



ENGAGING THE LAW
TO SUPPORT

Sustainability ON EARTH

ENVIRONMENTAL AND NATURAL RESOURCES LAW AT THE UNIVERSITY OF OREGON SPRING 2011

Designing Twenty-First-Century Oregon Cities

By Kelly Fahl

With the ever-increasing importance of global environmental issues, urban planning as it has existed for the past 100 years does not meet the needs of population growth and environmental protection.

The changes needed to be made in planning for the successful growth of our cities require that professionals be empowered with practical, advanced skills for planning, building, and managing the cities of the future. Local governments, in particular, can effect change in the way growth is achieved through regulations and incentives for transportation, building design and construction, zoning, and other climate change-sensitive ordinances. Higher-education institutions are often central to shifts in theory and practice, and serve as unique forums for developing and disseminating this information to students and community members. Forging a partnership between these two powerful entities creates limitless possibilities for academic learning and service to the public.

The Environmental and Natural Resources Law (ENR) Program at the University of Oregon School of Law has heeded this call by partnering with the Sustainable Cities Initiative (SCI). SCI is a cross-disciplinary program of the University of Oregon seeking to promote the design and



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development of sustainable cities, from planning to building design. SCI is led by faculty members from the UO Department of Architecture and the Department of Planning, Public Policy and Management. The initiative is partnering with the law school to create opportunities for law students to engage in development and real-world application of these practical skills.

SCI's goals include completing research to meet local, regional, and national goals for sustainable city design and function; to provide service and technical assistance to Oregon and beyond; to attract and train the nation's best students interested in sustainable cities, from design to

policy; and to engage national experts in mutually beneficial discourse and exchange of ideas.

As part of the law school's involvement in SCI, ENR's Sustainable Land Use Project fellows have conducted focused research in conjunction with the Sustainable Cities Initiative. "Providing legal research for the Sustainable Cities Initiative has been a great opportunity to apply and practice my legal research and writing skills while assisting SCI with real-world work that benefits communities here in Oregon and elsewhere," says Christine Zeller-

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Adina Tudorache's design for a light rail station dramatizes the power of nature through bold vegetated structures arching over both platforms of the Civic Drive station like a green dragon.

Powell, a Sustainable Land Use Project fellow. Zeller-Powell has been working on research relating to energy legislation proposed during the 2009–11 legislative sessions. For the 2011–12 academic year, the ENR Program has created a Sustainable Cities Fellowship to support student research on the

intersection of sustainable city design and legal issues.

Through its Sustainable City Year (SCY) program, SCI partners with one Oregon city and focuses more than twenty-five courses across campus on assisting that city with projects and goals relating to sustainability.

The SCY program helps students to apply their training and provides a true service to participating cities and the state by aiding the transition toward sustainability. For 2010–11, SCI is partnering with the city of Salem to assist with sustainability goals and projects. The law school has incorporated Salem projects into the Environmental Law Clinic, and by developing a new externship with Salem's city attorney's office.

Randall Tosh, a former UO legal research and writing instructor, serves as the city attorney for Salem, and is working with law student externs Alexandra Gibney and Aaron Crockett on real property and natural resources issues related to the goals and objectives of SCI and Salem's livability. "I am trying to give them a broad exposure to what practicing municipal law means," says Tosh. So far, the externs have been involved with staff meetings on a major land use code revision and meetings with staff and city council members on legislative priorities relating to the SCI projects.

SCI Hires UO Alumnus Robert Liberty as Executive Director

Lawyer and policy expert Robert Liberty '75 served as 1974–75 ASUO president and graduated from the UO's Robert Donald Clark



Honors College. This January, Liberty returned to the UO to share his talents once again as the first executive director of the university's Sustainable Cities Initiative (SCI). This position focuses on building key relationships with state and federal policymakers and others to help SCI continue to develop, grow, and increase its effect.

"I am looking forward to working with the dynamic faculty members at the University of Oregon to expand the impact of the Sustainable Cities Initiative across Oregon and the

nation," says Liberty. He plans to focus on building new partnerships with government agencies, businesses, nongovernmental organizations, and other universities.

Liberty most recently served as an elected member of Portland's regional government, the Metro Council, where he represented 240,000 residents since 2005. Liberty has worked for thirty years with various levels of government, from neighborhood, city, and county levels, to state and federal levels. This experience comes as an elected official, staff attorney, executive director of the nonprofit organization 1000 Friends of Oregon, senior counsel to Representative Earl Blumenauer (D-Oregon), and as a private attorney and consultant.

Liberty's background and skills are exactly what the program needs to continue growing and thriving.

"Robert's expertise is a great fit for the leadership opportunity we envisioned with the role of executive director," says SCI cofounder and associate director Marc Schlossberg, a UO planning professor. "SCI will have greater impact on national policy, research, and community change with his leadership." Blumenauer, founder of the Livable Cities Caucus in Congress, states "This is great news for the University of Oregon. Robert Liberty will provide national and international leadership in research and policy for sustainable and livable cities and towns."

In addition to his degree from University of Oregon, Liberty holds degrees from Oxford University as a Rhodes Scholar, and Harvard Law. In 2002–3, he was a Loeb Fellow at the Harvard Graduate School of Design.

Environmental Law Clinic students are working with the Western Environmental Law Center (WELC) and WELC attorney Jan Wilson on SCY projects as well. Three clinic students are working with Salem's city staff members on developing a storm water code that will incorporate several sustainability features identified by students in the fall planning and architecture classes, such as bioswales, green roofs, and pervious pavement. The students will review draft versions of the storm water code, as well as other city codes and regulations, to identify any provisions that might deter or even prevent the creation of natural storm water facilities (for example, street regulations that require filled, at-grade public rights-of-way, rather than allowing bioswales next to the sidewalk easement); identify ways to incorporate incentives (or requirements) for green infrastructure into the code; and work with landowners along Mill Creek to incorporate green infrastructure into a pilot redevelopment project, using the project as a "test case" for the new storm water code, to help further identify

unnecessary barriers or disincentives to the desirable, sustainable redevelopment of an urban site.

"I am really excited about this opportunity to provide students with a 'real world' experience in putting their legal research into practice where it can truly have an on-the-ground benefit," Wilson says about the SCY program. "And I'm equally excited that Salem's participation in the SCY project will provide a model to other cities that may want to incorporate sustainability features in their codes, too."

In 2009–10, SCI focused on the city of Gresham, a suburb east of Portland. Projects included developing an alternative growth and development plan for the community of Springwater, designing a new city hall building, and studying and designing new transportation systems. For Gresham, law clinic students researched the legislature's mandate that Oregon develop rules for graywater usage, and how cities and counties will be able to implement state rules in the future. Another clinic

project was a survey and study on how to fund and provide incentives for sustainable building practices and "ecosystem services" infrastructures. The environmental law clinic is also taking steps to make these SCY research projects transferable to future partner cities.

Eighteen UO courses were dedicated to assisting Gresham with its sustainability initiatives. SCY curriculum brings together several disciplines to create courses focusing on sustainable urban design, public policy analysis, green architecture, sustainable land development, transportation and livability, city planning and design, civic engagement, and applied service learning.

The work accomplished by the Sustainable Cities Initiative will create a model for other cities and schools to follow, leading the way to sustainable, livable cities that will be an integral part of the solution for climate change. *Kelly Fahl, JD '09, is the development and communications coordinator for the ENR Program.*

First-Year ENR Fellows

By Kelly Fahl

For the first time in its history, the ENR Program offered two fellowships to incoming first-year students. The Dean's Environmental Law Fellowship and the Chapin Clark Fellowship were established to support incoming students dedicated to studying environmental and natural resources law. The Chapin Clark Fellowship was named in honor of the former dean of the UO law school (1974–80) and water law expert. Clark was instrumental in establishing the ENR Program. The two 1L fellows, Elizabeth Brown and Jason Nelson-Elting, are extraordinary individuals dedicated to public interest and environmental law, not to mention excellent students.

Elizabeth Brown



Brown is the inaugural recipient of the Chapin Clark Fellowship. Prior to law school, she lived in Budapest, Hungary, and earned her master's degree in international public policy from Central European University in 2008. She then worked on energy policy as a clean energy advocate in Texas for several statewide public interest organizations. Brown's experiences traveling the globe and volunteering have stirred a passion for global environmental justice, especially regarding climate change adaptation issues for sustainable living, conflict, refugees, and natural disasters.

Brown is using her legal education at the UO to expand her skill set to be

a more effective human rights and environmental justice advocate in her career. Her selection for the Chapin Clark Fellowship was a significant factor in her decision to attend the UO School of Law: "I have enjoyed the opportunity to contribute and be involved in issues I care about outside of the mandatory first-year classes," says Brown. In addition to work associated with her fellowship, she is a member of the UO environmental law society, Land Air Water. She has volunteered at several workshops and conferences hosted by the ENR Program, assisted with panels and keynote speakers for the 2011 Public Interest Environmental Law Conference, and will serve as Land Air Water's treasurer for 2011–12.

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After law school, Brown intends to use her skills at a nonprofit organization focusing on international environmental justice and climate change adaptation issues.

Jason Nelson-Elting



Nelson-Elting is the recipient of the Dean's Environmental Law Fellowship. He earned his bachelor's degree from the UO in Spanish in 2005.

As part of his curriculum, he studied abroad for four months in Queretaro, Mexico, and seven months in Quito, Ecuador. After graduating, he traveled for seven months in Central America. He then decided to apply to law school to pursue public interest law.

Receiving the fellowship helped Nelson-Elting decide that the UO law school would be a good fit. "Having an insider's peek into the field of environmental law during my first year was an opportunity I couldn't pass up," he says.

This year, Nelson-Elting had the opportunity to help organize the Atmospheric Trust Litigation Workshop, a visit from NASA climate expert James Hansen, and a study-abroad panel for law students titled "Legal Opportunities Abroad." He also organized transportation for this year's Public Interest Environmental Law Conference.

His interests include environmental justice, international human rights, environmental crimes litigation, and food reform. He plans to use his legal education to build a broad base of environmental law knowledge, and then choose a specialty area later on. "I am confident that my time with the ENR Program will help me gradually combine and narrow my interests so that when I leave law school, I will have begun to carve out my niche."

Kelly Fahl, JD '09, is the development and communications coordinator for the ENR Program.



ENR Giving Opportunities

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

Through ENR's six interdisciplinary projects (Conservation Trust, Energy Law and Policy, Global Environmental Democracy, Native Environmental Sovereignty, Ocean 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 three years, Bowerman and Brower fellowships have offered funding for three to four students to delve into individual environmental research projects.

Announcing the Professor John Bonine Environmental Protection Scholarship

One of the University of Oregon School of Law's many points of excellence is its focus on both environmental law and public interest law. Professor John Bonine exemplifies these twin ideals through his work that has put the school at the center of international public interest environmental law.

Now, a scholarship has been established in Professor Bonine's name that will be awarded to those with a "demonstrated passion for protecting our planet." Initiated by alumni and friends of Bonine, the scholarship will advance the public's interest in environmental protection by encouraging and supporting continuing excellence and leadership in environmental and natural resources law education. The scholarship will be used to assist students with all standard educational expenses.

"Professor Bonine is one of a kind," said Dean Margie Paris, who has worked with Bonine for eighteen years. "His dedication and boundless energy have inspired generations of environmental activists at the School of Law and around the globe. Oregon Law applauds him for his long and distinguished career."

To learn more about giving opportunities, please visit www.uoregonlaw.com/giving.

ENR Welcomes Visiting Professors



“The UO legal community is wonderfully engaging and committed to environmental work.”

Elizabeth Burleson

Burleson is joining the UO law faculty this spring as a visiting professor from the University of South Dakota, teaching Environment and Pollution, and International Environmental Law. Her research at the UO School of Law involves emerging international law as it relates to human rights and the environment, encompassing governance, water, energy, and climate cooperation.

Burleson received her LL.M. in international law from the London School of Economics and is a Fulbright Senior Specialist whose research focuses on emerging international environmental and human rights law. She helped to draft the United Nations Framework Convention on Climate Change, Agenda 21, and the Rio Declaration. She has advised UNICEF’s senior advisor for the environment and the New York director of UNEP. Burleson also writes reports for the UN and delivers presentations at UN conferences. She has helped UNICEF, UNEP, IUCN, ASIL, and NWF delegations land several events at international conferences, including three climate conferences, and has participated in treaty negotiations since the 1991 proceedings for the UN Conference on the Environment and Development. Additionally, Burleson

advised the governments of Japan and Uruguay, and has conducted legal research for Amnesty International. She researched energy and water security as a visiting fellow at the National University of Singapore Centre for International Law.

Burleson has taught Public International Law, Energy Law, International Environmental Law, UN Law, International Law and China, Property Law, Water Law, and Environmental Law at the University of South Dakota. She also teaches Energy Law at the University of Connecticut School of Law, and International Trade and the Environment as a Fulbright Senior Specialist. Burleson will be joining the Pace University law faculty in 2011.



“I am quickly discovering that Vermont does not have a monopoly on bright, engaged students who are invested in making a difference. I have been incredibly impressed with the students at Oregon, both in and outside the classroom.”

Jackie Gardina

Gardina is visiting the UO School of Law from the Vermont Law School and is teaching administrative law and federal jurisdiction this spring. She specializes in four main areas:

civil procedure, administrative law, bankruptcy (with a special emphasis on environmental obligations in bankruptcy); and sexual orientation and gender identity issues. While at Oregon, Gardina has presented on the intersection of bankruptcy and environmental law and on “Don’t Ask, Don’t Tell: What’s Next?”

Gardina has addressed many issues including learning disabilities in higher education, bankruptcy, the Solomon Amendment, and Don’t Ask Don’t Tell through speaking engagements and published works. At the UO law school she will be continuing research into environmental obligations in bankruptcy, while also preparing for a paper that will be presented at the Federal Judicial Conference on the intersection of the Defense of Marriage Act, same-sex relationships, and the Bankruptcy Code. She is also finishing an article on intra-circuit nonacquiescence that focuses on the authority of federal agencies to ignore appellate court precedent. The article specifically explores the Department of Defense’s refusal to apply *Witt v. Air Force* to the discharges under Don’t Ask Don’t Tell at military installations housed in the Ninth Circuit.

Prior to her professorship at the Vermont Law School, Gardina taught at Boston College Law School and at the University of Hawaii Richardson School of Law, and was a special guest lecturer at Landmark College. She received the Vermont Law Student Bar Association Faculty Service Member Award every year from 2004 through 2009, recognizing her expertise and accomplishments as a teacher. She is an advisor to the Alliance student group at Vermont. Additionally, Gardina serves as a Governing Board Member of the Servicemembers Legal Defense Network and the Society of American Law Teachers.

At Vermont Law, Gardina has taught Administrative Law, Bankruptcy and Environmental Law, Civil Procedure, and Federal Courts.



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Mary Wood, Faculty Director
mwood@uoregon.edu

Heather Brinton, Managing Director
hbrinton@uoregon.edu

Kelly Fahl, Development and
Communications Coordinator
kfahl@uoregon.edu

Isla Dane, Administrative Assistant
isla@uoregon.edu

www.enr.uoregon.edu
enr@uoregon.edu
541-346-1395



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