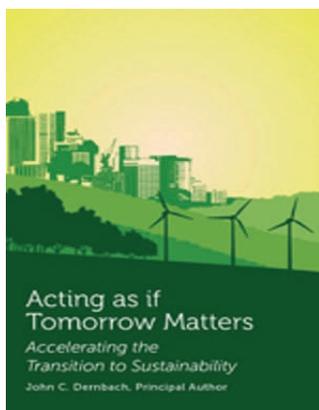




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## Professor Dernbach Publishes Book on Sustainability



Professor John Dernbach's most recent book, *Acting as if Tomorrow Matters: Accelerating the Transition to Sustainability*, was published in June 2012. This book, prepared with 51 other contributing authors in a wide variety of disciplines and written in a single voice, provides a set of practical approaches to sustainability that can be used in any context. He also edited two prior assessments—*Agenda for a Sustainable America* (2009) and *Stumbling Toward Sustainability* (2002). These two books each have more than 40 contributing authors from universities and law schools, nongovernmental organizations, the private sector, and state government.

## Reviews

"Using the knowledge and experience of leading sustainability practitioners, this book demystifies the quest for sustainability by providing a checklist of practical and tested ideas that can be used in any place or sector to create an attractive and sustainable future." - **Timothy E. Wirth**, President, United Nations Foundation and Better World Fund & Former U.S. Senator (CO)

John Dernbach's *Acting as if Tomorrow Matters* is a compelling supplement to his existing body of work on sustainable development. The book articulates the collaborative spirit needed to move the needle on sustainable development, while challenging each of us to play an active role in shaping that sustainable future. Not just a book to read, but one to be taken to heart." - **Neil Hawkins**, Vice President, Sustainability and Environment Health & Safety, The Dow Chemical Company

"From Rio '92 to Rio '12: America's pledge to achieve sustainability has been honored too often in the breach. The reasons for both failures and successes are many and complex, as are the tasks ahead. *Acting as if Tomorrow Matters* offers redemption and a vision of success." - **Paul R. Ehrlich**, Bing Professor of Population Studies, Stanford University and author of *The Dominant Animal*.

"*Acting as if Tomorrow Matters* offers a sweeping review of America's sustainability journey, tracking progress -- and slippage -- across a wide range of critical issues over the past 20 years. Even more powerfully, it charts a course toward a truly sustainable future, highlighting the advances in law, governance, incentives, education, and political mobilization that will be required." - **Daniel C. Esty**, Hillhouse Professor of Environmental Law and Policy, Yale University; Commissioner, Connecticut Department of Energy and Environmental Protection; and co-author of *Green to Gold*.

"A masterful account of sustainability in America since the 1992 Earth Summit and the imperative of where the country should go....filled with hope, imagination and inspiration....essential reading if we are to act as if tomorrow matters." - **Thomas Lovejoy**, University Professor of Environmental Science and Public Policy, George Mason University.

## Widener ELC Hosts Workshop on Constitutional Environmental Rights



*Professors Daly, May, Kristl, Hodas, Strauss and Kelly pictured with conference participants*

Environmental values and rights are featured in constitutions around the globe, addressing such issues as preservation, re-development, sustainability, pollution abatement, human rights, climate change, energy reform, water resources, or environmental rights. Constitutional provisions from nearly one-half of the nations around the globe now embed individual rights to some form of healthy, adequate or quality environment, recognize basic human rights to clean water, air, and land, and environmental opportunity, or provide a right not just to, but of, nature. And more than one-third of states in the United States explicitly purport to provide a basic civil right to a quality environment or recognize environmental concerns as a policy consideration.

On May 31, 2012, Widener Law's Environmental Law Center, which brings together expert faculty from both of Widener Law's campuses, hosted a special Constitutional Environmental Rights Workshop that provided a forum for Environmental and Constitutional Law scholars to engage in a lively and engaging conversation about their work at the intersection of these important areas of the law.

Professor Erin Daly, the H. Albert Young Fellow in Constitutional Law, and Professor James May, who are working on a book on environmental rights and constitutional protections, put the event together to

gather noted scholars in the areas of Constitutional Law, Comparative Constitutional Law, and Environmental Law in order to share their works in progress with colleagues and receive valuable feedback on their scholarship.

Noting that by its nature Constitutional Environmental Rights is an interdisciplinary area, Professor Daly observed, "Some people are coming from an Environmental Law background and some people are looking at it from a Constitutional or Comparative Constitutional Law perspective. Its an area that allows for people to share these different perspectives."

Both veteran scholars and individuals just beginning their careers participated in the workshop, which included individuals from as far away as Latin America as well as California, Montana and other parts of the United States via Skype. In addition to Widener Professors **Dernbach, Daly, Kelly, Kristl, Hodas, May, Smith, and Strauss**, workshop participants included Professors (in order of appearance) **Mark Tushet** (Harvard), **Robert Percival** (Maryland), **Oliver Houck** (Tulane), **Dan Bonilla** (Fordham), **Jessica Owley** (Buffalo), **Ángel Oquendo**, **Tracy Hester** (Houston) and **William Weeks** (Indiana). It also featured scholars **Itzach Kornfeld**, and **Josh Gellers**, (Ph.D. Candidate, University of California).

Professors Daly and May co-chaired and organized the workshop.



*Professor May addresses colloquium participants*

## Cautious Optimism As Distinguished Professor Returns From UN Conference On Sustainable Development



From Left to Right: Victor Flatt, Thomas F. and Elizabeth Taft Distinguished Professor in Environmental Law, University of North Carolina School of Law; Merideth Wright, Judge, Vermont Superior Court, Environmental Division; Distinguished Professor John C. Dernbach; John Cruden, President, Environmental Law Institute; and Lynsey Gaudioso, Research Association, Environmental Law Institute.

“Sustainability involves our duty to others, including future generations,” says Distinguished Professor and [Environmental Law Center](#) Co-Director [John C. Dernbach](#), adding, “The growth in that understanding is one of the reasons I come away from Rio more hopeful than I might otherwise.”

Dernbach spent eleven days in Rio de Janeiro, Brazil beginning June 12th for events related to the United Nations Conference on Sustainable Development, Rio+20. The conference brought together world leaders and thousands of participants from governments, the private sector, non-governmental organizations, and other groups to discuss and examine sustainability and mark the 20th anniversary of the 1992 United Nations Conference on Environment and Development in Rio de Janeiro and the 10th anniversary of the 2002 World Summit on Sustainable Development in Johannesburg.

Professor Dernbach attended a number of side events related to the conference that focused on how to accelerate the transition to sustainability that were

consistent with the findings in his recently published book, *Acting as if Tomorrow Matters: Accelerating the Transition to Sustainability*. In addition to positive feedback on the book, he was pleased to observe that every side event he went to focused on the question of how to accelerate that transition, saying, “My book title captures the question that everyone was asking.”

Noting that his book argues for “an American movement for sustainability” and “that we cannot rely on government to do it,” Professor Dernbach adds that he got the sense from many of the attendees from business or non-governmental organizations that they agreed that such a development was necessary “not only in the United States, but around the world.”

“In the United States, we’ve made a little progress in a lot of areas. We are building more certified green buildings. Colleges and universities are doing a better job teaching sustainability,” he says, also noting that many corporations have made strides in reducing their negative impacts by reducing water use and cutting pollution.

However, he also stresses that the problems sustainability is intended to address are large, and he says, “The response that we have provided in the United States to this point is not consistent with the challenge or the opportunity.”

Succinctly phrasing his overarching impression of where the struggle for sustainability stands, he observed, “We have made more progress toward a goal that is increasingly distant.”

“More and more people are coming to understand that sustainability is not just a policy question or a good idea or something that we need to do for the environment. It is also an ethical, moral, and religious question,” Dernbach concludes.

Professor Dernbach shared some of his thoughts about the conference on the [Environmental Law Center’s blog](#), including a general [post about the history behind the Rio+20 conference](#) and a post about the [role that lawyers can play in the quest for sustainability](#). More information about his new book, *Acting as if Tomorrow Matters: Accelerating the Transition to Sustainability*, can be found at the [website for publisher Island Press](#).

## Professor May Participates in Environmental Law Institute Seminar on Impact of Supreme Court's Healthcare Decision



“Sebelius reshapes jurisprudence concerning the Commerce, Necessary and Proper, and Tax and Spending Clauses of the U.S. Constitution in fresh and uncertain ways. It has the potential to reverberate in other spheres involving federal public health and welfare, including environmental laws. In this regard, it is the most important environmental law decision from the Court’s 2011-12 session,” said Professor James R. May during remarks that came as part of the Environmental Law Institute’s “What Does the Health Care Ruling Mean for Environmental Law?” forum held on Tuesday, July 31, 2012.

Professor May explored potential ways in which the Court’s decision could impact environmental law during his presentation. He observed that the Court’s conclusion that the Commerce Clause cannot be used as justification to compel people to purchase health insurance may suggest a similar limit on the ability of Congress to compel compliance in certain pollution control or abatement markets. He also stated that the argument concluding that the individual mandate is constitutional under the Tax Clause seems to hold little weight in federal environmental law currently, and that “Congress seldom makes noncompliance with federal environmental laws subject to penalties collectable by the IRS under the Tax Code.”

He also touched on the Court stating that Congress cannot compel states to adopt the Partnership for Prescription Assistance under threat of losing all

Medicaid funding. He observed that this suggests further limits on the extent to which Congress could withhold funding from states that do not implement federal environmental laws, such as state implementation plans under the federal Clean Air Act.

“In sum, Sebelius could have important reverberations affecting environmental laws. The nation’s environmental and health care laws share some of the same features. Both require individuals to participate in certain markets. With health care, the individual mandate requires the purchase of insurance under threat of penalty. Many federal environmental laws require individuals to participate in certain markets, and purchase pollution control equipment, emission credits, or wetlands mitigation, for example,” Professor May concluded.

### Clinic Corner

The Clinic website offers the Clinic’s public docket list of all matters in which the Clinic has appeared at <http://blogs.law.widener.edu/envirolawcenter/environmental-law-clinic/clinic-current-public-docket/>. Check out the Clinic’s pages on the ELC website ([www.widenerELC.org](http://www.widenerELC.org)) to find our Citizen Guides, copies of documents filed by the Clinic, and other useful information. Our Newsletter lists Clinic actions — including a list of activities like hearings, briefs, filings, arguments and public comments. The Environmental Help Line (1-888-953-6853) continues to assist PA citizens and organizations address environmental problems.

**The Widener University Environmental Law Center** harnesses the expertise of the seven environmental law faculty Widener has on two campuses to benefit both its students and the public. The Center launched in October 2009 under the motto “Law for Sustainability.” The center creates learning and service opportunities for students and helps public and private decision makers solve legal problems relating to environment, energy and climate change.

For more information, please contact:

In Harrisburg: Professor John Dernbach, 717.541.1933, [jdernbach@widener.edu](mailto:jdernbach@widener.edu)

In Wilmington: Professor Jim May, 302.477.2060, [jrmay@widener.edu](mailto:jrmay@widener.edu)

#### Credits:

**Editor: Jim May**

**Layout: Debbie Dantine**

**Content: Mary Allen, Nathan Garrison, Jim May, John Dernbach, Ken Kristl**