

Panel One (Thursday, 4:00 - 5:15 p.m.)

1. Seeking Justice through Access to Information and Public Participation (Organizer: Maggie Keenan) (EMU Owyhee)

Access to information and public participation are keys to advancing sustainable use, management, and protection of the environment. Panelists from around the world will discuss their work seeking justice for communities and the environment.

Panelists: Harriet Bibangambah, Program/Research Officer, Greenwatch; Luisa Arauz, Staff Attorney, El Centro de Incidencia Ambiental (Environmental Advocacy Center of Panama, CIAM).

2. Climate Standing After Massachusetts (Organizer: Shiloh Hernandez) (EMU Metolius)

In *Massachusetts v. EPA*, the United States Supreme Court held that plaintiffs had standing to bring a challenge against the EPA for failing to regulate GHG emissions. Unfortunately, the Court's reasoning was unclear on critical issues about who has standing to raise claims related to the causes and impacts of climate change. As a result, circuit and district courts around the nation have issued conflicting opinions on who has standing to raise climate-change-related claims and what must be shown to establish standing. This panel will discuss existing case law and offer advice and pointers to attorneys working in this area.

Panelists: Shiloh Hernandez, Staff Attorney, Western Environmental Law Center; Nathaniel Shoaff, Staff Attorney, Sierra Club; Ted Zukoski, Attorney, Earthjustice.

• Panel Two (Friday, 8:45 - 10:00 a.m.)

3. NPDES Enforcement: Upholding the Promise of the CWA (Organizer: Jen Pelz) (EMU Coquille)

Our country's commitment under the CWA was to eliminate the discharge of pollutants into navigable waters by 1985. In an effort to make good on that promise, citizen enforcement actions remain the path to achieving this goal. Panelists will discuss our strategy for protecting clean and safe waterways in the west by bringing citizen suits to enforce NPDES permit violations and restore healthy waters.

Panelists: Scott Jerger, Partner, LLP; Jen Pelz, Wild Rivers Program Director, WildEarth Guardians; Brent Foster, Staff Attorney, Clean Water Enforcement Project.

Panel Three (Friday, 10:15 - 11:30 a.m.)

4. Securing Attorney Fees under Citizen Suit Provisions and EAJA (Organizer: Mac Lacy) (Ben Linder)

This panel will outline and discuss current statutory and case requirements, and successful strategies and tips for attorneys to obtain attorney fee awards under the Equal Access to Justice Act and under the citizen suit provisions of certain federal laws.

Panelists: Mac Lacy, Senior Attorney, Oregon Natural Desert Association; Pete Frost, Attorney, Western Environmental Law Center.

Panel Four (Friday, 2:00 - 3:15 p.m.)

5. Remand without Vacatur - A new remedy (Organizer: Scott Jerger)(LAW 243)

This panel will focus on the new remedy of remand without vacatur, which is a reaction to the heightened standards for permanent injunctions after the Supreme Court's opinion in *Monsanto v. Geertson Seed Farms*.

Panelists: Scott Jerger, Attorney, Field Jerger LLP; Tom Buchele, Earthrise Law Center; Mike Harris, Director of Environmental Law Clinic, Sturm College of Law, University of Denver.

6. Energy Law & Policy in the Rockies: Year in Review III (Organizer: Mike Chirpolos) (EMU Walnut)

Colorado and the Rockies are increasingly looked to as models for how to “responsibly” regulate oil and gas development, and balance fracking with the concerns of residents, wildlife, and the environment. The panel will summarize and critique three major fracking rulemakings in Colorado and four local fracking bans, including the strongest new protections, the greatest missed opportunities, pending legal threats, and future strategies to empower citizens to protect people and the planet.

Panelists: Mike Chirpolos; Bruce Finley, Esq., Denver Post Energy & Environment Reporter; Peter Hart, Wilderness Workshop.

• **Ethics Workshop (Saturday, 8:15-10:15 a.m.)**

Saturday Morning Ethics Workshop (Organizer: Daniel Gregor) (LAW 175)

Join us for two hours of the most fun you'll have this year doing legal ethics continuing education. We'll have the return of fan favorite "Lawyers Behaving Badly," as well as updates on legal ethics and technology/social media, and more. As in past years, the workshop will be 100% legal ethics and professional responsibility.

Panelists: Daniel Gregor, Law Office of Daniel Gregor. Josh King, Vice President of Business Development & General Counsel of Avvo; Michael V. Nixon, Lawyer, strategist and consultant. Saul Goodman (invited), principal and managing attorney of the Law Offices of Saul Goodman & Associates, Albuquerque, NM & Hollywood, CA

Social Media, Legal Ethics & Professional Responsibility

Description

Lawyers today have a professional responsibility to be savvy with social media and have practical skills in communicating with clients & others, publishing on the internet, and to avoid malpractice pitfalls and ethical breaches in both the virtual and actual universes. Topics to be covered -- all with a focus on professional responsibility and legal ethics -- include: Lawyers Behaving Badly (a recap of major ethical blunders by lawyers in the past year and how to avoid them, including the relevant Rule(s) of Professional Conduct, and if from another state, the corollary ORPC); Blogging for Lawyers: Legal & Ethical Considerations; Someone Online Hates You: Ethical Responses to Negative Online Feedback; Working the Web: Delivering Legal Services Online; Social Media & Attorney Advertising Rules: Ethical Issues; and some recent and ongoing cases in this burgeoning area of the law.

• **Panel Six (Saturday, 9:00 - 10:15 a.m.)**

7. Setting the Stage for More BLM Wilderness as We Celebrate the 50th Anniversary of the Wilderness Act (Organizer: Judy Calman) (LAW 281)

This panel will discuss the impacts and implementation of the Bureau of Land Management's manuals 6310 and 6320, focusing on the requirement to inventory land for wilderness characteristics, and the challenges in working with the BLM on this issue. The panelists have been working on the ground over the past year to encourage BLM to update its inventory of wilderness characteristics and to protect its lands during its land use planning process. They will provide an overview of the manuals' implementation, as well as successes and challenges they've encountered along the way.

Panelists: Phil Hanceford, Associate Attorney, The Wilderness Society; Nada Culver, Senior Counsel and Director of the BLM Action Center, The Wilderness Society; Judy Calman, Staff Attorney, New Mexico Wilderness Alliance.

8. Chilling Enforcement: The Effort to Make Citizens Shoulder the Costs of Environmental Litigation, Win or Lose (Organizer: Sean Helle) (EMU Oak)

The ability of citizens to enforce our environmental laws is under assault in Congress and the courts. On Capitol Hill, members are pushing legislation that would undermine citizen enforcement, or prohibit it altogether. In the courts, conservative jurists are making it more difficult for citizens to bring cases and obtain meaningful relief. This panel will focus on recent efforts to chill citizen enforcement by denying fee recovery to successful plaintiffs and forcing unsuccessful plaintiffs to pay their adversaries legal costs.

Panelists: Jay Austin, Environmental Law Institute, Senior Attorney; Patti Goldman, Earthjustice, Vice President for Litigation; Sean Helle, Earthjustice, Legislative Counsel; Tom Waldo, Earthjustice, Staff Attorney; Brettny Hardy, Earthjustice, Senior Associate Attorney

Panel Seven (Saturday, 10:30 - 11:45 a.m.)

9. Subduing Smog: Leveraging Clean Air Act Ozone Standards for Healthy Skies and Clean Energy (Organizer: Jeremy Nichols) (EMU Ben Linder Room)

The Clean Air Act sets mandatory limits on ground-level ozone, the key ingredient of smog, to protect public health and welfare. Unfortunately, communities throughout the nation and increasingly in the western United States, are grappling with unhealthy levels of ozone. In many parts of the Interior West, smog levels rival those of L.A. The reason? Rampant fossil fuel development and consumption, including unchecked fracking, coal burning, and urban sprawl. This panel will lay out the problem and identify key opportunities to leverage the Clean Air Act to both rein in smog and transition from fossil fuels.

Panelists: Jeremy Nichols, Climate and Energy Program Director, WildEarth Guardians; Samantha Ruscavage-Barz, Staff Attorney, WildEarth Guardians.

10. Defending Critical Habitat Designations (Organizer: Collette Adkins Giese) (Many Nations Longhouse)

The panelists will discuss strategies to defend designations of critical habitat against legal challenges brought by private landowners and others. They will identify typical claims and examine how courts have resolved them. Cases challenging critical habitat designations for the dusky gopher frog, green sturgeon, and Santa Ana sucker will be highlighted.

Panelists: Collette Adkins Giese, Amphibian and Reptile Staff Attorney, Center for Biological Diversity; Emily Jeffers, Staff Attorney, Center for Biological Diversity; Adam Lazar, Staff Attorney, Center for Biological Diversity.

11. PURPA Haze: Can an Old Law Drive New (Solar) Technology? (Organizer: Dave Bender) (LAW 243)

Section 210 of the Public Utilities Regulatory Policy Act (PURPA) was intended to encourage non-traditional electric generation from alternative energy sources. Waste coal and combined heat and power generation were the early beneficiaries. Wind has recently seen some benefits. Changes by Congress and FERC have limited PURPA's benefits to large generation, but the law has more to give. This panel will provide an overview of the law, ideas for using it to encourage distributed wind and solar generation, and the overlaps between PURPA and the recent fights over net metering and value of solar (VOS) ratemaking.

Panelists: Sarah Jackson, Associate, Synapse Energy Economics; David Bender, Partner, McGillivray Westerberg & Bender LLC.

12. California Environmental Quality Act Update (Organizer: Jonathan Evans) (EMU Rogue)

The California Environmental Quality Act (CEQA) is one of California's most important laws to assure environmental protection and government accountability. This panel will discuss important recent developments under CEQA that are important for public interest practitioners including recent case law and statutory changes, the proper environmental baseline for analysis, CEQA's application to climate change, and other updates.

Panelists: Jonathan Evans, Staff Attorney, Center for Biological Diversity; John Buse, Legal Director, Center for Biological Diversity; Linda Krop, Chief Counsel, Environmental Defense Center.

13. The Prisoner's Dilemma - Criminal Enforcement of Environmental Law (Student Organizer: Will Carlon) (LAW 184)

The focus will be on the tension between cooperation and individual self-interest to promote a moral system that works to reign those whose profits depend on externalizing environmental costs. This talk by two seasoned criminal prosecutors, appointed by California elected officials, is based on over fifty years of combined trial experience. While historically the destruction of nature through pollution and uncontrolled mortality was unacceptable and punished, we now live in an era where corporations are the dominant instrumentality of environmental destruction. The criminal law remains the most effective tool of social control over unacceptable corporate and personal behavior.

Panelists: Hal Thomas, Special Deputy District Attorney, Butte County District Attorney's Office; John M. Fentis, Former Deputy City Prosecutor (ret.) and Founder of the Environmental Crimes Unit, City Prosecutor's Office, City of Long Beach.

14. Carbon Limits at US Power Plants: Prospects and Problems (Organizer: Dan Galpern) (LAW 241)

Pursuant to Section 111 of the Clean Air Act and recent court decisions, EPA is required to establish carbon pollution limits for new power plants and also to set guidelines for state-based programs to limit carbon emissions from existing power plants. This panel will explore how this can be done, before it is too late.

Panelists: David Bookbinder, Partner, Element VI Consulting; Joanne Spalding, Senior Managing Attorney, Sierra Club; Dan Galpern, Attorney, Law Offices of Charles M. Tebbutt, P.C., U.O. Law '05.

• Panel Eight (Saturday, 2:15 - 3:30 p.m.)

15. Clean Air Act: Year In Review (Organizer: Adriano Martinez) (LAW 184)

Even with more than forty years under its belt, the Clean Air Act continues to give us thrilling judicial decisions. This panel will review the highlights (and lowlights) of the major opinions handed down under the federal Clean Air Act in 2013. We will also take a brief look ahead at important cases that are pending.

Panelists: Paul Cort, Staff Attorney, Earthjustice; David Bender, Partner, McGillivray, Westerberg & Bender; Adriano Martinez, Staff Attorney, Earthjustice.

16. Merging Climate Science with the Law and Communications (Student Organizer: Nate Bellinger) (LAW 175)

Panelists will discuss how climate science and the prescription for climate recovery can be fully integrated into climate litigation, legislation, and communication. Panelists include top climate scientist James Hansen, author of Nature's Trust, Mary Wood, and litigators who work on legal climate campaigns. Panelists will explain why the international target of limiting warming to 2 degrees C is disastrous for humanity and how the scientific information about safe levels of CO₂ and warming can inform our legal work and advocacy.

Panelists: Dr. James Hansen, Former Director of NASA's Goddard Institute for Space Studies, Columbia University Earth Institute; Julia Olson, Executive Director, Our Children's Trust; Dan Galpern, Attorney, Law offices of Charles M. Tebbutt, P.C., U.O. Law '05; Mary Wood, Professor, University of Oregon School of Law; Dr. Pushker Kharecha, NASA Goddard Institute for Space Studies.

17. Constitutional Challenges to State Climate Change Laws (Organizer: Tim Duane) (LAW 241)

States have taken the lead on climate change policy and law, adopting legislation and regulatory standards to promote renewable power production, low carbon fuels, and consideration of the climate impacts of many fossil fuel technologies and exports. Some of these state policies are now being challenged in federal court on the grounds that they unconstitutionally violate the dormant Commerce Clause. This panel summarizes those cases, outlines the relevant doctrine, and identifies how states can adopt or modify existing laws and regulations to increase the likelihood of successfully defending against such a legal challenge.

Panelists: Tim Duane, Professor, University of California, Santa Cruz; Daniel Lee, Attorney, Stoel Rives; David Zonana, Deputy Attorney General, California Department of Justice.

• **Panel Nine (Saturday, 3:45 - 5:00 p.m.)**

18. Citizen Use of Public Records Laws (Organizer: Dave Bahr) (EMU Oak)

A guide for citizens, attorneys, and organizations on how to use the Freedom of Information Act (FOIA) and state public records laws. This panel will address framing a records request, obtaining fee waivers, how agencies seek to circumvent disclosure (and ways to counter these efforts), how to appeal and litigate FOIA claims, and how to use these laws to change agency behavior. Sample FOIA requests and materials will be presented.

Panelists: Dave Bahr, Bahr Law Offices; Dan Snyder, Attorney.

19. Why Wait For a Listing?: Ideas on How To Protect Species Before An ESA Listing (Organizer: Todd C. Tucci) (LAW 243)

Panelists will discuss creative options on how to use litigation to protect species (and habitat) that are not yet protected under the Endangered Species Act. Panelists will highlight efforts to protect imperiled species using FLPMA, NFMA, NEPA, the Clean Water Act, and other litigation tools. Each panelist will discuss a specific case and litigation strategy designed to increase protections for non-listed wildlife, the factual and legal challenges inherent in seeking to protect non-listed wildlife, and lessons learned. The panelists will discuss their respective efforts to protect Rocky Mountain Bighorn Sheep, Elk, Greater sage-grouse, and other imperiled, but not listed, wildlife species.

Panelists: Todd C. Tucci, Advocates for the West, Washington, DC; Lauren Rule, Advocates for the West, Portland, OR; Rebecca K. Smith, Public Interest Defense Center, Missoula MT.

20. How to Prove Standing: Emerging Issues (Organizer: Ashley Wilmes) (LAW 241)

Standing to sue is a critical component to the success of every environmental law case. Recently, proving each prong of standing has become a bigger challenge in cases implicating procedural rights and climate change based injuries. This panel will discuss recent standing decisions affecting the practice of every PIEL attorney and offer advice on how to avoid certain procedural pitfalls to ensure that your client demonstrates standing.

Panelists: Ashley Wilmes, Staff Attorney, WildEarth Guardians; Matt Kenna, Attorney, Public Interest Environmental Law and of Counsel, Western Environmental Law Center; Scott Nelson, Public Citizen Litigation Group.

21. Opening the Barn Doors of Information - Tearing Down Industrial Ag's Walls of Secrecy (Organizer: Elisabeth Holmes) (EMU Fir)

Federal and state agencies and the animal ag industry are attempting to construct and legalize walls of secrecy around critical and traditionally public information concerning environmental and animal welfare practices. These efforts inexcusably threaten our First Amendment rights, usurp the public's right-to-know, compromise public health, and offend our ethical values. Panelists will discuss litigation challenging "Ag Gag" laws, failures to meet FOIA disclosure obligations, and restrictions on government's gathering and public disclosure of information. CLE credit may be available.

Panelists: Will Potter, Independent Journalist, and Author, "Green Is The New Red"; Daniel C. Snyder, Attorney, Law Offices of Charles M. Tebbutt, P.C.; Elisabeth Holmes, Attorney, Blue River Law, P.C.

22. Nutrient Pollution & the CWA (Organizer: Guy Alsentzer) (EMU Alsea/Coquille)

Nutrient pollution closes beaches, clogs up ponds and lakes, destroys habitat, taints drinking water, and causes injury or death to aquatic species in untold numbers. At its worst, nutrient pollution creates toxic algae blooms that literally kill our waterways, estuaries and oceans, creating massive dead zones devoid of any living thing. EPA has been slow to establish controls on nutrient pollution that maintain the water quality dictated by the federal Clean Water Act. Without sufficient standards or enforcement, polluters have little motivation to fix the problem. This panel will discuss the nuts and bolts of nutrient pollution and

the Clean Water Act from cradle to grave including examination of key watershed case-studies and related litigation giving rise to nutrient-based TMDLs, as well as discussion of what some have called the idyllic dream of market-based pollution trading solutions.

Panelists: Nina Bell, Executive Director, Northwest Environmental Advocates; Albert Ettinger, Attorney at Law; Guy Alsentzer, Of Counsel, Lower Susquehanna Riverkeeper.

• **Panel Ten (Sunday, 9:00 - 10:15 a.m.)**

23. The Impacts of Citizens United on the Climate Movement (Organizer: Tyson Slocum) (LAW 241)

The effects of the Supreme Court's decision in *Citizens United v. Federal Election Commission* continue to reverberate throughout our political system. The rise of Super PACs in the 2012 election is one of the most striking manifestations of those effects, but it is far from the only one. This program will discuss the implications of *Citizens United* and related court decisions and FEC actions for the funding of political activities by corporations, nonprofits, and political committees, as well as the impact of these changes on environmental advocacy, where the playing field has now tilted dramatically in favor of corporate interests.

Panelists: Tyson Slocum, Director, Public Citizen's Energy Program; Scott Nelson, Public Citizen's Litigation Group.

24. How Section 4d of the ESA is Being Used to Gut Protections for Endangered Species (Organizer: Tanya Sanerib) (Many Nations Longhouse)

Section 4d of the Endangered Species Act is increasingly being used to whittle down protections for species listed as threatened under the Act. This panel will provide background on section 4d of the ESA, its historic use, some current proposals for species such as the wolverine, lesser-prairie chicken, and straight-horned markhor, and cover other mechanisms that are available for conservation of threatened species. The panel will explore how FWS is using section 4d to allow sport hunting of threatened species, and discuss 4d rules and climate change.

Panelists: Tanya Sanerib, Senior Attorney, Center for Biological Diversity; Kristen Monsell, Attorney, Humane Society of the United States; Brendan Cummings, Senior Counsel, Strategic Litigation Group Director, Center for Biological Diversity.