

# Boston College Environmental Affairs Law Review

---

Volume 41

Issue 3 *Electronic Supplement*

Article 1

---

3-13-2014

## Front Matter

Boston College Environmental Affairs Law Review

Follow this and additional works at: <http://lawdigitalcommons.bc.edu/ealr>

---

### Recommended Citation

Boston College Environmental Affairs Law Review, *Front Matter*, 41 B.C. Env'tl. Aff. L. Rev. E. Supp. (2014),  
<http://lawdigitalcommons.bc.edu/ealr/vol41/iss3/1>

This Front Matter is brought to you for free and open access by the Law Journals at Digital Commons @ Boston College Law School. It has been accepted for inclusion in Boston College Environmental Affairs Law Review by an authorized editor of Digital Commons @ Boston College Law School. For more information, please contact [nick.szydowski@bc.edu](mailto:nick.szydowski@bc.edu).

**Boston College  
Environmental Affairs  
Law Review**

Volume 41,  
Electronic Supplement,  
2014

A Journal of Law, Science, and Policy

Published by

**BOSTON COLLEGE LAW SCHOOL**

Newton Centre, Massachusetts 02459

Cite this review as B.C. Env'tl. Aff. L. Rev.

The *Boston College Environmental Affairs Law Review* (ISSN 0190-7034) is a journal of law, science, and policy published by Boston College Law School. Email address: [earl@bc.edu](mailto:earl@bc.edu).

Subscription Price: \$35.00 per year

Single Issue: \$10.00

Address all correspondence to Boston College Environmental Affairs Law Review, 885 Centre Street, Newton Centre, Massachusetts 02459.

**Claims for missing issues will be honored for one year from the date of publication only.** Issues from the current and previous years' volumes are available upon request. Back issues of volumes 1–39 of *Boston College Environmental Affairs Law Review* may be obtained from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209–1987, (716) 882–2600. (Back issues in electronic format are available at HeinOnLine <http://heinonline.org/>). Please direct requests for issues from volume 40 onward to Sheridan Press, 450 Fame Avenue, Hanover, PA 17331, (717) 632–3535.

Address changes should be sent at least 45 days before the date of the issue with which it is to take effect. The post office will not forward copies unless subscribers provide extra postage. Direct subscription queries, claims, and address changes to:

Boston College Environmental Affairs Law Review  
P.O. Box 465  
Hanover, PA 17331  
(717) 632–3535 (ask for Subscriber Services)  
Fax: (717) 633–8920  
Email: [pubsvc.tsp@sheridan.com](mailto:pubsvc.tsp@sheridan.com)

© Copyright 2014 by Boston College Law School

# Boston College Environmental Affairs Law Review

---

2013–2014

---

## BOARD OF ADVISORS

Frederick R. Anderson  
Edward A. Fitzgerald  
Anne Kelly

Gregor I. McGregor  
Zygmunt Plater

Arnold W. Reitze, Jr.  
John Richard  
Mary K. Ryan

## BOARD OF EDITORS

William Griffin  
*Executive Articles Editor*

Amal Bala  
*Editor in Chief*

Charles Riordan  
*Executive Articles Editor*

Michael DeIulis  
*Managing Editor*

Sean Hickey  
*Managing Editor*

Kaoru Suzuki  
*Managing Editor*

Brian Reilly  
*Executive Comment Editor*

Jessica Alfano  
*Executive Note Editor*

### *Senior Articles Editors*

Nadia Aksentijevich  
Sarah McLaughlin

### *Senior Note Editors*

Kevin Gerarde  
Austin Kim  
Justin Masterman

Krisztina Nadasdy  
Jeffrey Pike

## REVIEW STAFF

Natalia Cabrera  
Cadesby Cooper  
Kellie Fisher  
Benjamin Hanna  
David Iannella

Cory Lewis  
Colleen Maker  
Rebecca M. Mitchell  
Israel Piedra  
Katherine B. Puccio

Benjamin Reilly  
Alejandra Salinas  
Kevin Sarro  
Michael Tierney  
Christopher Warren

Nick Szydowski  
*Webmaster*

John Gordon  
*Director of Law Review Publications*

Joan Shear  
*Library Liaison*

# BOSTON COLLEGE LAW SCHOOL

## ADMINISTRATION

WILLIAM P. LEAHY, S.J., B.A., M.A., M.Div., S.T.L., Ph.D., *President*  
PATRICK J. KEATING, B.A., M.P.P., D.Ed., *Executive Vice President*  
JOSEPH F. QUINN, B.A., Ph.D., *Interim Provost, Dean of Faculties*  
VINCENT D. ROUGEAU, A.B., J.D., *Dean*  
MARIS ABBENE, B.A., J.D., *Associate Dean for Academic, Career & Student Services*  
FILIPPA MARULLO ANZALONE, A.B., M.S.L.S., J.D., *Associate Dean for Library & Computing Services,*  
*Professor of Law*  
JESSICA CASHDAN, B.A., M.A., *Executive Director of Advancement & Associate Dean*  
JOSEPH P. LIU, B.A., J.D., LL.M., *Associate Dean for Faculty, Professor of Law*  
JOHN P. STACHNIEWICZ, A.B., M.A., *Associate Dean for Finance & Administration*  
TRACEY WEST, B.A., J.D., *Associate Dean for External Relations, Diversity & Inclusion*  
HEATHER HAYES, B.A., J.D., *Assistant Dean for Career Services*  
RITA C. SIMPSON, B.A., *Assistant Dean for Admissions & Financial Aid*  
FREDERICK M. ENMAN, S.J., B.A., J.D., *Special Assistant to the Dean for Students*  
ELIZABETH A. ROSSELOT, B.S., M.S., *Registrar*  
JOHN A. GORDON, B.S., J.D., *Director of Law Review Publications*  
JOAN MANNA, B.A., M.A., *Operations Manager*

## FULL-TIME FACULTY

RICHARD ALBERT, B.A., B.C.L., J.D., LL.M.,  
*Assistant Professor of Law*  
ALEXIS ANDERSON, B.A., M.A., J.D., *Associate  
Clinical Professor of Law*  
FILIPPA MARULLO ANZALONE, A.B., M.S.L.S.,  
J.D., *Professor of Law*  
PAULO BARROZO, LL.B., M.Jur., Ph.D., LL.M.,  
S.J.D., *Assistant Professor of Law*  
SHARON BECKMAN, A.B., J.D., *Associate  
Clinical Professor of Law*  
MARY SARAH BILDEĀ, B.A., A.M., J.D., Ph.D.,  
*Professor of Law*  
ROBERT M. BLOOM, B.S., J.D., *Professor of Law*  
E. JOAN BLUM, A.B., J.D., *Associate Professor of  
Legal Reasoning, Research & Writing*  
MARK S. BRODIN, B.A., J.D., *Professor of Law*  
GEORGE D. BROWN, A.B., J.D., *Robert Drinan,  
S.J. Professor of Law*  
R. MICHAEL CASSIDY, B.A., J.D., *Professor of  
Law*  
MARY ANN CHIRBA, B.A., M.P.H., Sc.D., J.D.,  
*Professor of Legal Reasoning, Research &  
Writing*  
DANIEL R. COUILLETTE, A.B., B.A., M.A.,  
J.D., *J. Donald Monan, S.J. Professor of Law*  
SCOTT T. FITZGIBBON, B.A., J.D., B.C.L.,  
*Professor of Law*  
BRIAN GALLE, A.B., J.D., LL.M., *Associate  
Professor of Law*  
FRANK J. GARCIA, B.A., J.D., *Professor of Law*  
JANE K. GIONFRIDDO, B.A., J.D., *Professor &  
Director of Legal Reasoning, Research &  
Writing*  
KENT GREENFIELD, A.B., J.D., *Professor of Law*  
DEAN M. HASHIMOTO, A.B., M.S., M.P.H., M.D.,  
J.D., *Associate Professor of Law*  
FRANK R. HERRMANN, S.J., A.B., M.Div., J.D.,  
*Associate Professor of Law*  
INGRID M. HILLINGER, A.B., J.D., *Professor of  
Law*  
MARY HOLPER, B.A., J.D., *Associate Clinical  
Professor; Director, Immigration Clinic*  
KARI E. HONG, A.B., J.D., *Assistant Professor of  
Law*  
RENEE M. JONES, A.B., J.D., *Associate Professor  
of Law*  
GREGORY A. KALSCHEUR, S.J., B.A., J.D.,  
LL.M., M. Div., S.T.L., *Associate Professor of  
Law*  
DANIEL KANSTROOM, B.A., J.D., LL.M.,  
*Director, International Human Rights Program,  
Professor of Law*  
SANFORD N. KATZ, A.B., J.D., *Darald & Juliet  
Libby Professor of Law*  
ELISABETH KELLER, B.A., M.A., J.D., *Associate  
Professor of Legal Reasoning, Research &  
Writing*  
THOMAS C. KOHLER, B.A., J.D., LL.M., *Director,  
Law & Religion Programs, Professor of Law*  
JOSEPH P. LIU, B.A., J.D., LL.M., *Professor of Law*  
DANIEL LYONS, A.B., J.D., *Assistant Professor of  
Law*  
RAY D. MADOFF, A.B., J.D., LL.M., *Professor of  
Law*  
JUDITH A. McMORROW, B.A./B.S., J.D.,  
*Professor of Law*  
ALAN D. MINUSKIN, B.A., J.D., *Associate  
Clinical Professor of Law*  
DAVID OLSON, B.A., J.D., *Associate Professor of  
Law*  
MARY-ROSE PAPANDREA, B.A., J.D., *Professor  
of Law*  
VLAD PERJU, LL.B., LL.M., S.J.D., *Associate  
Professor of Law*  
ZYGMUNT J.B. PLATER, B.A., J.D., LL.M.,  
S.J.D., *Professor of Law*  
BRIAN J.M. QUINN, B.S.F.S., M.P.P., J.D., M.L.S.,  
*Associate Professor of Law*  
JAMES R. REPETTI, A.B., M.B.A., J.D., *William J.  
Kenealy, S.J. Professor of Law*  
DIANE RING, A.B., J.D., *Professor of Law*  
JAMES STEVEN ROGERS, A.B., J.D., *Professor of  
Law*  
EVANGELINE SARDA, B.A., J.D., *Associate  
Clinical Professor of Law*  
FRANCINE SHERMAN, B.A., J.D., *Clinical  
Associate Professor, Director, Juvenile Rights  
Advocacy Project*  
MARK SPIEGEL, A.B., J.D., *Professor of Law*  
JUDITH B. TRACY, B.A., J.D., *Associate Professor  
of Legal Reasoning, Research & Writing*  
PAUL R. TREMBLAY, B.A., J.D., *Faculty Director  
of Experiential Learning, Clinical Professor of  
Law*  
CATHARINE WELLS, B.A., M.A., Ph.D., J.D.,  
*Professor of Law*  
HERBERT P. WILKINS, A.B., LL.B., *Huber  
Distinguished Visiting Professor of Law*  
DAVID A. WIRTH, A.B., A.M., J.D., *Director,  
International Programs, Professor of Law*  
NORAH WYLIE, B.A., M.A., J.D., *Visiting  
Assistant Professor of Legal Reasoning,  
Research & Writing*  
ALFRED C. YEN, B.S., M.S., J.D., *Director,  
Emerging Enterprises & Business Law  
Programs, Professor of Law*  
KATHARINE G. YOUNG, B.A., LL.B., S.J.D.,  
LL.M., *Associate Professor of Law*

# Boston College Environmental Affairs Law Review

---

Volume 41

Electronic Supplement

---

## Comments

Plain Meaning or Pragmatics? Differing Interpretations of the Clean Water Act’s Jurisdictional Provisions <i>Natalia Cabrera</i> .....	1
Toxic Solid Waste Leaching from Telephone Poles? Navigating Ambiguous Definitions in RCRA <i>Cadesby Cooper</i> .....	14
The <i>PCS Nitrogen</i> Case: A Chilling Effect on Prospective Contaminated Land Purchases <i>Kellie Fisher</i> .....	29
The Ninth Circuit Constrains Non-Enforceable Public-Private Endangered Species Conservation Agreements <i>Benjamin Hanna</i> .....	42
Arizona’s “Zombie” Uranium Mines: Lax Regulations Threaten Los Angeles Tap Water <i>David Iannella</i> .....	54
A Dubious Exercise of Case Consolidation: <i>Center For Biological Diversity v. BP America Production Co.</i> <i>Rebecca M. Mitchell</i> .....	68
<i>American Trucking v. Port of Los Angeles</i> : Is the <i>Castle</i> Doctrine a Ticking Time Bomb, Potentially Eliminating Ports’ Control of Cargo Trucking? <i>Katherine B. Puccio</i> .....	80
Pro-Rata Apportionment in “Long-Tail” Contamination Cases: Will Presumed Efficiencies Undercut Environmental Cleanups? <i>Benjamin S. Reilly</i> .....	91
The <i>Decker</i> Forestry Pollution Case: Constitutional Risks When Courts Use <i>Auer</i> Deference to Bypass Regulatory Protections <i>Michael Tierney</i> .....	104

Trouble in the Melting Arctic: The EPA's Failure to Impose Air  
Pollution Control Measures

*Christopher Warren*.....118

Except as otherwise expressly provided, the author of each article in this volume has granted permission for copies of that article to be made and used by nonprofit educational institutions, so long as copies are distributed at or below cost and provided that the author and journal are identified and that proper notice of copyright is affixed to each copy.