

# Penn State Environmental Law Review

---

Volume 14 | Number 1

Article 1

---

9-1-2005

## Front Matter

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

---

### Recommended Citation

*Front Matter*, 14 *Penn St. Envtl. L. Rev.* (2005).

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**

Successor Liability Under CERCLA:  
Whither Substantial Continuity?..... *Kenneth K. Kilbert* 1

Greenwash or Green Gain? Predicting the Success  
and Evaluating the Effectiveness of  
Environmental Voluntary Agreements.....*Dorit Kerret* 31  
*and Alon Tal*

**COMMENTS**

Do You Feel the Breeze? Why the Window of  
Opportunity to Enact Meaningful Mercury  
Switch Removal Legislation is  
Opening . . . and Closing .....*Andrew T. Bockis* 85

It's Not Easy Being Green—Holding Manufacturers  
Of Genetically Modified Bentgrass Liable  
Under Strict Products Liability ..... *Brady L. Montalbano* 111

Aging in Today's Environment:  
Is it a Healthy Proposition? ..... *Jacqueline A. Olexy* 131






---

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 © 2005 BY THE DICKINSON SCHOOL OF LAW OF  
THE PENNSYLVANIA STATE UNIVERSITY, CARLISLE, PA 17013.

ALL RIGHTS RESERVED

---

MEMBER, NATIONAL CONFERENCE OF LAW REVIEWS



VOLUME 14, NUMBER 1, FALL 2005



**2005-2006 EDITORIAL BOARD**

***Editor-in-Chief***

ANDREW T. BOCKIS

***Managing Editor***

NICOLA S. ROCHESTER

***Business Editor***

BRADY L. MONTALBANO

***Articles Editors***

LAUREN C. AVALLONE

JACQUELINE A. OLEXY

***Comments Editors***

TRUDY E. CORDORA

AMANDA N. COSTLEY

***Solicitations Editor***

SAAM YOUSSEFI-RAD

***Notes Editor***

MELANIE L. VANDERAU

***Senior Editors***

PATRICK J. DOYLE

DERALD J. HAY

NICOLE W. LOBAUGH

JOSHUA G. PARSONS

ANDREW J. PARTIN

CHRISTOPHER T. WRIGHT

***Associate Editors***

JOHN T. BRAUN

KRISTA A. FREEGO

TODD W. GRETTON

MICHAEL J. IMBORNONE

JESSICA L. KUSEK

KATIE J. MAXWELL

REGINA McMAHON

ROBERT W. MELICK

M. KATHLEEN PEPE

RICHARD G. SETTGAST

PATRICK D. SHIREY

JOSHUA D. SHULMAN

***Faculty Advisor***

JOHN H. KNOX

***Publication Assistant***

SHERRY MILLER

PENNSSTATE



The Dickinson  
School of Law

# THE DICKINSON SCHOOL OF LAW

## ADMINISTRATION

**Philip J. McConaughay, B.A., J.D.**  
Dean

**Janice Austin, B.S.**  
Assistant Dean, Admissions and Financial Aid

**Susan Bogart, B.A., M.A.**  
Director, Financial Aid

**Gicine Brignola, B.S., J.D.**  
Assistant Dean, Career Services

**John Davie, B.S.**  
Director, Instructional and Information  
Technology

**Randy Fulton, B.A.**  
Director of Business Services (UP)

**Barbara Guillaume, B.A.**  
Director, Law Admissions Services

**John Hiner, B.A., M.S., Ed.S.**  
Director, Major Gifts

**Kelly Jones, B.A.**  
Director, Communications

**Diane Cornman**  
Bursar

**Nancy J. LaMont, B.A., J.D.**  
Assistant Dean for Administration

**Colleen Toomey Lieberman, B.A., J.D.**  
Assistant Dean for Planning

**Gwen Marchek, B.A.**  
Human Resources Coordinator

**Francis J. Mootz, III, B.A., A.M., J.D.**  
Associate Dean for Academic Affairs

**Doris L. Orner, B.S., C.P.A.**  
Controller/Financial Officer

**Alice M. Peet**  
Registrar

**Edward M. Savage, B.A.**  
Director, Alumni Relations

**Karlisma Souders**  
Director of Business Services (Carlisle)

**Tamara Storey, B.A., M.S.**  
Director of Student Services

## LIBRARY

**Gail Partin**  
Interim Director of Library  
J.D., The Dickinson School of Law  
M.S.L.S., Clarion University  
B.S., Rider University

**Cecily A.H. Giardina**  
Associate Law Librarian  
J.D., The Dickinson School of Law  
M.L.S., University of Pittsburgh  
B.A., Shippensburg University

**Debra Jones**  
Associate Law Librarian  
M.S., Drexel University  
B.A., Pennsylvania State University

**Richard Paone**  
Assistant Law Librarian  
M.S., Simmons College  
J.D., Western New England College  
B.A., University of Rhode Island

**Mark Podvia**  
Associate Law Librarian/Archivist  
J.D., The Dickinson School of Law  
M.A. Candidate, The Pennsylvania State  
University  
M.S.L.S., Clarion University  
A.B., Grove City College

**Judy L. Swarthout**  
Associate Law Librarian  
J.D., The Dickinson School of Law  
M.L.S., State University of NY at Albany  
M.S., Elmira College  
B.A., Bloomsburg University

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

**William E. Butler**

Professor of Law  
LL.D. University of London  
Ph.D. The Johns Hopkins School of Advanced  
International Studies  
LL.M. School of Law of the Academy  
University of Law, Institute of State and Law,  
Russian Academy of Sciences  
J.D. Harvard Law School  
M.A. The Johns Hopkins School of Advanced  
International Studies  
B.A. The American University

**Thomas E. Carbonneau**

Elsie deR. Orlando & 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

**Nicole R. Chong**

Joseph B. Kelly Lawyering Skills Professor  
J.D., The Dickinson School of Law of the  
Pennsylvania State University  
B.S., Grove City College

**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

**e. christi cunningham**

Visiting Professor of Law  
J.D., Yale Law School  
B.S., Southern Methodist University

**Louis F. Del Duca**

Associate Dean, A. Robert Noll Professor of  
Law  
Director, Center for International and  
Comparative Law  
A.B., Temple University  
J.D., Harvard Law School  
Dott. di Giur., University of Rome

**Susan Beth Farmer**

Professor of Law  
B.A., Wellesley College  
J.D., Vanderbilt University Law School

**Stephanie T. Farrior**

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**

Professor of Law  
B.A., University of Pennsylvania  
J.D., The Dickinson School of Law  
LL.M., George Washington University National  
Law Center

**Jamés R. Fox**

Professor of Law  
B.A., Otterbein College  
M.S., Drexel University  
J.D., Ohio State University College of Law

**Robert Gatter**

Associate Professor of Law  
B.A., Johns 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  
Professor of Law  
B.A., University of Wisconsin  
J.D., Stanford University School of Law



PENN STATE ENVIRONMENTAL LAW REVIEW

**Peter G. Glenn**

Professor of Law  
B.A., Middlebury College  
J.D., University of Pennsylvania School of Law

**Dermot Groome**

Visiting Assistant Professor of Law  
J.D., Boston College Law School  
B.A., Queen's College, City University of New York

**Lucy Johnston-Walsh**

**Clinic Supervising Attorney**  
M.S.W., University of Pennsylvania  
J.D., The Dickinson School of Law  
B.S., Juniata College

**Eileen M. Kane**

Assistant Professor of Law  
B.A. Hunter College  
J.D. Fordham University School of Law  
Ph.D. Cornell University

**Won Kidane**

Visiting Professor of Law  
J.D., University of Illinois College of Law  
LL.M., University of Georgia  
LL.B. Addis Ababa University, Ethiopia

**Jeffery R. Knight**

Joseph B. Kelly Lawyering Skills Professor  
J.D., Boston University School of Law  
B.S., College of the Holy Cross

**John Knox**

Professor of Law  
B.A., Rice University  
J.D., Stanford University School of Law

**Leslie M. MacRae**

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

**Tiyanjana Maluwa**

The H. Laddie and Linda P. Montague  
Professor of Law  
LL.B., University of Malawi  
LL.M., University of Sheffield  
Ph.D., Cambridge University

**Camille C. Marion**

Director, Lawyering Skills Program  
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**

Professor of Law  
B.A., University of Illinois  
J.D., Northeastern University School of Law  
LL.M., Temple University

**Francis J. Mootz, III**

Associate Dean for Academic Affairs  
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, Berkeley  
J.D. University of Iowa, College of Law  
Ph.D. University of California, San Francisco

**Thomas H. Odom**

Visiting Professor of Law  
B.A., Rutgers University  
J.D., University of Pennsylvania School of Law

**Katherine C. Pearson**

Professor of Law  
B.A., University of Arizona  
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**

Associate 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

**Victor C. Romero**

Professor of Law  
B.A., Swarthmore College  
J.D., University of Southern California Law Center, Los Angeles

PENN STATE ENVIRONMENTAL LAW REVIEW

**Geoffrey R. Scott**  
Professor of Law  
B.A., Valparaiso University  
J.D., Valparaiso University School of Law  
LL.M., Yale University School of Law

**Richard Storrow**  
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

**Panagiotis Takis Tridimas**  
Professor of Law & Sir John Lubbock  
Professor of Banking Law at Queen Mary  
College, University of London  
Ph.D., LL.M., Girton College, University of  
Cambridge  
LL.B., University of Athens

**Nancy Welsh**  
Associate Director, Center for Dispute  
Resolution  
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.  
Harrisburg, PA

**Donald P. Arnavas**  
Adjunct Assistant Professor of Law  
Alexandria, VA

**Welber Barral**  
Adjunct Professor of Law  
Washington, DC

**Robert J. Bein**  
Adjunct Assistant Professor of Law  
Saul Ewing LLP  
Harrisburg, PA

**Louis Boyle**  
Adjunct Assistant Professor of Law  
Commonwealth of Pennsylvania  
Department of State  
Harrisburg, PA

**Guy Brooks**  
Adjunct Assistant Professor of Law  
Goldberg Katzman  
Harrisburg, PA

**Nicholas Bybel, Jr.**  
Adjunct Assistant Professor of Law  
Shumaker Williams, P.C.  
Harrisburg, PA

**David C. Cleaver**  
Adjunct Assistant Professor of Law  
Keller, Keller & Beck  
Chambersburg, PA

**Grace D'Alo**  
Adjunct Assistant Professor of Law  
MidPennLegal Services  
Carlisle, PA

**Michael Devlin, C.P.A.**  
Adjunct Assistant Professor of Accounting  
Boyer & Ritter  
Carlisle, PA

**Hon. Mary France**  
Adjunct Assistant Professor of Law  
U.S. Bankruptcy Court  
Middle District of Pennsylvania  
Harrisburg, PA

**Marc Furman**  
Adjunct Assistant Professor of Law  
Cohen, Seglias, Pallas, Greenhall and  
Furman, P.C.  
Philadelphia, PA

**Hubert X. Gilroy**  
Adjunct Assistant Professor of Law  
Broujos & Gilroy P.C.  
Carlisle, PA

**Hon. Kevin A. Hess**  
Adjunct Assistant Professor of Law  
Cumberland County Court of Common Pleas  
Carlisle, PA

**Timothy Hoy**  
Adjunct Assistant Professor of Law  
Mette, Evans & Woodside  
Harrisburg, PA

**Melinda S. Joyce**  
Adjunct Assistant Professor of Law  
Mechanicsburg, PA

**Hon. Bernard A. Lasbusker, Jr.**  
Adjunct Assistant Professor of Law  
Commonwealth of PA  
Board Member and ALJ  
Environmental Hearing Board  
Harrisburg, PA

**Jon F. LaFaver**  
Adjunct Professor of Law  
Stone LaFaver & Shekletski  
New Cumberland, PA

**Hon. Richard A. Lewis**  
Adjunct Associate Professor of Law  
Dauphin Cty Court of Common Pleas  
Harrisburg, PA

## PENN STATE ENVIRONMENTAL LAW REVIEW

### **Donald C. Marritz**

Adjunct Assistant Professor of Law  
MidPenn Legal Services  
Gettysburg, PA

### **Cathleen Curran Myers**

Adjunct Assistant Professor of Law  
Dept. of Environmental Protection  
Harrisburg, PA

### **Laurence E. Norton, II**

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

### **Mark J. Palchick**

Adjunct Assistant Professor of Law  
Womble, Carlyle, Sandridge & Rice  
Washington, D.C.

### **Lloyd R. Persun**

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

### **Samantha Prince**

Adjunct Assistant Professor of Law  
Millersburg, PA

### **Elizabeth L. Ritter**

Adjunct Assistant Professor of Law  
Office of General Counsel  
Commodity Futures Trading Commission  
Washington, DC

### **G. Philip Rutledge**

Adjunct Assistant Professor of Law  
Shumaker Williams PC  
Harrisburg, PA

### **Raphael Sanchez**

Adjunct Assistant Professor of Law  
Office of Chief Counsel  
York, PA

### **Steven B. Silverman**

Adjunct Associate Professor of Law  
Cohen, Seglias, Pallas, Greenhall and  
Furman, P.C.  
Philadelphia, PA

### **Mark A. Smith**

Adjunct Assistant Professor of Law  
Barley, Snyder, Senft & Cohen LLC  
Lancaster, PA

### **Vicky A. Trimmer**

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

### **Marc W. Witzig**

Adjunct Assistant Professor of Law  
Cunningham & Chernicoff, PC  
Harrisburg, PA

## ADVOCACY ADJUNCT FACULTY

### **Brigid Q. Alford**

Boswell, Tintner, Piccola & Alford  
Harrisburg, PA

### **William Braught**

Crystle, Allen & Braught  
Lancaster, PA

### **Francis T. Chardo**

First Assistant District Attorney  
Harrisburg, PA

### **James Clancy**

Assistant United States Attorney  
Harrisburg, PA

### **Timothy L. Clawges**

Senior Assistant Public Defender  
Carlisle, PA

### **David B. Dowling**

Rhoads & Sinon, LLP  
Harrisburg, PA

### **David Fitzsimons**

Martson Deardorff Williams & Otto P.C.  
Carlisle, PA

### **John W. Frommer**

Smigel Anderson & Sacks LLP  
Harrisburg, PA

### **Anne Gingrich**

Dauphin County Public Defender's Office  
Harrisburg, PA

### **Syndi Guido**

Director of Policy Office  
Pennsylvania State Police  
Harrisburg, PA

### **Terry Hyman**

Schmidt, Ronca & Kramer, P.C.  
Harrisburg, PA

### **Stephanie A. Jirard**

Carlisle, PA

### **James J. Kutz**

Post & Schell PC  
Harrisburg, PA

### **Delano M. Lantz**

McNees, Wallace & Nurick  
Harrisburg, PA

### **David Lehman**

McNees, Wallace & Nurick  
Harrisburg, PA

### **John Ninosky**

Johnson, Duffie, Stewart & Weidner  
Lemoyne, PA

## PENN STATE ENVIRONMENTAL LAW REVIEW

**Dean Piermattei**

Rhoads & Sinon LLP  
Harrisburg, PA

**Jefferson J. Shipman**

Johnson, Duffie, Stewart & Weidner  
Lemoyne, PA

**Pamela G. Shuman**

Harrisburg, PA

**Michelle Sibert**

Office of District Attorney  
Carlisle, PA

**Michael Sprow**

Office of District Attorney  
Harrisburg, PA

**John A. Statler**

Johnson Duffie  
Lemoyne, PA

**Jack M. Stover**

Buchanan Ingersoll  
Harrisburg, PA

**Daniel L. Sullivan**

Mette, Evans & Woodside  
Harrisburg, PA

**The Honorable John R. Walker**

President Judge, Court of Common Pleas  
Franklin and Fulton Counties  
Chambersburg, PA

**M. Jannifer Weiss**

Weiss, Weiss & Weiss  
Lebanon, PA

**Jayson Wolfgang**

Buchanan Ingersoll  
Harrisburg, PA

## EMERITUS FACULTY

**Dr. William H. Dodd**

Professor Emeritus

**Arthur Frankston**

Professor Emeritus

**Edward W. Haughney**

Professor Emeritus

**Joseph B. Kelly**

Professor Emeritus

**Christine H. Kellett**

Professor Emeritus

**John A. Maher**

Dean and Professor Emeritus

**Dr. Arthur A. Murphy**

Professor Emeritus

**Jane Rigler**

Professor Emeritus

