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School of Law

ENGAGING THE LAW
TO SUPPORT

Sustainability

ON EARTH

ENVIRONMENTAL AND NATURAL RESOURCES LAW AT THE UNIVERSITY OF OREGON FALL 2013

Willamette Water 2100

The University of Oregon's Oceans Coasts and Watersheds Project faculty leader, Associate Professor Adell Amos, is helping to plan for our water's future through Willamette Water 2100.

Willamette Water 2100 (WW 2100) is an interdisciplinary collaboration among the University of Oregon, Oregon State University, and Portland State University examining hydrological, ecological, and human impacts to water availability in the Willamette River Basin. With a focus on climate change, population growth, and economic growth, Willamette Water 2100 will 1) evaluate connections between human, hydrological, and ecological parameters of the water system; 2) look at where and when human activity and climate change alter water availability; and 3) create scenarios where policy measures may exacerbate, prevent or mitigate water scarcity, including developing

"The really impactful part of this project, from my perspective, is that the model was built to allow us to explore different legal and policy scenarios in the basin, not just hydrological variance. So that means we can model changes in policy and law and see the impact to the flow of water."

— Associate Dean
Adell Amos



Willamette National Forest

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a transferable method of predicting climate change impacts to water and measuring the strength of those impacts on human society. Funded by the National Science Foundation, WW 2100 is a five-year project.

Amos specializes in water law and has an extensive background in important water law issues. From 2009 to 2011, she served as Deputy Solicitor for Land and Water Resources in the United States Department of the Interior; she has represented the U.S. Fish and Wildlife Service and the National Park Service on state and federal water rights issues including work involving the Klamath, Snake, Columbia, Middle Rio Grande, and Gunnison River Basins; and she has provided legal advice on the interaction of water law with other environmental statutes including the

Endangered Species Act, Clean Water Act, Federal Power Act, and National Environmental Policy Act.

Roy Haggerty, the Hollis M. Dole Professor of Environmental Geology at OSU and WW 2100 project lead, noted the importance of including a lawyer on the project team, specifically Amos.

"Adell Amos is a leading expert on water law," Haggerty remarked. "We are fortunate to have her involved in the project to help us understand how the physical, biological, economic, and legal systems interact around water. She has a deep history of involvement in natural resources law at the state and federal levels."

Thus far, Amos has helped the team to understand the scope, applicability, and complexity of water law as it applies to the Willamette Basin. As the

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Message From the Director

By Heather Brinton

For Oregon’s Environmental and Natural Resources Law Center (ENR), the past year has been nothing short of momentous. Less than a decade ago, as part of our mission



to engage the law to support sustainability on Earth, ENR launched an innovative new approach to train the next generation of

environmental leaders while solving today’s environmental problems. ENR’s Interdisciplinary Projects and Fellows Program was founded on the belief that a modern legal education must focus on interdisciplinary practical skills development, that we must find ways to minimize our students’ educational debt, and that students must be inspired to embrace the role of the citizen-lawyer in a democracy. Implementing this vision meant, and continues to mean, educating our students about cutting edge policy solutions—the lawyer’s work in law-making, not merely law-applying. Finally, it recognized the tremendous amount of work that needs to be done to remake a society in a transformational age and a belief that law schools could—and should—serve



Bridal Veil Falls, Oregon

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as laboratories for solutions.

Each year since its inception, ENR’s innovative programmatic vision has been confirmed by increasing success. We have found more support for law students committed to supporting progressive change for our communities and we have created more partnerships with other fields and disciplines at the University of Oregon, Oregon State University, and Portland State University—all working collaboratively to bring meaningful analysis to our environmental challenges. This year represents an epic leap forward for the ENR Center and its work. On behalf of the entire UO law community, I extend deep thanks to the Bowerman family for their incredible support, which has profoundly expanded the ENR Center and the depth of its impact on students, the environment, and our community.

As part of the ENR Center’s expansion, we welcome Jared Margolis,

ENR’s inaugural Research Associate. Drawing on his expertise as an energy, environmental, and land-use attorney, Margolis will perform targeted legal and policy research with law student fellows in ENR’s Interdisciplinary Research Projects. He will also continue teaching Environmental Law and Hazardous Waste Law.

As you read this newsletter, you will see the remarkable accomplishments of Oregon Law faculty members, students, and alumni and the vibrancy of Oregon’s Environmental and Natural Resources Law Center. Undoubtedly, you will understand why I feel privileged to serve as its Managing Director. There has never been greater optimism nor stronger conviction in the Bowerman Center for Environmental Law and our collective path ahead. I look forward to sharing our efforts and I welcome your thoughts and suggestions as we continue our work.

“On behalf of the entire UO law community, I extend deep thanks to the Bowerman family for their incredible support, which has profoundly expanded the ENR Center and the depth of its impact on students, the environment, and our community.”

— Managing Director
Heather Brinton

Willamette Water 2100

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project and research progresses into policy discussions, Amos will lead a legal team comprising Oceans Coasts and Watersheds (OCW) law student fellows who will help determine how water law may affect water scarcity and how the legal system could respond if scarcity increases.

By providing legal research and analysis to WW 2100, OCW student fellows are not only gaining practical legal experience in the realm of environmental law, but are also providing a valuable service to their local communities by finding answers to legal problems facing one of the region's most depended-upon watersheds.

"To work on the Willamette Water 2100 project with incredible

legal minds, scientists, and other professionals outside of the legal community is truly an exciting experience," said OCW law student fellow Margaret Townsend (class of 2014). At their first group meeting, the student fellows agreed that WW 2100 is "exactly the kind of project we hoped to work on when we decided to attend law school."

Amos shares her students' enthusiasm. "The work has been some of the most rewarding I have done in academia and a tremendous experience in interdisciplinary research," she said. "The really impactful part of this project, from my perspective, is that the model was built to allow us to explore different legal and policy scenarios in the basin, not just hydrological

variance. So that means we can model changes in policy and law and see the impact to the flow of water."

The ideal end result of WW 2100, according to Haggerty, is that Oregon will be better able to manage water scarcity.

"One of the advantages of studying water scarcity in the Willamette Basin is that people do not view water as scarce here. That makes it easier to have productive conversations because there isn't as much tension around the topic," Haggerty said. "Consequently, we may be able to learn to manage scarcity more efficiently and wisely than in a place with a lot of existing water scarcity. If we can do that, we may be able to provide ideas to the rest of the country where water is more scarce."

Donors and Sponsors

Without the generosity of donors, the ENR Center would not be possible. With deep gratitude, thank you for your support.

- Jeremy Arling, JD '04
- Michael Axline, JD '80
and Diane Hazen
- Steven Balagna, JD '80
- Tom Bowerman and
Kristine Bowerman
- Nancy Carville Busey
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and Laurence Oates
- Oregon Community Foundation
- Anne-Marie Rachman, JD '91,
and Stephen Rachman
- William Underwood, JD '97
- Gay Vogt J.D. '86,
and Richard Vogt



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ENR Giving Opportunities

Private gifts are an essential means of supporting the ENR Center. Recently, private donations have allowed us to expand our fellowship opportunities for law students.

Through ENR's seven interdisciplinary projects (Conservation Trust, Energy Law and Policy, Food Resiliency, Global Environmental Democracy, Native Environmental Sovereignty, Oceans Coasts and Watersheds, and Sustainable Land Use), law students team with faculty members and use their expertise to solve environmental problems in Oregon, the nation, and the world. For the past five years, Bowerman and David Brower fellowships have offered funding for three to four students to delve into individual environmental research projects. This year, thanks to generous donor contributions, ENR was able to double that number to eight Bowerman and Brower fellowships.

To learn more about giving opportunities, please visit law.uoregon.edu/giving

\$1 Million Gift to Support ENR Center

The University of Oregon School of Law is pleased to announce it has received a generous \$1 million gift from the Bowerman family through the Oregon Community Foundation. The gift will enhance the pioneering work already being conducted by Oregon Law’s Environmental and Natural Resources Law (ENR) Center and provide funds to initiatives in direct support of law students and the communities affected by their work.

The Bowerman family’s gift will have an immediate impact on students involved in Oregon Law’s ENR Center by enabling the program to double the number of funded student fellowships it offers. The ENR Center awards fellowships to law students who are then assigned to work with one of the center’s seven interdisciplinary projects alongside expert faculty members, administrators and practitioners.

The center’s Interdisciplinary Projects and Fellows Program is the law school’s vehicle for meeting the needs of the rapidly changing field of environmental law and finding solutions to today’s most challenging environmental issues. The program innovates how legal education can enhance the student experience while providing community service.

“The increased research capacity made possible by the Bowerman family will allow the Interdisciplinary Projects and Fellows Program to continue offering an unparalleled practical education experience for students, while delivering multidisciplinary solutions to today’s environmental challenges,” said Heather Brinton, managing director for the ENR Center.

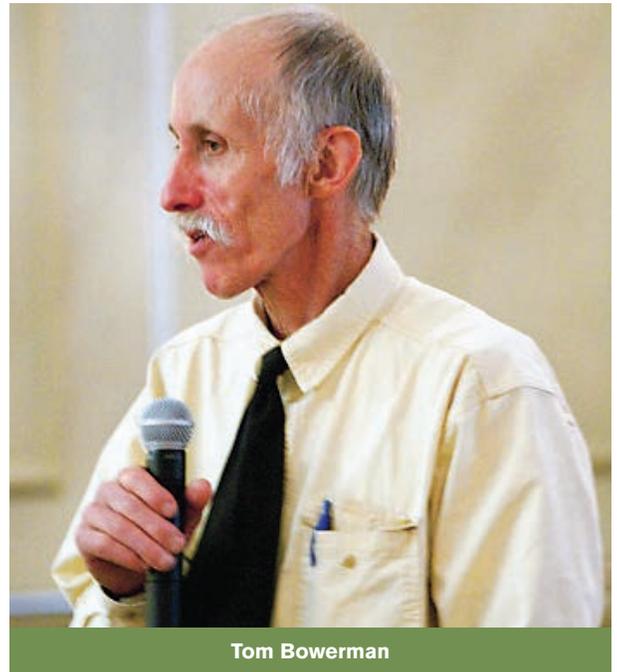
Speaking for the family, Tom Bowerman said, “We are confident this gift to the law school will contribute to education excellence as well as affect policy in a way that reveals shared values. The ENR Center attracts brilliant students and we hope to tap their talent, energy, and enthusiasm for important policy research and initiatives that provides a real value to our world.”

Connections with the environment run deep in the family of Oregon track legend Bill Bowerman. Originally arriving by wagon train, seven generations of the family’s history have spanned Oregon’s cultural and natural landscape in farming, ranching, teaching, building, homemaking, legislative, and legal occupations. Oregon Law Dean Michael Moffitt noted the positive impact the Bowerman family gift will have on the educational experiences of Oregon Law students: “This gift will transform the Oregon Law ENR Center by enhancing our faculty and students’ ability to expand their legal scholarship and educational experiences,” Moffitt said. “This gift makes possible our innovative approach to legal education, and I am deeply grateful to the Bowerman family for their continued support of the ENR Center.”

The gift also allows for the following:

- Expansion of ENR interdisciplinary projects through the support of two research associate positions. Research associates are responsible for supporting student research and conducting independent research as part of ENR’s interdisciplinary projects.
- Funding for Oregon Law graduates pursuing public interest environmental and natural resources law positions. Support from this gift will provide more students with opportunities to pursue public interest environmental and natural resources law as a career.
- Funding of summer stipends that will allow students to pursue work in environmental and natural resources public service organizations, such as government agencies, nonprofits, and Native American tribes that might otherwise be unpaid.

“This amazingly generous gift comes to us as part of the Bowerman legacy for protecting nature. We are immensely grateful,” added Professor Mary Wood, faculty director for the ENR Center.



Tom Bowerman

ERIK BISHOFF PHOTOGRAPHY

“The University of Oregon’s law school is an undisputed leader in the rapidly changing field of environmental law, and we are grateful for the Bowerman family’s recognition and generous support of this critically important area of scholarship. Their extraordinary generosity benefits not only our students, but our state and society.”

—UO President
Michael Gottfredson

Jared Margolis to Serve as Inaugural ENR Research Associate

Oregon Law's Jared Margolis was recently appointed as the first research associate for the Environmental and Natural Resources Law Center (ENR). The ENR Center focuses on public interest environmental law and innovations in environmental legal education.

As the inaugural ENR Research Associate, Margolis will be responsible for supporting student research and conducting independent research of his own that contributes to one of the center's interdisciplinary projects. The Interdisciplinary Projects and Fellows Program is the law school's vehicle for meeting the needs of the rapidly changing field of environmental law, enhancing

the student experience while also providing community service.

Margolis spent the 2012–13 academic year at Oregon Law as a visiting professor.

Prior to joining Oregon Law, Margolis had developed a private law practice with a focus on energy, environmental regulation, and land use law. After earning a master's degree in environmental studies from Brown University, he attended Vermont Law School, where he was the environmental editor for the *Vermont Law Review*.

Margolis will continue to teach Environmental and Hazardous Waste Law in the fall.



ENR Research Associate and Adjunct Professor, Jared Margolis

"I am so proud to serve as the law school's first ever ENR Research Associate. This is an incredible opportunity for the center to engage in targeted research and to work towards innovative solutions to the environmental problems we face today. This is exactly the type of work I had hoped to do when I decided to become an environmental attorney, and I am elated to be part of the UO Law community."

— ENR Research Associate and Adjunct Professor, Jared Margolis

JELL Recently Published

Journal of Environmental Law and Litigation, Volume 27 (2) 2012

ARTICLES

Regulating Davy Jones: The Existing and Developing Law Governing the Interaction with and Potential Recovery of Human Remains at Underwater Cultural Heritage Sites

By Peter Hershey

The Constitutionality of Citizen Suit Provisions in Federal Environmental Statutes

By Jeffrey G. Miller and Brooke S. Dornier

Wasting the Planet: What a Storied Doctrine of Property Brings to Bear on Environmental Law and Climate Change

By Anthony L. I. Moffa

The Rights to Public Participation and Access to Information: The Keystone XL Oil Sands Pipeline and Global Climate Change under the National Environmental Policy Act

By Elizabeth M. Brown

COMMENT

Adapting to Water Scarcity: A Comparative Analysis of Water Harvesting Regulation in the Four Corner States

By Katherine Cummings

JOURNAL OF ENVIRONMENTAL LAW AND LITIGATION PRESENTS
Balancing Energy and the Environment: Examining Trends in the Production and Regulation of Electricity
October 5, 2013

ONSITE REGISTRATION BEGINS AT 8:30 A.M.
 WILLIAM W. KNIGHT LAW CENTER UNIVERSITY OF OREGON

Cosponsored by Journal of Environmental Law and Litigation, *Environmental and Natural Resources Law Center*, Green Business Initiative Student Association, and Native American Law Student Association

Interdisciplinary Projects and Fellows Program

Conservation Trust Project

Focusing on public trust theory and private property tools to achieve landscape conservation

The Conservation Trust Project researched the market effect of conservation easements on land and reached out to Oregon land trust organizations, including McKenzie River Trust (MRT) and the Coalition of Oregon Land Trusts (COLT).

Energy Law and Policy Project

Exploring innovative law and policy to promote a green energy future

The Energy Law and Policy Project looked at the options and possibility for using public-private partnerships to support local sustainability projects. Fellows helped Professors Roberta Mann (UO law) and Gregory Bothun (UO physics) research and write a journal article on hydraulic fracturing in the Marcellus Shale Basin, which is slated for publication in the *Journal of Environmental Studies and Sciences*. Fellows also compared the environmental benefits and regulatory obstacles of instituting energy

efficiency policies versus renewable energy policies at the state level.

Food Resiliency

Probing key law and policy issues to ensure resilient, sustainable food systems

The Food Resiliency Project developed an informational circular on sustainable food programs operating within the city of Eugene. Fellows organized and presented on a panel titled *Food Sovereignty as a Legal Concept* at the 2013 Public Interest Environmental Law Conference and will be publishing their work in the American Bar Association publication, *Natural Resources and Environment*, in a special fall 2013 edition about food.

Global Environmental Democracy Project

Preparing students to be advocates for global change

The Global Environmental Democracy Project coauthored five legislative proposals for campaign finance reform for the 2013 Oregon legislative session and presented a panel on the topic at

the 2013 Public Interest Environmental Law Conference. Fellows organized a film screening of Oregon Public Broadcasting's *Writing the Oregon Story: Tom McCall and Oregon's Environmental Legacy* at the University of Oregon law school. They also presented on a panel titled *Climate Change through the Human Lens* at the second Annual Climate Change Research Symposium at the University of Oregon.

Native Environmental Sovereignty Project

Examining emerging tribal roles in co-managing lands and resources

The Native Environmental Sovereignty Project (NESP) organized the sixth annual Rennard Strickland Lecture. The 2012 speaker was Patrice Kunesh, Deputy Solicitor for Indian Affairs at the United States Department of the Interior.

During this year's Public Interest Environmental Law Conference, NESP fellows coordinated the Indigenous Peoples Reception. This year's reception was a resounding success with overwhelming attendance.

NESP fellows also helped organize the alternative tax preparation project during spring break at the Coquille Indian Tribe Reservation, pursued the creation of externships with various Pacific Northwest tribes, and attended the Federal Bar Association's 2013 Indian Law Conference in Santa Fe, New Mexico.

Oceans Coasts and Watersheds Project

Engaging the law to promote sustainability for ocean, coastal, and freshwater resources

The Oceans Coasts and Watersheds Project fellows developed a blog on water-related legal issues and analyzed the constitutional treatment of water as property, specifically how constitutional



From left to right: ENR fellow Nate Bellinger, Oregon Law Assistant Professor Michael Fakhri, and Professor Patricia Allen, chair of the Department of Food Systems and Society at Marylhurst University after presenting the panel "Food Sovereignty as a Legal Concept" at the 2013 Public Interest Environmental Law Conference.

concepts such as due process and takings pertain to water rights in Oregon.

Sustainable Land Use Project
Evaluating land use laws, theories, and practices to ensure sustainable development in our communities

The fellows for the Sustainable Land

Use Project continued their close work with the University of Oregon's Sustainable Cities Initiative in 2012–13. Their efforts resulted in a ninety-plus page examination of ways to improve federal law to achieve a more sustainable transportation future and a panel at PIELC 2013 titled *Sustainable Transportation Alternatives: How to Stop Building New Roads*.

Congratulations and Welcome to the 2013–14 Fellows

Conservation Trust Project—Nate Bellinger (David Brower Fellow), Gordon Levitt, Rance Shaw (Dean's Distinguished Environmental Law Fellow)

Energy Law and Policy Project—Kaylie Klein (Bowerman Fellow), Rebecca Rushton, Lee Ewing

Food Resiliency Project—Zach Baker (Bowerman Fellow), Liz Berg (Bowerman Fellow), Anastasya Raichart

Global Environmental Democracy Project—Brandon Gerstle, Erin Jackson

Native Environmental Sovereignty Project—Amanda Rogerson (Bowerman Fellow), Erika Gibson

Oceans Coasts and Watersheds Project—Adam Walters (Willamette Water 2100 Fellow), Dominique Rossi, Eric Trotta (Dean's Distinguished Environmental Law Fellow), Jill Randolph (Chapin Clark Fellow), Kristina Kraaz (Bowerman Fellow), Margaret Townsend (Bowerman Fellow), Victoria Wilder (Dean's Distinguished Environmental Law Fellow)

Sustainable Land Use Project—KC McFerson (Bowerman Fellow), Kyler Danielson

Environmental Dispute Resolution—Aileen Carlos

Bowerman, Brower, Chapin Clark, and Dean's Distinguished Fellows

Because of generous donor support, the ENR Center was able to award twelve paid stipends to fellows to further their project work in the 2013–14 academic year, up from nine paid stipends in 2012–13.

The 2012–13 Bowerman, David Brower, Chapin Clark and Dean's Distinguished fellows researched the public-private partnerships as a means to support local sustainability efforts; how different international institutions put into practice terms such as food sovereignty, food security, food justice, and the right to food; federal and state limitations on campaign finance reform in Oregon; highway projects and their alternatives under the National Environmental Policy Act; and water as a property interest.

The 2013–14 recipients will focus on providing answers to questions of legal authority and applicability on the Willamette Water 2100 project; evaluating the public trust doctrine and its potential as a legal tool to halt climate change; comparing energy efficiency policy initiatives in different states; determining whether a right to organic farming exists; evaluating whether the federal government's trust obligation to Indian tribes includes an enforceable procedural duty to consult in the context of climate change; and providing preservation and planning policies, regulations, and procedures to the City of Medford.

If you are interested in learning how you can support ENR's Interdisciplinary Projects and Fellows Program, please contact Heather Brinton at hbrinton@uoregon.edu.

Our Thanks to the 2012-13 Fellows

Conservation Trust—Robin Meacher, Elizabeth Berg

Energy Law and Policy Project—Rebecca Rushton, Jason Nelson-Elting (Bowerman Fellow), Elena Domingo, Taylor Engers

Food Resiliency Project—Nate Bellinger (Bowerman Fellow)

Global Environmental Democracy Project—Andrew Narus (Bowerman Fellow), Ashley Carter (Dean's Distinguished Environmental Law Fellow), Gordon Levitt (Dean's Distinguished Environmental Law Fellow), Adam Walters

Native Environmental Sovereignty Project—Joe Bushyhead, Amanda Rogerson, Margaret Townsend

Oceans Coasts and Watersheds Project—Alyssa Englebrecht, Katherine Cummings (Bowerman Fellow), Malia Losordo (Chapin Clark Fellow), Kristina Kraaz (Dean's Distinguished Environmental Law Fellow), Michael Kinsey

Sustainable Land Use Project—Erin Toft-Dupuy, KC McFerson, Jessica Bloomfield (David Brower Fellow)

Environmental Dispute Resolution—Aileen Carlos



Western Environmental Law Center Update: Celebrating Twenty Years

By Peter Frost, John Mellgren, and Hillary Johnson

In the early 1970s, with the Cuyahoga River burning in downtown Cleveland and Love Canal unearthed in New York, Congress passed and President Nixon signed many of our national bedrock environmental laws, such as those protecting endangered species, clean air, and clean water.

In 1976, recognizing the potential of these nascent laws to protect and restore our wildlands and communities, University of Oregon School of Law professors Charles Wilkinson and Frank Berry started the nation's first environmental law clinic to train law students to enforce these new laws.

Soon thereafter, under the tutelage of University of Oregon law professors John Bonine and Mike Axline, dozens of students each semester worked in the clinic on a range of federal environmental cases. The



Peter Frost, '90



Hillary Johnson, '94



John Mellgren, '11

the groundbreaking Northwest Forest Plan—the first regional ecosystem-based management plan in the nation.

In 1993, the clinic moved off campus and the nonprofit Western Environmental Law Center (WELC) was born. Since then, the UO School of Law has contracted with WELC to provide clinical training to students interested in environmental law. For the past twenty years, WELC staff attorneys have taught, counseled, and benefitted from the assistance of literally hundreds

of passionate law students. In 2013, WELC celebrates its twentieth anniversary as a nonprofit public interest law firm, as well as the twentieth year that it has run the Environmental Law Clinic.

Clinic students not only have the opportunity to work closely with our renowned attorneys, but actually engage in the supervised practice of law and play a critical role in the litigation process by conducting legal research, writing legal briefs, and in some cases arguing in court.

With the assistance of UO students enrolled in the Clinic, WELC has helped bring the Mexican wolf back to the Southwest, protected free-flowing rivers from the Rio Grande in New Mexico to the Rogue River in Oregon, and, for now, defeated WOPR—the ruinous Bush-era forest management

plan for western Oregon forests. Together, we helped the Assiniboine and Gros Ventre tribes fight back against the repeated spills of cyanide from a gold mine on their ancestral lands in Montana, just as we have helped other western communities fight back against toxic discharges from factory farms and industrial polluters.

In just the past year, UO law students worked with WELC on projects to protect imperiled wildlife including the wolverine, Canada lynx, gray wolf, Chinook salmon, mountain yellow-legged frog, and northern spotted owl, and to prevent damage from all-terrain vehicles in the Santa Fe national forest. Clinic students have also worked to shut down a coal-fired power plant in Nevada and represented a teenage Navajo girl who sued the governor of Arizona for failing to reduce greenhouse gas emissions.

By providing law students the opportunity to work side-by-side with our legal experts, WELC is ensuring a continuum of well-trained, effective environmental advocates. We look forward to the next twenty years as we work together to safeguard our climate, protect our wild public lands, and preserve and restore the West.

Peter Frost and John Mellgren are attorneys for the Western Environmental Law Center and adjunct instructors at the Oregon Law. Hillary Johnson is the director of communications at WELC.



Watch WELC's Twentieth anniversary film *Defending the West* at westernlaw.org/

clinic successfully stopped herbicide spraying in national forests, halted a dam in mid-construction, stopped Air Force bomber flights over ranches and wilderness areas, forced industry to disclose toxic chemicals in household products, and forced agencies to write environmental analyses in plain English.

The clinic's landmark seven-year litigation over the fate of the endangered spotted owl and the Pacific Northwest's ancient forests set a new, precedent-setting course for protecting forests, and helped created



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ELAW Update

By Jennifer Gleason

Each year, Oregon law students participating in the UO Law externship program provide critical legal research for Environmental Law Alliance Worldwide (ELAW) partners around the world who are protecting the environmental and human rights of communities. During the 2012–13 academic year, ELAW



Jennifer Gleason, '93

benefited from the good work of law students Killian Doherty and Brandon Gerstle as

well as masters of law (LLM) candidates Ximena Ramos Pedrueza Ceballos from Mexico and Noni Austin from Australia.

We have had a particularly long relationship with Killian who came to our office in his first year of law school and started working as a volunteer translator helping our Spanish-speaking partners participate actively in meetings arranged as part of their ELAW Fellowships. After his 2013 spring-term externship, Killian continued working with ELAW as a summer intern, supported by a stipend provided by the Oregon Law Students Public Interest Fund. You can read a blog Killian wrote about his experience at elawspotlight.wordpress.com/2013/08/01/becoming-

part-of-the-elaw-family.

Over the past year, ELAW externs have worked on a variety of projects. They have reviewed marine and coastal management policies, searched for climate adaptation legal provisions, supported arguments that consultation with effected indigenous peoples is required, researched rights of nature, demonstrated that environmental rights are human rights, compared regulation of offshore oil, researched natural resource damage assessment, and more. Lawyers and communities across the globe have benefited enormously from this research.

We are pleased that working with ELAW has helped some of these young lawyers find jobs with our partners. Ximena recently started work with the Cancún office of the Centro Mexicano de Derecho Ambiental (CEMDA) and a spring 2012 extern, Ugandan lawyer Samantha Atukunda Kakuru, is working with the Center for Environmental Rights (CER) in South Africa!

Jennifer Gleason has been a staff attorney at the Environmental Law Alliance Worldwide since 1993. She manages the Legal Assistance Program and collaborates with lawyers around the world to strengthen and enforce laws that protect the environment and human rights. Gleason is a 1993 graduate of Oregon Law with a certificate in natural resources law.

LLM Update



John Bonine

Graduates from the 2013 LLM program are now doing various kinds of interesting work around the world. Here are a few examples:

Ximena Ramos Ceballos is an environmental and human rights lawyer with the Mexican Center of Environmental Law. (CEMDA in Spanish)

Noni Austin and Maneka Kaur are visiting attorneys at EarthJustice in San Francisco, California.

Carlos Lozano-Acosta is working as a legal advisor for the Inter-American Association for Environmental Defense (AIDA in Spanish) in Colombia and as a research associate at the National University of Colombia.

Eli Laltaika is pursuing an SJD (doctorate) degree in Arizona.

Shaoyuan Wu is finishing an internship with the National Marine Environmental Monitoring Center in China.

Oodnoo Oyunbazar has returned to Singapore to be with her family and to resume her private law practice while she prepares to take the New York Bar Exam.

Elina Alinezhad is practicing immigration law in the office of Judith Wood in Los Angeles.

PIELC Review: *EARTH: Too Big To Fail*

By Zach Baker, Lauren Ice, Chris MacMillan, Robin Meacher, and Margaret Townsend

The thirty-first annual Public Interest Environmental Law Conference (PIELC) was held at the University of Oregon School of Law and Erb Memorial Union on February 28–March 3, 2013. With record attendance, this year’s conference was packed with a diverse crowd of attorneys, activists, concerned community members, and students from around the world.

As the organizers of PIELC 2013, we chose the theme, *Earth: Too Big To Fail*, in an attempt to reclaim a phrase that has been recently used to define the industries that are “essential” to our society. We struggled with the idea that something else could be more valuable than access to clean air, clean water, and livable space. Rather than accept what we saw as misplaced priorities, we set out to foster creative solutions among PIELC attendees that would prioritize the planet over profit.

PIELC 2013, *Earth: Too Big To Fail* did not disappoint. Panelists, roundtable discussion leaders, and workshop facilitators came from around the world to share their experiences on issues such as off-road vehicle use on public lands, wildlife conservation in Africa, food sovereignty, natural gas and coal exports, the Endangered Species Act as a pesticide reform tool, sustainable transportation alternatives, curbing livestock grazing, constitutional environmental rights, the Northwest Forest Plan, offshore oil leasing, current issues in Chinese environmental law, a human right to water, preserving wild salmon in the face of hatcheries, successful wolf recovery, ocean



From left to right: Zach Baker, Lauren Ice, Hilton Kelley, Chris MacMillan, Margaret Townsend, and Robin Meacher

acidification, suction dredge mining, utility regulation, and the Keystone Pipeline—just to name a few of the more than 130 topics at PIELC 2013.

Not only was the conference a time to share practical advice, but it was also an opportunity for many to be inspired and rejuvenated. Among this year’s outstanding keynote speakers were the dynamic and memorable presentations by Hilton Kelley, Caleb Behn, and Thomas Linzey. Kelley is a community member turned environmental justice activist who stepped up to lead when he recognized that his poor Texas Gulf Coast community needed help. His grassroots approach and his heartfelt poetry moved the crowd. Behn, a young attorney from Canada who works to protect his native community from the effects of the oil and gas industry, spoke passionately and confidently about the personal commitment he has made toward the fight. Linzey, an attorney who has rejected a traditional approach to environmental law, galvanized an already enthusiastic crowd as he spoke of ways to catalyze a fundamental change in the regulatory structure of environmental law in our country.

We are incredibly grateful to the hundreds of student volunteers who made PIELC 2013 possible. We thank

the numerous professors and staff members at UO Law who continue to support PIELC year after year. We are proud to attend a law school that places such a strong emphasis on public interest environmental law and works to instill in its students the value of working toward a better local and global community.

Most of all, we thank those of you who attended PIELC 2013. We encourage you to attend, participate, and strengthen the conference next year. Visit www.pielc.org for more information.

Zach Baker is a Bowerman Fellow for the ENR Food Resiliency Project. **Lauren Ice** is the operations editor for the Journal of Environmental Law and Litigation. **Chris MacMillan** is an executive editor for the Journal of Environmental Law and Litigation. **Robin Meacher** is codirector of Land Air Water and a law clerk with Western Environmental Law Center in Eugene. **Margaret Townsend** is Co-Director of Land Air Water, articles editor for the Oregon Law Review, and a Bowerman Fellow for the ENR Oceans Coasts and Watersheds Project. They are all third-year students at the University of Oregon School of Law.

Save the Date!

PIELC 2014:
*Running Into
Running Out*

February 27–
March 2, 2014

The David Brower, Kerry Rydberg, and Svitlana Kravchenko Awards

By Emily Johnson

Each year, the students of Land Air Water (LAW) recognize outstanding environmental activists at the Public Interest Environmental Law Conference via the David Brower Lifetime Achievement Award, the Kerry Rydberg Award for Environmental Activism, and the Svitlana Kravchenko Environmental Rights Award.

THE DAVID BROWER LIFETIME ACHIEVEMENT AWARD is presented to an attorney or activist who exemplifies the values of David Brower and has dedicated his or her life to environmental activism. Brower was perhaps the most important environmentalist of the second half of the twentieth century. He was executive director of the Sierra Club and founder of many environmental organizations and institutes, including the John Muir Institute for Environmental Studies, Friends of the Earth, the League of Conservation Voters, North Cascades Conservation Council, and the Earth Island Institute.

This year's David Brower Lifetime Achievement Award was presented jointly to husband and wife team and longtime Eugene advocates Norma Grier and Dahinda Meda. The two were selected not only for their effective work for the environment, but also for contributing to their local communities, encouraging and inspiring young people, and supporting the Public Interest Environmental Law Conference for many years.



From left: Norma Grier and Dahinda Meda (photo by Trav Williams, Broken Banjo Photography | www.BrokenBanjo.net); Raquel Gutiérrez Nájera, Katherine Meyer, and Eric Glitzenstein

Norma Grier is cofounder of the Northwest Center for Alternatives to Pesticides. In the mid-1970s, Grier was living in a forested watershed of Douglas County, Oregon, when neighbors began telling her their stories of devastating health effects caused by the spraying of pesticides on local forests. Soon thereafter, Grier learned that a lumber company was planning to spray trees upstream from her home with herbicide 245T, also known as one-half of the notorious Vietnam War defoliant Agent Orange. She has worked on pesticide reform ever since. Today, Norma Grier's three decades of work chronicle the story of pesticide use and its massive reduction in the Pacific Northwest.

Dahinda Meda is the founder of Café Mam, a coffee-importing business in Eugene, Oregon, that has operated on the policy of purchasing only organic and human suffering-free coffee beans since its opening in 1990. Café Mam purchases coffee beans from the Mam people of Guatemala and southern Mexico. The Mam people produce shade-grown, organic Arabica coffee free of pesticides and insecticides. Over the years, the business agreement

with Meda's company allowed the Mam people to form cooperatives with growers from other indigenous communities in the region, leading to higher profits for growers and, in turn, construction of important community infrastructure such as schools and health clinics. Meda also owns and operates Royal Blue Organics, an organic blueberry farm just outside of Eugene, Oregon. Prior to starting Café Mam and Royal Blue Organics, Dahinda spent many years contributing to and taking part in a number of important public interest initiatives, including the lawsuit to ban the use of DDT, restoration of salmon-spawning streams in Northern California, and legislation to stop the building of freeways through voiceless, low-income neighborhoods of color.

THE KERRY RYDBERG AWARD FOR ENVIRONMENTAL ACTIVISM is presented annually to an advocate who embodies 1987 Oregon alum Kerry Rydberg's courage, self-reliance, commitment, talent, and dedication to representing citizens at the grassroots level of environmental matters.

It's his work to protect people and the environment that forms the core of his life.

— 2012–13 PIELC codirector Lauren Ice on Brower Award recipient Dahinda Meda

continued on page 12

The David Brower, Kerry Rydberg, and Svitlana Kravchenko Awards
continued from page 11

This year, the Kerry Rydberg Award was presented to Eric Glitzenstein and Kathy Meyer, founders of the successful Washington, D.C.-based public interest law firm Meyer Glitzenstein & Crystal. Their work has resulted in protection for the Canada lynx, stricter effluent standards under the Clean Water Act, an end to the burning of endangered sea turtles in the Gulf of Mexico as part of a Deepwater Horizon oil spill containment strategy, new sanctuaries for the Florida manatee, the listing of hundreds of animals and plants as endangered or threatened, invalidation of an exemption under the New Jersey animal cruelty code for generally accepted agricultural practices, and the conclusion of both grizzly bear hunting in Montana and gray whale hunting off the coast of Washington, to name a few.

THE SVITLANA KRAVCHENKO ENVIRONMENTAL RIGHTS AWARD is presented to individuals who carry on in the spirit of Professor Kravchenko: with exquisite qualities of both head and heart; mixing academic rigor with spirited activism; and speaking truth to power while exhibiting kindness to all. The award also seeks to recognize those who make a broad impact in law while working to support local communities.

This year, the Svitlana Kravchenko Environmental Rights Award was awarded to environmental lawyer, professor, writer, and theorist Raquel Gutiérrez Nájera from Mexico. Nájera is the founder of the Instituto de Derecho Ambiental (IDEA), a public interest environmental law group that helps Mexican communities exercise their democratic rights and protect the environment through law. Specifically, Nájera and IDEA have been fighting to defend people's rights to water and property in the face of dam construction. Nájera teaches environmental law at the University of Guadalajara and is a recipient of Mexico's Ecological Merit Award.

ENR Faculty Update

ADELL AMOS, Associate Dean for Academic Affairs and Associate Professor, was selected from faculty members across the University of Oregon



campus for the highly competitive Faculty Fund for Excellence Award. She was also recently appointed a Dean's Distinguished Faculty Fellow for the University of Oregon School of

Law. She is currently coauthoring a book for West Academic Publishing with Sandra Zellmer from the University of Nebraska School of Law. On August 12, 2012, Amos moderated the panel "Tough by Nature: Land Use and Conservation" at the Jordan Schnitzer Museum of Art in Eugene, Oregon. On October 17, 2012 she presented "The Role of Federal Government in Water Resources Law and Policy" at the Water Resources Policy Seminar Series at Oregon State University. Amos served as a guest lecturer to the University of Oregon Environmental Studies Program last November, where she presented "Understanding Place: The McKenzie Watershed." She also attended the Willamette Water All Scientists Meeting at Oregon State University where she presented "Integrating State and Federal Water Law Policy into WW 2100 Modeling Efforts." Recently, Amos was appointed to the Public Land and Resources Committee of the American Bar Association's Section on Environment, Energy, and Resources. She was also chosen to serve as a water law expert for Willamette Water 2100, a project funded by the National Science Foundation that brings faculty from Oregon State University, the University of Oregon, and Portland State University together to create a transferable method of evaluating and predicting how climate change, population growth, and economic growth will change the availability and use of water in the Willamette River Basin on a decadal to centennial timescale.

JOHN BONINE was a delegate to the United Nations Conference on Sustainable Development, "Rio + 20," in Rio de Janeiro in June 2012, where



he represented Environment-People-Law of Ukraine. In September 2012, Bonine participated in "New Directions for Human Rights and the Environment: A Symposium

Inspired by Svitlana Kravchenko" held by the *Journal of Environmental Law and Litigation* in Eugene, Oregon. In October 2012, Bonine traveled to the Caribbean where he presented lectures to the faculty members and students of the University of the West Indies School of Law and to judges brought together by the Eastern Caribbean Supreme Court. He also lectured at Bahçeşehir University and Bilgi University (both in Istanbul, Turkey), and at Brandenburg Technical University (in Cottbus, Germany). He lectured on "Fraud and Deception in Environmental Impact Assessments" at a conference in Wroclaw, Poland, in May 2013. In June 2013, Bonine was in Geneva, Switzerland, participating as an expert in the Access to Justice Task Force of the United Nations' Aarhus Public Participation Convention.

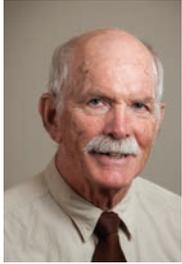
MICHAEL FAKHRI'S is currently completing his book entitled *Sugar and the Making of International Trade Law* under contract with Cambridge



University Press. His article "The Intersection Between Food Sovereignty and Law" (coauthored with Nate Bellinger) will be published in an issue of the ABA's *Natural Resources and Environment* focusing on food. In March 2013, Fakhri was invited to give a talk on international trade and agriculture at George Washington University Law School in

Washington, D.C., and the University of the Witwatersrand in Johannesburg.

RICHARD HILDRETH and coauthors Joseph Kalo, Alison Rieser, and Donna Christie finished the fourth edition of their casebook *Coastal and Ocean Law*



(West Publishing) in spring 2013. The newest edition addresses the challenge to ocean and coastal law from global warming and climate disruption,

including governance changes in response to sea level rise and such coastal disasters as hurricanes Katrina and Sandy and the BP–Deepwater Horizon Oil Spill. Hildreth is now working on completing the fourth edition of the book *Coastal and Ocean Management Law in a Nutshell*.

ROBERTA MANN'S article “Smart Incentives for the Smart Grid” was recently published in the spring 2013 issue of the *New Mexico Law Review*.



The paper examines the incentives provided through the tax system for development and implementation of smart grid technology, assessing the

progress of the United States and considering strategies for the future. In September 2012, Mann presented the forthcoming paper, “Lightning in a Bottle: Using Tax Policy to Solve Renewable Energy’s Storage Challenges,” at the thirteenth Global Conference on Environmental Taxation in Vancouver, British Columbia. Mann also coauthored an article entitled “The Physical and Legal Implications of Continued Fracking in the Marcellus Shale Basin” with Greg Bothun from the University of Oregon physics department.

NANCY SHURTZ recently finished the book *Sustainability and Business Law* with Oregon Law Assistant Professor Judd Sneirson. On September 21, 2012



Shurtz presented “U.S. Local Environmental Taxes: Laboratories for Innovative Climate Change Policy?” at the Global Conference on Environmental Tax in Vancouver,

British Columbia. She is currently working on a book entitled *Marketplace Economics and the Environment*, which examines market mechanisms that can be used to solve our consumption, energy, population, pollution, and other environmental problems. Shurtz continues to teach the course Marketplace Economics: Alternatives to Regulations.

MARY CHRISTINA WOOD is the faculty director for the Environmental and Natural Resources Law Program

at Oregon. This October, Wood will release her new book, *Nature’s Trust: Environmental Law for a New Ecological Age* (Cambridge University



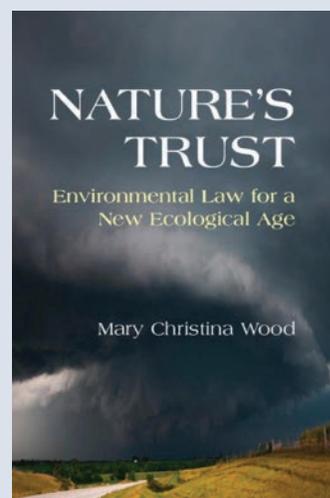
Press), which exposes what is wrong with environmental law and offers transformational change based on the public trust doctrine. On March 2, 2013,

Wood presented on a panel titled “Media Matters” at the 2013 Public Interest Environmental Law Conference at the University of Oregon School of Law. On March 13, 2013, she presented “Land Trust and Conservation Easement Law” at the University of Oregon School of Law. Wood and coauthors published their second edition of *Natural Resources Law* (West Publishing) in May 2012. On October 9, 2013, Wood will serve as a guest lecturer at the 2013 Tribal Environmental Summit in Spokane, Washington.

FORTHCOMING OCTOBER 2013

NATURE’S TRUST: Environmental Law for a New Ecological Age

BY MARY CHRISTINA WOOD



CAMBRIDGE UNIVERSITY PRESS 2013

“What Silent Spring did for our perception of the environment, Nature’s Trust should do for our perception of environmental protection. Thoroughly researched and beautifully written, this book calls for a revolution in environmental policy and law—now, before it is too late. It is simply brilliant.”

— **JAMES GUSTAVE SPETH**, author of *America the Possible: Manifesto for a New Economy* and former dean, Yale School of Forestry and Environmental Studies

Available at

www.cambridge.org/us/9780521195133

ENR Alumni Update

BECKI UENO, JD '07, is cofounder of Sustainable Law Group PC, a law firm in Santa Monica, California providing legal advice to social enterprises,



green businesses, and nonprofit organizations. The firm distinguishes itself by operating with an eye towards the long-term and sustainable successes of its clients, whether

they are startups or seasoned national organizations. Prior to cofounding Sustainable Law Group, Becki spent two years at the California plaintiffs firm Khorrammi Pollard & Abir and three years in private practice. She currently serves on the board of directors for both the Sustainable Business Council of Los Angeles and the Asian Classics Institute. She also donates her skills as an attorney ambassador for the Sustainable Enterprise Alliance. Becki lives with her husband in Marina del Rey, California, where she enjoys hiking, traveling, volunteering, and learning Japanese.

CAROLINE MACLAREN, JD '99, has become a trusted voice in Oregon land use, planning, and protection since graduating from Oregon Law. Most



recently, Caroline joined the Oregon Department of Land Conservation and Development as deputy director. "I am honored to help lead this agency," said Caroline after being

appointed in September 2012. "The statewide land use program is essential to Oregon's future, its livability, and its prosperity." Previously, Caroline worked as a staff attorney at 1,000 Friends of Oregon where she focused on farm and forest land protection, as a real estate attorney at Miller Nash, and as an adjunct instructor at the University of Oregon School of Law, where she

taught the school's first course on green building and sustainable development. Caroline lives with her husband, Colin, and six-year old son, Oliver, in Portland, Oregon.

BRUCE WISHART, JD '85, has represented nonprofit environmental groups before the Washington state legislature for twenty-seven years.



After graduating from Oregon Law, Bruce spent twelve years lobbying and serving as Chapter Director for the Sierra Club and another twelve years as Policy Director for People for Puget

Sound. He now runs his own public affairs firm in Olympia, Washington, Wishart Public Affairs, where he represents six nonprofit environmental organizations on issues regarding water resources, transportation, climate and energy policy, and budgetary matters, among other topics. Over the years, Bruce has been a key player in the adoption of many important state environmental laws and regulations, including the Model Toxic Control Act (1989), the Oil Spill Act (2011), the phasing out of both copper brakepads (2010) and copper paint on boat bottoms (2011), and the change to require municipal stormwater National Pollutant Discharge Elimination System permits to mandate low impact development techniques for all new land use development in Washington State (2011). Regarding his work, Bruce says, "I've been very fortunate to find a career path that's been both interesting and deeply satisfying."

BRIANNA FAIRBANKS, JD '05, is an associate attorney for the Sierra Club, where she works on stopping U.S. coal companies from exporting massive amounts of coal overseas. "I feel lucky to be working in exactly the type of position I envisioned in law school; working in the public interest



as an environmental advocate," says Brianna. Prior to working at the Sierra Club, Brianna served as an Honors Attorney for the Environmental Protection Agency, Region 3, where

she was responsible for bringing civil administrative actions against violators of federal hazardous waste laws. While at EPA, Brianna was awarded the Gold Medal for Rookie of the Year from the Federal Executive Board, a USEPA Silver Medal for Superior Service, and three USEPA Bronze Medals for Commendable Service. After EPA, Brianna joined the Northern California land use and environmental law firm of Shute, Mihaly & Weinberger as a legal fellow. Brianna now lives in Oakland, California, with her husband, Matt, and their bunny, Ellie, who she adopted during her during her 2L year.

JASON FLANDERS, JD '05, is the Program Director of San Francisco Baykeeper. He joined Baykeeper in 2009 as a staff attorney representing the organization in numerous federal



lawsuits and before the Regional Water Quality Control Board. In 2012 he became Program Director. He now oversees the organization's policy and advocacy work, including wetlands

preservation, pollution prevention, and administrative and legislative advocacy to maintain strong water quality laws and regulations. Prior to Baykeeper, Jason worked at the Law Office of J. William Yates, a three-attorney private public interest law firm, where he represented neighborhood groups and nonprofits like California Trout and the Golden Gate Audubon Society. With his second child expected this November, Jason says he is, "more gratified than ever to have chosen this line of work."



From left: Daniel Kruse '06, Attorney at Law; Tim Ream '10, Staff Attorney at the Center for Biological Diversity; Nick Cady '11, Legal Director at Cascadia Wildlands

ENR Graduates Fight for Oregon Wolves

By Emily Johnson

For the past two years, three Oregon Law ENR graduates—Dan Kruse '06, Nick Cady '11, and Tim Ream '10—have been at the forefront of a legal battle to stop the unnecessary killing of wolves in the state of Oregon.

In May 2013, their efforts paid off in the form of a landmark settlement with the governor's office and the Oregon Cattleman's Association. The settlement significantly limits the state's authority to use lethal force in response to livestock depredations.

The suit challenged an Oregon Administrative Rule, adopted by the Oregon Fish and Wildlife Commission, that gave the state authority to kill endangered wolves once there were two depredations "in an area," regardless of how much time passed between the depredations, whether the same wolves were responsible for the different depredations, and whether the wolves targeted for lethal control were actually those wolves responsible or

related to any of the depredations.

Thanks to an injunction obtained by the plaintiffs at the start of the suit, the state has been banned from killing wolves for more than a year and a half now. During this time, staff attorney for the Endangered Species Program at the Center for Biological Diversity, Tim Ream noted that, "wolf numbers in the state more than doubled, while depredations actually decreased."

The settlement agreement amends Oregon's administrative rules related to wolves in three big ways. First, lethal force may only be considered an option if there have been four depredations within six months by the same wolf or wolves. Second, a depredation only counts toward this threshold if non-lethal measures were being used at the time of the depredation. Third, once a depredation occurs in an area, the Oregon Department of Fish and Wildlife is now required to develop and publish an area-specific conflict deterrence plan, outlining additional non-lethal measures, and once that

plan is in place, any subsequent depredations count only if that plan was being followed.

"This settlement agreement means that wolves in Oregon are protected more than in any other state with wolves in the country. It will help wolves expand their range and population throughout Oregon, and it ensures that proactive and non-lethal measures will be the primary tool to reduce conflicts between wolves and livestock," says Daniel Kruse, attorney for the plaintiffs.

As the settlement is implemented and enforced over the following years, ranchers and conservationists alike will be watching. Cascadia Wildlands legal director and attorney for the plaintiffs Nick Cady commented, "Ranchers must do their part to improve animal husbandry and coexist with native wildlife, and Oregon Department of Fish and Wildlife must uphold its mission to ensure abundant populations of native wildlife for *all* Oregonians."

Environmental and Natural
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Engaging the Law to Support
Sustainability on Earth

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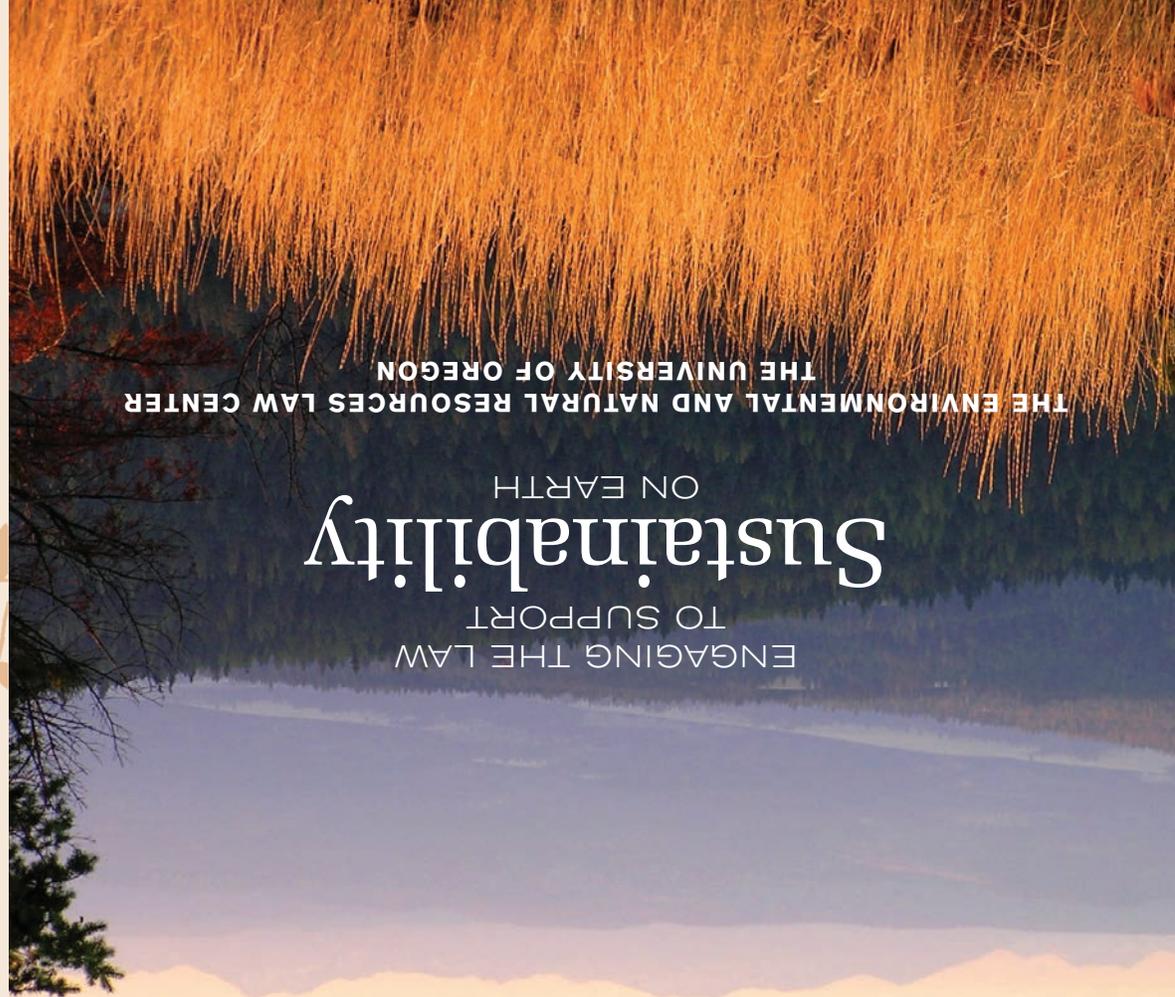
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