



**Greetings from your friends at the Widener Environmental Law Center!** We formed the Center three years ago to harness the expertise of the seven full-time environmental law faculty on Widener’s Harrisburg and Delaware campuses under the motto “Law for Sustainability.” While the Center is a young operation, Widener Law has one of the hardest and longest-standing environmental law programs on the planet. We offer a dozen environmental courses, certificates and an LL.M in Environmental Law (concentration), a joint Masters degree in Marine Policy, and one of the original environmental clinical programs in the country. We also host conferences, debates, field trips, a Distinguished Speaker Series, and much more. Our hundreds of environmental law alumni populate courtrooms, boardrooms and legislative halls throughout the country, providing legal services to public, private and non-governmental sectors. In recognition of its world-class environmental program, Widener was recently awarded the “Magna Cum Laude” distinction from *National Jurist* magazine as one of the ‘greenest’ law schools in the country.

Our faculty has a national and international reputation for teaching, scholarship and service on the critical environmental policy questions of the 21st century, including: participation in the recent United Nations Conference on Sustainable Development; Rio+20; involvement in a variety of environmental cases in Delaware and Pennsylvania courts as well as the U.S. Supreme Court; and authorship of a broad range of influential scholarship. Recent books include those by the center’s co-directors, **John Dernbach** (ACTING AS IF TOMORROW MATTERS: ACCELERATING THE TRANSITION TO SUSTAINABILITY), and **Jim May** (CONTEMPORARY PRINCIPLES IN CONSTITUTIONAL ENVIRONMENTAL LAW), and those by **Jean Macchiaroli Eggen** (TOXIC TORTS IN A NUTSHELL (4<sup>th</sup> ed.)), **David Hodas** (CLIMATE CHANGE: MITIGATION AND ADAPTATION), **Patrick Kelly** and **Erin Daly** (chapters in ROUTLEDGE HANDBOOK OF INTERNATIONAL ENVIRONMENTAL LAW, and **Andy Strauss** (chapter in ADJUDICATING CLIMATE CHANGE). And the reputation of the Widener Environmental and Natural Resources Law Clinic continues to grow under the directorship of **Ken Kristl**. The pages that follow recount activities for AY 2011-12. Thanks for reading, and for your support. Enjoy.

## Environmental Law Center 2011-12 Annual Report: Accomplishments and Activities

**Snapshot:** During AY 2011-12, the WELC and its faculty:

- Published 2 books, 7 chapters, and 27 articles, and 1 book review, dozens of blog entries, and filed 1 law professor amicus brief before the U.S. Supreme Court.
- Increased its environmental titles to 14 books, 55 chapters, 366 articles and essays, and 9 amicus briefs.
- Added 7,770 new downloads of environmental titles, including 3,500 for SSRN and 4,200 for BePress
- Increased its overall SSRN and BePress downloads on environmental titles by 50 percent, to 35,911, including 19,072 for SSRN and 16,839 for BePress
- Made 28 professional presentations near and far, including in Rio and Budapest
- Served in 10 professional organizations
- Granted 5 Certificates in Environmental Law
- Hosted 3 distinguished speakers, as part of our “Distinguished Environmental Law Speaker Series”
- Supervised 34 law students in the Widener Environmental and Natural Resources Law Clinic, who provided nearly 3,811 hours of pro bono legal services to more than 33 different clients.
- Sponsored 4 field trips, including to the Heinz National Wildlife Center, the U.S. Supreme Court, and various professional conferences
- Assisted students to attend numerous American Law Institute-American Bar Association and Pennsylvania Bar Institute conferences for little or no tuition.

## Program Accomplishments

- A. Environmental Certificate**  
5 students earned a certificate in environmental law  
1 student matriculated from the joint MMP program with UD.
- B. Dual Campus Distinguished Environmental Law Speaker Series**  
Hosted talks by Professors Lisa Heinzerling, Amy Sinden and Patricia Salkin.
- C. Curriculum**  
Offered 5 environmental courses on all three campuses, drawing more than 60 students.
- D. Student Service/Community Outreach**  
Hosted student field trip to U.S. Supreme Court to witness oral argument in *AEP v. Connecticut*, March 2012, and meet litigants.  
Hosted student field trip to John Heinz National Wildlife Refuge, Spring 2012.  
Sponsored student participation in and attendance at American Law Institute/American Bar Association Clean Water Course of Study, Fall 2011, Washington, DC.
- E. Advisory Board.** Hosted third annual meeting of the Widener Environmental Law Center Advisory Board in June 2012. The focus of the meeting was how the law school can help Board members better assist the Center, and a number of follow-up activities were planned.
- F. Green Team.** The WELC continued to work with the Widener "Green Team" to consider and implement means to improve energy efficiency across the campuses.
- G. The Environmental & Natural Resources Law Clinic**  
**Director Ken Kristl** supervised 34 students on both campuses, including 9 in Pennsylvania and 25 in Delaware. Clinic interns provided 3,811 hours of representational services during the year.



*Kenneth T. Kristl*

## Faculty Accomplishments

### BOOKS

ACTING AS IF TOMORROW MATTERS, ACCELERATING THE TRANSITION TO SUSTAINABILITY, John C. Dernbach, ed., Environmental Law Institute Press (2012)

PRINCIPLES OF CONSTITUTIONAL ENVIRONMENTAL LAW (James R. May ed., American Bar Association & Environmental Law Institute Press 2011)



### CHAPTERS



*Erin Daly*

#### Erin Daly

- & J. May, *Global Constitutional Environmental Rights*, in ROUTLEDGE HANDBOOK OF INTERNATIONAL ENVIRONMENTAL LAW (Shawkat Alam, Jahid Hossain Bhuiyan, Tareq M.R. Chowdhury and Erika J. Techera, Eds., Oxford, 2012)
- & James R. May, *Constitutional Environmental Rights Worldwide*, in PRINCIPLES OF CONSTITUTIONAL ENVIRONMENTAL LAW 329, (James R. May ed., American Bar Association & Environmental Law Institute Press 2011)

#### John C. Dernbach:

- & Marianne Tyrrell, *Federal Energy Efficiency and Conservation Laws*, in THE LAW OF CLEAN ENERGY: EFFICIENCY AND RENEWABLES (Michael Gerrard, ed., American Bar Association 2011)



Patrick Kelly

**Patrick Kelly**

- & J. May, *The Environment and International Society: Issues, Concepts, and Context*, in ROUTLEDGE HANDBOOK OF INTERNATIONAL ENVIRONMENTAL LAW (Shawkat Alam, Jahid Hossain Bhuiyan, Tareq M.R. Chowdhury and Erika J. Techera, Eds., Oxford, 2012)

**James R. May**

- & P. Kelly, *The Environment and International Society: Issues, Concepts, and Context*, in ROUTLEDGE HANDBOOK OF INTERNATIONAL ENVIRONMENTAL LAW Shawkat Alam, Jahid Hossain Bhuiyan, Tareq M.R. Chowdhury and Erika J. Techera, Eds., Oxford, 2012)
- & E. Daly, *Global Constitutional Environmental Rights*, in ROUTLEDGE HANDBOOK OF INTERNATIONAL ENVIRONMENTAL LAW (Shawkat Alam, Jahid Hossain Bhuiyan, Tareq M.R. Chowdhury and Erika J. Techera, Eds., Oxford, 2012)
- *Introduction: The Intersection of Constitutional and Environmental Law*, in PRINCIPLES OF CONSTITUTIONAL ENVIRONMENTAL LAW 1, (James R. May ed., American Bar Association & Environmental Law Institute Press 2011)
- *The Political Question Doctrine*, in PRINCIPLES OF CONSTITUTIONAL ENVIRONMENTAL LAW 217, (James R. May ed., American Bar Association & Environmental Law Institute Press 2011)
- & Erin Daly, *Constitutional Environmental Rights Worldwide*, in PRINCIPLES OF CONSTITUTIONAL ENVIRONMENTAL LAW 329, (James R. May ed., American Bar Association & Environmental Law Institute Press 2011)
- & William Romanowicz, *Environmental Rights in State Constitutions*, in PRINCIPLES OF CONSTITUTIONAL ENVIRONMENTAL LAW 305, (James R. May ed., American Bar Association & Environmental Law Institute Press 2011)

**ARTICLES & ESSAYS**

**John C. Dernbach**



- *Sustaining America*, 29 ENVTL. F. 30 (2012)
- *Next Generation Recycling and Waste Reduction: Building on the Success of Pennsylvania's 1988 Legislation*, 21 WIDENER L.J. 285 (2012)
- *The Essential and Growing Role of Legal Education in Achieving Sustainability*, 60 J. LEGAL EDUC. 489 (2011)
- & Joel A. Mintz, *Environmental Laws and Sustainability: An Introduction*, 3 SUSTAINABILITY 531 (March 2011)
- & Joel A. Mintz, Issue Editors, *Environmental Laws and Sustainability* issue, 3 SUSTAINABILITY 530-561 (March 2011)
- & the Widener University Law School Seminar on Climate Change, *Next Generation Recycling & Waste Reduction: Building on the Success of Pennsylvania's 1988 Legislation*, Widener University School of Law Environmental Center ,White Paper No. 1, April 2011
- et al., *Energy Efficiency and Conservation: New Legal Tools and Opportunities*, NAT. RESOURCES & ENV'T, Spring 2011, at 7
- & Marianne Tyrrell, *The "Cash for Clunkers" Program: A Sustainability Evaluation*, 42 U. TOL. L. REV. 467 (2011).
- *Can the Battle Against Climate Change Become an Effective Social Movement?*, 11 ETHICS SCI. & ENVTL. POL. 27 (2011)
- *Legal Education for Sustainability: A Report on U. S. Progress*, 5 J. EDUC. FOR SUSTAINABLE DEV. 225 (2011)
- *Creating the Law of Environmentally Sustainable Economic Development*, 28 PACE ENVTL. L. REV. 614 (2011)

**Jean  
M.  
Eggen**



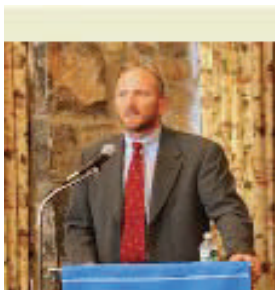
- *Nanotechnology and the Environment: What's Next?*, 26 NAT. RESOURCES & ENV'T 51 (Winter 2012)
- *Proposed Disease Cluster Legislation: What's Nanotechnology Got to Do With It?*, THE FORUM, Widener Law Health L. Inst., Wilmington, DE (Oct. 2011), at 13
- *Federal Preemption of Claims Based on Cell Phone Hazards: Farina v. Nokia and the Road to the U.S. Supreme Court*, 39 PROD. SAFETY & LIAB. REP. 871, BNA (Aug. 8, 2011); also pub. in 26 TOXICS L. REP. 949, BNA, (Aug. 11, 2011); and 80 U.S.L.W. 321, BNA (Sep. 13, 2011)

**David  
R.  
Hodas**



- Vantage Point & Issue Editor, Complex Systems Issue, 26 NAT. RESOURCES & ENV'T (Winter 2012)
- *International Law and Sustainable Energy: A Portrait of Failure*, in ENVIRONMENTAL LAW AND SUSTAINABILITY AFTER RIO (Jamie Benidickson, et al., eds., Edward Elgar Pub. 2011)
- Editor, IUCN Academy of Environmental Law E-Journal

**James  
R.  
May**



- *Civil Litigation as a Tool for Regulating Climate Change*, 46 Val. U. L. Rev. 357 (2012)
- *American Electric Power v. State of Connecticut, Brief of Law Professors as Amici Curiae in Support of Respondents* (2012), 46 Val. U. L. Rev. 459 (2012).
- & Erin Daly, *New Directions in Earth Rights, Environmental Rights and Human Rights: Six Facets of*

- *Constitutionally Embedded Environmental Rights Worldwide*, IUCN ACADEMY OF ENVIRONMENTAL LAW E-JOURNAL, vol. 1, 2011, posted Feb. 22, 2011
- *Recent Developments at the Juncture of the Political Question Doctrine and Climate Litigation Law*, 7 CONST. L. COMMITTEE NEWSL., ABA Sec. of Env't, Energy & Resources (Apr. 2, 2011), at 3
- *AEP v. Connecticut and the Future of the Political Question Doctrine*, 121 YALE L.J. ONLINE 127 (2011), <http://yalelawjournal.org/2011/09/13/may.html>.
- et al., Constitutional Law: 2010 Annual Report, in Environment, Energy, and Resources Law: The Year in Review 2010 (ABA Section of Env't., Energy & Resources 2011)
- Recent Developments in Climate Change Litigation: Oral Arguments in AEP v. Connecticut and Related Cases, 111 Daily Env't Rep. 1 (BNA) (2011)
- Environmental Citizen Suit Update, ALI-ABA Annual Environmental Law Course of Study, Washington, DC, (2011)

**Amicus Briefs**

James R. May, Counsel of Record, *Brief of Law Professors as Amici Curiae in Support of Respondents* for Writ of Certiorari to the United States Court of Appeals for the Second Circuit, American Electric Power Company, Inc., et al., v. State of Connecticut, et al., brief filed U.S. Supreme Court Mar. 16, 2011 (No. 10-174)

**Book Reviews**

David R. Hodas, Book Review, *Crucial Issues in Climate Change and the Kyoto Protocol: Asia and the World* (Koh Kheng-Lian, Lye Lin-Heng and Jolene Lin, eds., World Scientific, 2010) 13 Env. L. Rev. 1147 (2011)

**PRESENTATIONS & ACTIVITIES**

**Erin Daly** gave a presentation, "Constitutionally Recognized Rights to Water in Environmental Matters," at the International Union for the Conservation of Nature (IUCN) Academy of Environmental Law 10th Annual Colloquium: Global Environmental Law at a Crossroads, University of Maryland Francis King Carey School of Law, Baltimore, MD in June 2012, in Baltimore, MD. She also gave a talk entitled "Constitutional Protection for Environmental Rights: Participation and Consultation" as part of a panel on environmentalism and democracy at the International Studies Association Annual Convention in San Diego. Professors Daly and James R. May also organized a Workshop on Constitutional Environmental Law sponsored by the Widener Environmental Law Center. Erin also wrote an entry for the Widener Environmental Law Center blog on a case from Ecuador which was the first in the world to recognize and

vindicate the constitutional right to nature. See <http://blogs.law.widener.edu/envirolawblog/>. The book that she and Professor May are writing on constitutional environmental law has been accepted for publication by Cambridge University Press. Professor Daly is the 2012-2014 H. Albert Young Fellow in Constitutional Law.

**John C. Dernbach** attended the United Nations Conference on Sustainable Development in Rio de Janeiro, Brazil. He made presentations about his new book, *Acting as if Sustainability Matters: Accelerating the Transition to Sustainability*, at FGV Direito Rio (a teaching and research institute) and the Rio+20 World Meeting of Environmental Lawyers. Afterwards, he spoke about his book and his Rio experience at the IUCN Academy of Environmental Law Colloquium in Baltimore, for an ABA Section on Environment, Energy and Resources teleconference, and for a BNA webinar. Prior to the conference, he spoke about the book at events sponsored by Albany Law School and Yale.

In the spring of 2012, he gave a presentation on “How Much Energy Do We Need?” at the Thurgood Marshall School of Law, Texas Southern University, in Houston, Texas. He spoke on “The Environmental Justice Foundation of Sustainability” at the University of Missouri School of Law. He also gave a presentation entitled “Can We Increase Quality of Life by Decreasing Electricity Consumption?” at the University of Utah S.J. Quinney College of Law.

He also spoke on the “Role of Law in Achieving Sustainable Development” at the 2012 Association of American Law Schools Annual Meeting in Washington, D.C. John was also a panelist at the Sustainability Ethics Conference at Penn State University and moderated the panel “An Essential Pathway to Sustainability: Energy Efficiency,” co-sponsored by the Environmental Law Institute and ABA Section on Environment, Energy, and Resources. He also spoke about “Theory of Regulation and Standard Setting” at Environmental Law Forum 2011. In addition, he co-planned three teleconferences based on *Agenda for a Sustainable America*, cosponsored by ELI and ABA.

**Jean Eggen** continues to write a blog on nanotechnology and the law at <http://blogs.law.widener.edu/nanolaw/>. In this legal analysis blog, she comments on the implications of nanotechnology in the areas of public health and safety and biotechnology.

**David R. Hodas** lectured on *EPA Regulation of Greenhouse Gases* at the University of Texas Law School,

Austin in 2011 and 2012. His presentations included *Rethinking law in a complex system: energy, water and climate change*, at Water and the Law: Towards Sustainability, IUCN Academy of Environmental Law 9<sup>th</sup> Annual Colloquium, Mpekwani, Eastern Cape, South Africa July 7, 2011 and *Seeing into Law’s Blindspot: Ecosystem Energy Services*, at Research Workshop: *Towards the legal recognition and governance of ecosystem services*, IUCN Commission on Environmental Law, IUCN Environmental Law Center, and IUCN Academy of Environmental Law Research Committee, Mpekwani, Eastern Cape, South Africa July 3, 2011. In June David spoke on *Ecosystem Valuation and Risk Allocation*, at the International Workshop: *Ecosystem Services, Economic Valuation, and Environmental Equity: Complementary or Contradictory?* organized by the IUCN Environmental Law Centre, IUCN Academy of Environmental Law Research Committee, and IUCN Commission on Environmental Law, and then presented *A Global Law of Sustainable Energy*, at IUCN Academy of Environmental Law 10<sup>th</sup> Annual Colloquium: Global Environmental Law at a Crossroads, University of Maryland Francis King Carey School of Law, Baltimore, MD. He also chaired the session on *Energy Development Policy* at the Colloquium.

He participated as a paper commentator in the *Workshop on Constitutional Environmental Law* sponsored by the Widener Environmental Law Center and organized by Professors Daly and James R. May this spring.

David continued his work as a member of the IUCN ACADEMY OF ENVIRONMENTAL LAW E-JOURNAL, and as an editor of NATURAL RESOURCES AND ENVIRONMENT; Chair, Delaware Governor’s Energy Advisory Council, and as Chair of the Delaware governor’s Energy Advisory Council.

**Kenneth T. Kristl** argued the matter *Sierra Club et al v. DNREC*, No. 634, 2011 before the Delaware Supreme Court in May. It is the final chapter of the Coastal Zone case the clinic has been litigating since August 2010 over the Wandendale Wastewater Treatment Facility in Sussex County.

Ken presented on “Prosecuting and Defending 3<sup>rd</sup> Party Appeals and Citizen Suits” at the Pennsylvania Bar Institute’s *2012 Environmental Law Forum* in Harrisburg, PA on March 29, 2012. He also spoke “Legal Issues of Sea Level Rise” at the Sea Level Rise Forum sponsored by the Delaware Nature Society on September 28, 2011. Two days later, he moderated a panel on “Practice and Procedure Under the CZA” and then as a panelist on “Emerging Legal Issues” as part of *The*

*Delaware Coastal Zone Act at 40: Past, Present and Future* program sponsored by Widener University School of Law and the Delaware Humanities Forum on September 30, 2011. Ken also served as a panelist on "Interstate Fracking Regulation" at the ABA's Administrative Law & Regulatory Practice section meeting at Georgetown University on November 17, 2011.

**James R. May** spoke on the "Implications of the Health Care Decision on Environmental Law," for a national teleconference sponsored by the Environmental Law Institute in July, 2012. In June, 2012, Jim presented "Constitutionally Recognized Procedural Rights in Environmental Matters," at the IUCN Academy of Environmental Law 10th Annual Colloquium: Global Environmental Law at a Crossroads, University of Maryland Francis King Carey School of Law, Baltimore. He also presented "Developments in Federal Courts and NEPA," at the Pennsylvania Bar Institute's *2012 Environmental Law Forum* in Harrisburg, PA on March 29, 2012.

On May 31, 2012, he and Professor Daly co-chaired a workshop at Widener, called "Constitutional Environmental Rights Worldwide," where he presented on judicial developments.

On September 30, 2011, Jim chaired a symposium at Widener Law School, entitled *The Delaware Coastal Zone Act at 40: Past, Present and Future* program sponsored by Widener University School of Law and the Delaware Humanities Forum.

Other presentations include "The Future of Climate Litigation After AEP v. Connecticut" at the American Bar Association's Fall 2011 Meeting in Indianapolis and "Are Environmental Regulations Worth it?" on the Delaware Campus in November, 2011. Jim was counsel-of-record and co-authored the "Brief of Law Professors as Amici Curiae in Support of Respondents in American Electric Power v. Connecticut." Jim also presented "Environmental Citizen Suit Update" at the American Law Institute/American Bar Association Annual Environmental Law Court of Study in Washington, and "Environmental Rights and Constitutional Reformation in Hungary," at a

consultation of the Hungarian Parliamentary Ombudsman in Budapest. He delivered the H. Albert Young Lecture at the Hotel DuPont in Wilmington, in April 2011.

Jim's other recent talks include "The Constitution and the Environment," Center for Lifelong Learning, University of Delaware, Wilmington, DE; April 2011; "Environmental Law Developments in the U.S. Supreme Court," Pennsylvania Bar Institute, Harrisburg, PA, March, 2011; "Courting Disaster: Common Law and Climate Change," Valparaiso Law School.

## REPORTS

- John C. Dernbach et al., Committee on Incorporating Sustainability in the U.S. Environmental Protection Agency, National Research Council, Sustainability and the U.S. EPA (2011) (with 11 other members of Committee).
- John C. Dernbach et al., Environmental Laws and Sustainability (John C. Dernbach and Joel A. Mintz eds. 2011), in SUSTAINABILITY (special issue of on-line peer review journal), available at [http://www.mdpi.com/journal/sustainability/special\\_issues/env-laws](http://www.mdpi.com/journal/sustainability/special_issues/env-laws) (ten papers plus introduction)

**Widener University School of Law 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. For more information, please contact:  
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In Wilmington: Professor Jim May, 302.477.2060, [jrmay@widener.edu](mailto:jrmay@widener.edu)

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