

Edith Brown Weiss is Inaugural WELC Environmental Law Distinguished Speaker

On September 23rd, **Edith Brown Weiss**, the Francis Cabell Brown Professor of International Law at Georgetown University Law Center, spoke to faculty and staff in the Barrister's Club on the Delaware campus. Her presentation – the first in a new Environmental Law Distinguished Speaker Series sponsored by the Environmental Law Center – was also shown via teleconference in Harrisburg.



Before giving a brief historical perspective on major developments in international environmental law, Professor Brown Weiss noted, "Environment is something that concerns all of us. We all are constituents of environmental law." Throughout her remarks, she stressed the importance of "transparency and accountability." She suggested that further developments must come from the "emergence of common values" as people around the world realize that environmental law issues impact everyone on the planet.

Upon the conclusion of her remarks, Professor Brown Weiss took questions from the audience. She answered a question about whether or not we had met a moral responsibility to future generations by saying, "No. We haven't implemented solutions, and we haven't given younger generations a voice." She also took questions on the connection between international environmental law and poverty, how to combat the fact that human self-interest can impede real reform, the role of personal values in setting policy, international collaboration

and overpopulation, the potential contributions of domestic constitutional law.

A graduate of Stanford University, Edith Brown Weiss earned her J.D. from Harvard Law School, a Ph.D. from the University of California at Berkeley and an Honorary LL.D. from the Chicago-Kent College of Law. From 1990 to 1992, Professor Brown Weiss served as Associate General Counsel for International Activities at the U.S. Environmental Protection Agency. Before joining the faculty at Georgetown, she was a Professor of Civil Engineering and Politics at Princeton University. In 2003, she received the ABA Award for Distinguished Achievement in Environmental Law and Policy.

Environmental Law Distinguished Speaker Series Features Professor Robert Percival

On November 9th, **Robert Percival**, the Robert F. Stanton Professor of Law and Director of the Environmental Law Program at the University of Maryland School of Law, spoke on the Harrisburg campus as part of the Environmental Law Distinguished Speaker Series sponsored by Widener Law's Environmental Law Center. The talk was also viewed via videoconference by faculty, staff, and students on the Delaware campus.

Following an introduction from Distinguished Professor John C. Dernbach, the Director of the Environmental Law Center, Robert Percival delivered his talk, "Liability for Environmental Harm and Emerging Global Environmental Law," complete with an engaging Keynote multimedia presentation.



[Speaker Percival continued]

“You all are blessed with some of the finest Environmental Law Professors – not only John Dernbach here, but also David Hodas and Jim May in Wilmington,” remarked Professor Percival after thanking Professor Dernbach for the welcome.

Percival’s presentation focused on how issues of liability for environmental damage were impacting the legal climate. “A new type of law is emerging that is breaking down the barriers between domestic and international law,” he said before breaking down some of the historical developments in the field of Environmental Law. While past legal disputes over matters of pollution and environmental damage had focused on conflicts between two state actors, he described how globalization has changed the climate such that multinational corporations are the cause of far more environmental damage rather than nation states.

Professor Percival cited, “the growth in transnational litigation against multinational corporations based in the United States” brought in courts in other countries as a significant shift. He also discussed the BP Oil Spill and the effect that it has had on thoughts about liability standards in the United States.

Following his remarks, Professor Percival took questions from the audience on a range of topics including the impact of BP’s announcement of large profits in the wake of the spill, the jurisdiction of courts in other countries, and suits brought by private citizens. Asked whether he would recommend that other countries should follow American Environmental Law practices, he responded, “I would tell them not to make the same mistakes that we have.”

A graduate of Macalester College, Robert Percival earned an M.A. and his J.D. from Stanford University. He served as a law clerk for Judge Shirley M. Hufstедler of the U.S. Court of Appeals for the Ninth Circuit and for U.S. Supreme Court Justice Byron R. White. After serving as the senior attorney for the Environmental Defense Fund, Percival joined the University of Maryland faculty in 1987. He teaches in the areas of Environmental Law, Comparative Environmental Law, Constitutional Law, and Administrative Law. An internationally recognized scholar in environmental law, he is the principal author of *Environmental Regulation: Law, Science & Policy* – a widely used casebook in environmental law now in its sixth edition.

ENVIRONMENTAL LAW CLINIC SETTLES SUIT OVER FARMING AT BOMBAY HOOK

The U.S. Fish & Wildlife Service will cease planting genetically engineered crops on all its refuges within a dozen Northeastern states in accordance with a settlement reached in a suit brought by Widener Law’s Environmental & Natural Resources Law Clinic on behalf of the Delaware Audubon Society, Public Employees for Environmental Responsibility (PEER), and the Center for Food Safety.

“This settlement follows directly from the March 2009 precedent-setting victory the Clinic won prohibiting farming with genetically modified crops at the Prime Hook National Wildlife Refuge. It means that farming in Delaware’s National Wildlife Refuges will not occur unless and until the environmental consequences of such practices are fully explored,” said Professor Ken Kristl, Director of Widener Law’s Environmental & Natural Resources Clinic.

“This settlement is the culmination of Clinic student work that began four years ago. It is gratifying to know that Widener students helped shape federal law through their hard work and innovative thinking,” added Kristl.

Filed in the U.S. District Court for Delaware, the Bombay Hook Suit charged that the Fish & Wildlife Service violated the National Environmental Policy Act when it made illegal Cooperative Farming Agreements that permitted hundreds of acres on the Bombay Hook National Wildlife Refuge in Delaware to be plowed over without environmental review. The U.S. Fish & Wildlife Service promised to revoke any authorization for further agriculture involving genetically engineered crops at Bombay Hook as well as the Rappahannock River Valley Refuge, the Eastern Shore of Virginia Refuge, the Montezuma Refuge in New York, and Blackwater Refuge in Maryland until a proper analysis of the environmental impact is conducted.

“One of the great things about this settlement is that it extends the prohibition against farming to four other East Coast National Wildlife Refuges beyond the state of Delaware. So from the kernel of the Prime Hook decision, you can see a growing impact of this decision as our clients push the precedent across the country,” concluded Kristl.

ENVIRONMENTAL & NATURAL RESOURCES LAW CLINIC CASE-WORK AND CITIZEN GUIDES

A program that ranks among the most respected within the legal education community is our Environmental & Natural Resources Law Clinic. Since its founding on the Delaware Campus over 20 years ago and instituted on the Harrisburg Campus in 2009, the Clinic's faculty and students have explored the impact of environmental law on a range of issues. By playing key roles in the formation of local, regional, and national policy and providing approximately 2000 hours of pro bono legal assistance annually, the Clinic helps direct the evolution of environmental law on complex cases where there is often little precedent.

Cases Filed in 2010

- *Delaware Audubon et al v. Salazar*, 10-162 (U.S. Dist. Ct. Delaware) – challenge under NEPA, APA, and National Wildlife Refuge Improvement Act to farming with genetically modified crops on Bombay Hook National Wildlife Refuge in Sussex County, DE. [settlement on pg. 3]
- *Delaware Audubon et al v. Salazar*, 10-cv-985 (U.S. Dist. Ct. Delaware) – challenge under NEPA, APA, and National Wildlife Refuge Improvement Act to proposed dune replenishment project at Prime Hook National Wildlife Refuge
- *Center for Biological Diversity et al. v. DEP*, 2010-114-C (PA Environmental Hearing Bd) – appeal of small non-coal mining permit for limestone mine in Blair County, PA based on adverse impacts to local bat populations.
- *Gadinski et al v. DEP*, 2009-174 (PA Environmental Hearing Bd) – appeal of modification of coal mining permit allowing the placement of coal ash in old mining pit
- *Sierra Club, et al. v. Delaware Dept of Natural Resources and Environmental Control*, 2010-01, 2010-02, 2010-03 (DE Coastal Zone Industrial Control Bd), now on appeal to DE Superior Court – appeal of Coastal Zone Act Permit for construction of wastewater treatment plant
- *Choptank River Estuary and Bay Conservancy v. Delaware Dept of Natural Resources and Environmental Control* (DE Environmental Appeals Bd) – appeal of DE regulations for CAFOs

Citizen Guides Released in 2010

- PA Citizens Guide to SLAPP Suits
- PA Citizens Guide to Stormwater Liability
- PA Citizens Guide to Art. I, § 27 of the PA Constitution
- PA Citizens Guide to Project 70
- PA Citizens Guide to Pennsylvania Sunshine Act
- Citizens Guide to Marcellus Shale Legal Issues

Student Service & Community Outreach

- Environmental Law Center/Environmental Law Society Visit to Senator Carper's Chief of Staff and Environmental Liaison, October 20, 2010.
- John Heinz National Wildlife Refuge, Environmental Law Center/Environmental Law Society/Natural Resources Law, October 29, 2010
- Environmental Law Center/Environmental Law Society visit to American Law Institute/American Bar Association Clean Water Course of Study, November 5, 2010, Washington, DC
- Environmental Clinic Interns help protect the planet by conducting Adopt-A-Highway cleanups four times a year since 2007 on their assigned Smith Bridge Road, from the Delaware state line to Route 202.



Clinic Director Ken Kristl & Clinic law students

GREEN COMMITTEE ACHIEVEMENTS

- Widener Law became the sixth law school in the country to become a partner in the *ABA-EPA Law Office Climate Challenge*, a partnership between the American Bar Association and the U.S. Environmental Protection Agency.
- In September 2010, the National Jurist named Widener as one of the greenest law schools in the country, giving it a Magna Cum Laude ranking. The ranking was due in part to the law school's participation in the ABA-EPA Climate Challenge, which was spearheaded by the Green Committee. Widener was one of the first law schools to participate in the Climate Challenge, which requires Widener to adopt best practices for office paper management through recycling and adopting a policy of double-sided printing and copying.
- In December 2010, another Green Committee initiative began on the Delaware campus with the deployment of occupancy-sensored lighting in bathrooms, breakrooms, storage areas, etc. Classrooms and faculty offices are scheduled to receive sensors throughout 2011. Energy savings of up to 50% or more are expected in some of these areas.

Widener University School of Law Environmental Law Center will harness the expertise of the seven environmental law faculty Widener has on two campuses to benefit both its students and the public. The faculty has a national and international reputation for teaching and scholarship on the critical environmental policy questions of the 21st century, generating more than 150 law review and scholarly articles, hundreds of presentations before national and international symposia and conferences, 25 book chapters, and eight books. These publications and presentations have broken new ground in sustainable development, environmental citizen suits, climate change, energy, international law, toxic torts, and constitutional environmental law. The Center's credo is "law for sustainability."

The Center's goals include:

- Studying, making proposals for and evaluating the implementation of environmental, energy and climate-change programs in Pennsylvania and Delaware at the state and municipal levels.
- Developing, advocating for and evaluating innovative laws and legal proposals relating to the environment, energy and climate change. This will be done by putting on conferences open to the public and through faculty research and writing.
- Helping public and private decision makers solve legal problems relating to environment, energy and climate change.
- Collaborating with other higher-education institutions on environmental, energy and climate-change matters.

The Center is also intended to help Widener students engage in environmental law through coursework, externships and opportunities to work in the school's Environmental and Natural Resources Law Clinic. The new center will work to ensure students are offered the appropriate courses and that they graduate prepared for careers in environmental law, energy and climate change – specialized opportunities that are expected to grow exponentially in the next decade.

The seven Widener environmental law faculty are Professors John Dernbach (Director), Jean Eggen, David Hodas, Patrick Kelly, Ken Kristl, Jim May (Associate Director), and Andrew Strauss.

For more information, please contact:

In Harrisburg: Professor John Dernbach, 717.541.1933,
jcdernbach@widener.edu

In Wilmington: Professor Jim May, 302.477.2060,
jrmay@widener.edu

Environmental Law Certificate

The Environmental Law Center offers a certificate program in environmental law on both the Delaware and Harrisburg campuses.

Students may pursue one of two tracks to satisfy requirements for the Certificate:

The Classroom Track

6 credit hours from the following Core Courses:

- Climate Change Law
- Environmental Law
- International Environmental Law
- Natural Resources Law

and 6 credit hours of additional Core Course

The Clinic Track.

Environmental and Natural Resources Law Clinic for 8 credit hours (or 8 hours of environmental externships approved by Environmental Law Center Director or Associate Director or a combination of the two that totals in at least 8 credit hours); and

At least 4 credit hours of courses on the Core or Elective Course listed above for the classroom track.

All Certificate students must submit a scholarly research paper on a subject, approved by the Environmental Law Center Director or Associate Director, related to environmental law and policy.

A Juris Doctor candidate must earn a cumulative grade point average of at least 2.8 in the courses required by the concentration in order to earn a Certificate in Environmental Law.

Credits:

Editor: Jim May

Content: Mary Allen, Nathan Garrison, Jim May

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