

# Penn State Environmental Law Review

---

Volume 12 | Number 3

Article 13

---

9-1-2004

## 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](mailto:ram6023@psu.edu).

**TABLE OF CONTENTS**

**ARTICLES**

The Environment: Adequacy of Protection in  
Times of War ..... *Andy Rich* 445

Congress's Intent in Banning Mechanical Transport  
in the Wilderness Act of 1964 ..... *Theodore J. Stroll* 459

**COMMENTS**

Applying History's Lessons on the Clean  
Air Act to Rebuild Ground Zero ..... *Penelope Campoli* 485

The Airport Noise and Capacity Act of 1990:  
Superfluous Hurdle for Airport Proprietors  
Who Have Assured Federal Grants ..... *Aimee Kratovil* 499

Infertility Caused by Exposure to Environmental  
Endocrine Disruptors ..... *Leah Weldon* 525



ISSN: 1546-3427

PENN STATE ENVIRONMENTAL LAW REVIEW



---

Abbreviate as PENN ST. ENVTL. L. REV.

---

The Penn State Environmental Law Review is published three times 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

---



VOLUME 12, NUMBER 3, AUTUMN 2004



**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

**Comment Editors**  
JODI BRITTON  
RAY GHANER

**Solicitation Editor**  
PENELOPE CAMPOLI

**Notes Editor**  
NATHALIE ARMAS

**Senior Editors**  
SHERI COOVER  
COLLEEN KARPINSKI

**Senior Editors**  
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

**Associate Editors**  
RYAN R. BLAKE  
ZACHARY R. GATES  
PARASKEVI KIKRILIS  
RAKHI J. PATEL  
MARK R. VLAUN

ANDREW R. CHRIST  
TIMOTHY A. HAYDEN  
ROBERT E. MCDIVITT  
EVAN B. RUDNICKI  
MATTHEW J. WALKER

**Faculty Advisor**  
LESLIE M. MACRAE

**Publication Manager**  
KAREN ROBEBY

**Publication Assistant**  
SHERRY MILLER

PENNSTATE



The Dickinson  
School of Law

# 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, McNeese 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

## PENN STATE ENVIRONMENTAL LAW REVIEW

**Donald C. Taylor, Esq.**  
Chairman of the Board, Cooch & Taylor, P.A.  
Wilmington, DE

**Sandor Yelen, Esq.**  
Yelen Law Office  
Wilkes-Barre, PA

**Nathan H. Waters, Jr., Esq.**  
Solicitor/Chief Legal Officer, Harrisburg  
School District  
Harrisburg, 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. McConaughay, 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  
Aid  
**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



PENN STATE ENVIRONMENTAL LAW REVIEW

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

PENN STATE ENVIRONMENTAL LAW REVIEW

**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. McConaughay**

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 Polachek**

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. University 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

PENN STATE ENVIRONMENTAL LAW REVIEW

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

PENN STATE ENVIRONMENTAL LAW REVIEW

**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
- 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. William H. Dodd**  
Professor Emeritus
- John A. Maher**  
Dean and Professor Emeritus
- Arthur Frankston**  
Professor Emeritus
- Dr. Arthur A. Murphy**  
Professor Emeritus
- Joseph B. Kelly**  
Professor Emeritus

