Carroll

Adjunct Assistant Professor of Law Pepper, Hamilton & Scheetz Harrisburg, PA

David C. Cleaver

Adjunct Assistant Professor of Law David C. Cleaver & Associates, P.C. Chambersburg, PA

Michael Devlin, C.P.A.

Adjunct Assistant Professor of Accounting Boyer & Ritter Carlisle, PA

Kathleen Dougherty, M.D.

Adjunct Assistant Professor of Law Milton S. Hershey Medical Center Hershey, PA

Bradley J. Gunnison

Adjunct Assistant Professor of Law Buchanan Ingersoll, P.C. Harrisburg, PA

Hon. Kevin A. Hess

Adjunct Assistant Professor of Law Cumberland County Court of Common Pleas Carlisle, PA

Jon F. LaFaver

Adjunct Assistant Professor of Law Stone LaFaver & Shekletski New Cumberland, PA

Hon. Richard A. Lewis

Adjunct Associate Professor of Law Dauphin County Court of Common Pleas Harrisburg, PA

John P. Manbeck

Adjunct Associate Professor of Law Rhoads & Sinon Harrisburg, PA

Cathleen Curran Myers

Adjunct Assistant Professor of Law Obermayer, Rebmann, Maxwell & Hippel Harrisburg, PA

Laurence Norton

Adjunct Assistant Professor of Law Community Justice Project and Texas Rural Legal Aid Harrisburg, PA

Mark J. Palchick

Adjunct Assistant Professor of Law Vorys, Sater, Seymour & Pease Washington, D.C.

Lloyd R. Persun

Adjunct Assistant Professor of Law Mette, Evans & Woodside, P.C. Harrisburg, PA

Elyse E. Rogers

Adjunct Assistant Professor of Law Keefer Wood Allen & Rahal Camp Hill, PA

G. Philip Rutledge

Adjunct Assistant Professor of Law Pennsylvania Securities Commission Harrisburg, PA

Hon. Robert E. Simpson

Adjunct Assistant Professor of Law Common Pleas, Northampton County Courthouse Easton, PA

Mark Allen Smith

Adjunct Assistant Professor of Law GPU Service Corporation Reading, PA

Vicky A. Trimmer

Adjunct Assistant Professor of Law Mette, Evans & Woodside, P.C. Harrisburg, PA

ADVOCACY ADJUNCT FACULTY

Brigid Q. Alford

Boswell, Tintner, Piccola & Wickersham

Harrisburg, PA

William Braught

Public Defenders Office

Carlisle, PA

James Clancy

United States Attorneys Office

Harrisburg, PA

Timothy L. Clawges

Public Defender's Office

Carlisle, PA

Andrew A. Cline

Governor's Office of General Counsel

Harrisburg, PA

John McN. Cramer

Reed Smith

Harrisburg, PA

David B. Dowling

Rhoads & Sinon

Harrisburg, PA

Hon. M. L. Ebert, Jr.

District Attorney

Carlisle, PA

David A. Fitzsimons

Mette Evans & Woodside

Harrisburg, PA

Thomas French

Rhoads & Sinon LLP

Harrisburg, PA

John W. Frommer

Smigel, Anderson & Sacks

Harrisburg, PA

Syndi N. Guido

Governor's Office of General Counsel

Harrisburg, PA

Dr. William H. Dodd

Professor Emeritus

John A. Maher

Dean and Professor Emeritus

Arthur Frankston

Professor Emeritus

Hon. Joseph H. Kleinfelter

Court of Common Pleas of Dauphin County

Harrisburg, PA

James J. Kutz

Duane Morris & Heckscher, LLP

Harrisburg, PA

Delano M. Lantz

McNees Wallace & Nurick

Harrisburg, PA

Charles E. Schmidt, Jr.

Schmidt, Ronca & Kramer, P.C.

Harrisburg, PA

Thomas B. Schmidt, III

Pepper Hamilton

Harrisburg, PA

Jefferson J. Shipman

Goldberg, Katzman & Shipman, P.C.

Harrisburg, PA

Pamela G. Shuman

Harrisburg, PA

John A. Statler

Goldberg Katzman & Shipman, P.C.

Harrisburg, PA

Jack M. Stover

Buchanan Ingersoll

Harrisburg, PA

Daniel L. Sullivan

Mette Evans & Woodside

Harrisburg, PA

Hon. John R. Walker

Court of Common Pleas Franklin and Fulton

Counties

Chambersburg, PA

M. Jannifer Weiss

Weiss Weiss & Weiss

Lebanon, PA

EMERITUS FACULTY

Dr. Arthur A. Murphy

Professor Emeritus

Joseph B. Kelly

Professor Emeritus