Environmental Law and Policy Review
Spring Symposium 2019

The Changing Landscape of Regulations in the Mining Industry
Environmental Law and Policy Review

The William & Mary Environmental Law and Policy Review is a nationally acclaimed, student-run legal journal specializing in the publication of professional and student articles on a wide range of environmental law topics. The Review is devoted to the discussion of relevant and timely issues in environmental law and policy and provides professionals, practitioners, and William & Mary law students a forum for the exploration of such issues through research, critical analysis, and writing.

Mining Regulations Symposium

This year, the William & Mary Environmental Law and Policy Review welcomes scholars and practitioners from across the nation to discuss the changing landscape of regulations in the mining industry. For centuries, mining and its products have formed integral parts of most of our daily lives. From graphite in smart phones to coal-fired power plants to the salt on our tables, few can doubt our reliance on the mining industry. With time, however, our needs have changed and our technologies have developed. We have also come to understand the dangers of some of the mineral upon which we rely. As a result, governments – both domestic and international – have changed the way in which mining operations are regulated. Today, we welcome our guests to discuss these regulations through a wide range of current topics, from the health risks of mountain top removal mining to the economic and humanitarian impacts of mining operations in developing nations.
Schedule of Events

Breakfast & Check-In – 10:00 AM
Served in the Lobby.

Opening Remarks - 10:30 AM
Jordan Smith – Symposium Editor, Environmental Law and Policy Review

Environmental Federalism - 10:45 AM
Erin Ryan – Elizabeth C. & Clyde W. Atkinson Professor of Law, Florida State University College of Law

Developments in Mountain Top Removal Mining – 11:15 AM
Patrick McGinley – Charles H. Haden II Professor of Law, West Virginia University College of Law
Caitlyn Greene – LL.M. Candidate, University of Arkansas School of Law
Michael McCawley – Clinical Associate Professor, West Virginia University School of Public Health

Science-Based Methodologies in Developing Environmental Law – 12:15 PM
Jan Laitos – John A Carver Jr. Professor of Law, University of Denver Sturm College of Law
Michael Livermore – Professor of Law, University of Virginia School of Law
Liz Edmondson – Staff Attorney, Kentucky Resources Council

Lunch – 1:15 PM
Meet and greet our gracious speakers.
Served in the Lobby.

Human Dignity and Environmental Rights – 2:00 PM
James May – Distinguished Professor, Widener University Delaware Law School

International Frameworks for Mineral Development – 2:30 PM
Luke Danielson – President, Sustainable Development Strategies Group

Problems Arising with Chinese Mining Companies in Developing Nations – 3:15
Robert Percival – Robert F. Stanton Professor of Law, University of Maryland Carey School of Law
Zhang Jingjing – Lecturer of Law, University of Maryland Carey School of Law
Erin Ryan - Elizabeth C. & Clyde W. Atkinson Professor of Law, Florida State University College of Law

Closing Remarks and Reception – 4:15 PM
Reception in the Lobby.
The Panelists

Luke Danielson, Sustainable Development Strategies Group
President & Co-Founder

Luke is the President and Co-Founder of SDSG. He is an attorney, professor, researcher, and consultant on minerals policy, national development strategies, and environmental and social performance in the mining and oil and gas industries. He is known for his work both on international and national levels on minerals policies, and has worked with over a dozen governments, including Chile, Mongolia, Mozambique, the Peoples Republic of China, and Peru.

Luke was previously the Executive Director of the Mining Minerals and Sustainable Development Project at the International Institute for Environment and Development in London, an effort that involved a network of international staff and consultants across several continents, engagement with hundreds of stakeholders, and multiple forums, conferences, and reports. The findings of the MMSD Project established the first work plan and agenda for the International Council on Mining and Metals. Luke was the founding Director of the Mining Policy Research Initiative, a project of the International Development Research Centre that supported and conducted research on the social, economic, and environmental impacts of mining investment in the 23 countries of Latin America and the Caribbean. He was a member of the International Bar Association committee that developed the Model Mining Development Agreement, a tool for governments and investors to develop more stable and equitable mineral development agreements with improved development outcomes. Luke was a 2015 inductee into the International Mining Technology Hall of Fame for his contributions to Environmental Management and Stewardship.

Liz Edmondson, Kentucky Resources Council
Staff Attorney

Liz graduated from the University of Louisville Brandeis School of Law, cum laude, in 2007, where she served as the Senior Notes Editor of the Brandeis Law Journal. She received her B.A., cum laude, with a self-designed major in environmental law and policy from the University of Louisville in 2004.

Liz is KRC’s staff attorney and works in all aspects of the organization's litigation and policy advocacy programs to ensure the protection of Kentucky's natural resources and communities. She first joined KRC as a law clerk in 2007, then served a two-year fellowship as a staff attorney. Liz then served on the Council’s board of directors until 2017. She has served as the director of energy and environmental policy for a national nonprofit, owned her own law firm where she worked to protect and secure settlements for Kentucky landowners and communities adversely affected by extractive industries, and worked as a consultant and project manager on high-profile
federal governmental projects to reduce the environmental impacts of coal mining in Appalachia. Liz has also served as the Chair of the Kentucky Bar Association’s Environment, Energy and Natural Resources Law Section.

Caitlyn Greene, *University of Arkansas School of Law*
LL.M. Candidate

Caitlyn earned her J.D. from Duke University School of Law in 2018, where she served as the managing editor of the Duke Environmental Law & Policy Forum. She interned for the Southern Environmental Law Center and for the Honorable Richard W. Goldberg on the U.S. Court of International Trade. She is currently pursuing an LL.M at the University of Arkansas and has been engaged in scholarship with West Virginia University’s Professor Patrick McGinley focusing on the health and environmental impacts of mountain top removal mining.

Jan Laitos, *University of Denver Sturm College of Law*
Professor of Law, John A. Carver Jr. Chair

Professor Laitos received his J.D. from the University of Colorado and his S.J.D. from the University of Wisconsin. Prior to joining the faculty at the University of Denver, he was a law clerk for the Chief Justice of the Colorado Supreme Court, and an attorney with the Office of Legal Counsel within the United States Department of Justice.

Professor Laitos is the author of several books and treatises, published by Oxford University Press, Cambridge University Press, West Academic, Foundation Press, Aspen, Duke University Press, and Bradford Press. He has worked as a consultant on several cases decided by the 9th Circuit Court of Federal Appeals, the Montana Supreme Court, the Nevada Supreme Court, the Idaho Supreme court, and the Colorado Supreme Court, and on several cert. petitions before the United States Supreme Court. He is currently a regional board member of the Rocky Mountain Land Use Institute; and since 1981 a Trustee of the Rocky Mountain Mineral Law Foundation. He was Vice Chair of the Colorado Water Quality Control Commission. He was also the Director of the nationally ranked Environmental and Natural Resources Law Program at the University of Denver Law School from 1981 until 2004.
Michael A. Livermore, University of Virginia
Professor of Law

Professor Livermore earned his J.D., magna cum laude, from NYU Law, where he was a Furman Scholar, was elected to the Order of the Coif, and served as a managing editor of the Law Review. After law school, he spent a year as a fellow at NYU Law's Center on Environmental and Land Use Law before clerking for Judge Harry T. Edwards on the U.S. Court of Appeals for the D.C. Circuit. In 2013, Professor Livermore joined the faculty of the University of Virginia, where he teaches environmental law, administrative law, regulatory law and policy, and several advanced seminars. His research focuses on environmental law, regulation, bureaucratic oversight and the computational analysis of law. He frequently collaborates on interdisciplinary projects with researchers in other academic fields, including economics, computer science and neurology. His work has appeared in leading law journals, including the Yale Law Journal, University of Chicago Law Review, New York University Law Review, Georgetown Law Journal and Duke Law Journal. Livermore is a leading expert on the use of cost-benefit analysis to evaluate environmental regulation, and he is the co-author of Retaking Rationality: How Cost-Benefit Analysis Can Better Protect the Environment and Our Health (Oxford University Press, 2008) and co-editor of The Globalization of Cost-Benefit Analysis in Environmental Policy (Oxford University Press, 2013). He was the founding executive director of the Institute for Policy Integrity at New York University School of Law, a think tank dedicated to improving the quality of government decision-making.

James R. May, Widener University Delaware Law School
Distinguished Professor of Law; Co-Founder and Co-Director – Dignity Rights Project, Environmental Rights Institute

Professor May earned his LL.M. from Pace University, and his J.D. and B.S. in Mechanical Engineering from the University of Kansas. May is also a certified engineer who formerly worked in national defense (Q-clearance).

In addition to his professorship at Widener University Delaware Law School, he is also Adjunct Professor of Graduate Engineering and inaugural and immediate past Chief Sustainability Officer at Widener University, where he founded the Widener Sustainability Initiative. May has taught 20 courses, founded or co-founded three law centers, two non-profit environmental organizations and a joint degree program, directed an environmental law clinic, and visited at numerous law schools, including Georgetown, Hawai‘i, and Vermont. May has also served as affiliated faculty at various institutions across the world, including in Australia, Africa, Brazil and Pakistan. May is also a former national defense engineer, and federal litigator.

May is the author, co-author, editor or co-editor of a dozen books, including Constitutional Principles of Environmental Law; Encyclopedia of Human Rights and the Environment (forthcoming); and, Dignity Rights: Law, Policies and Principles (forthcoming), as well as three-dozen
book chapters, four-dozen law review articles, and five-dozen other works of published legal scholarship, on fields including environmental law, constitutionalism and rights, human dignity, and litigation. May has delivered more than 300 invited presentations at academic or professional forums since 2009, and chaired or co-chaired a dozen conferences, workshops, colloquia, or symposia. He has received numerous awards, including Pace University’s highest environmental law recognition award, and was inducted into the Phi Kappa Phi National Honor Society in 2017.

Michael McCawley, Ph.D., West Virginia University
Clinical Associate Professor, Department of Occupational and Environmental Health Sciences

Dr. McCawley graduated with a bachelor’s degree in Zoology from George Washington University. He received his master’s degree in Environmental Engineering from West Virginia University and a doctorate in Environmental Health from New York University.

Dr. McCawley spent over 27 years as a Public Health Service Officer with the Centers for Disease Control and Prevention (CDC) at the National Institute for Occupational Safety and Health, studying miners’ health, occupational respiratory disease, aerosol measurement and ultrafine particles. While there he worked on projects concerning exposure to wood dust, volcanic ash, diesels, coal mine dust, silica and beryllium. He retired from the US Public Health Service in 2001. He has taught at WVU since 1979, with primary interests in air pollution, aerosols and occupational health. He has developed air sampling equipment and a pulmonary function test. Recently, he has been working on issues related to Marcellus Shale drilling and mountain top mining.

Patrick McGinley, West Virginia University College of Law
Charles H. Haden II Professor of Law

Professor McGinley is a graduate of Dickinson College and the Duke University School of Law where he was a member of the Duke Law Journal Editorial Board. Professor McGinley served as a law clerk to a Justice of the Supreme Court of Pennsylvania and as a Special Assistant Attorney General, Commonwealth of Pennsylvania Environmental Strike Force. In the latter position he was engaged in environmental enforcement and mine safety litigation.

In 1975, Professor McGinley joined the WVU College of Law faculty where he has taught a wide array of courses. He was co-editor of the multi-volume treatise Coal Law & Regulation and of the Annual Proceedings of the Eastern Mineral Law Foundation. He was a founder and served as an officer and trustee of the Eastern Mineral Law Foundation (now the Energy and Mineral Law Foundation). He has published numerous law review articles relating to environmental law, natural resources, access to public information, and administrative law. Professor McGinley chaired and co-chaired numerous programs and courses of study dedicated to the legal issues in the coal industry and environmental justice. He has been recognized by the Environmental Policy Institute, the Directors of the 16th Annual Public Interest Environmental Law Conference, and the Public Justice
Foundation for his efforts in advancing public environmental interests. He is also a recipient of the 2016 Svitlana Kravchenko Environmental Rights Award.

Robert Percival, University of Maryland Carey School of Law
Robert F. Stanton Professor of Law; Director, Environmental Law Program

Professor Percival received his B.A. from Macalester College in 1972. He received his M.A. and J.D. from Stanford University in 1978. While in law school, he served as managing editor of the Stanford Law Review and was named the Nathan Abbot Scholar for graduating first in his class. He served as law clerk for Judge Shirley M. Hufstedler of the U.S. Court of Appeals for the Ninth Circuit and for U.S. Supreme Court Justice Byron R. White.

Professor Percival is internationally recognized as a leading scholar and teacher in environmental law. He has been the principal author of the most widely used casebook in environmental law in the United States, Environmental Regulation: Law, Science & Policy. He is the author of more than 100 publications on topics that include environmental law, federalism, presidential powers, regulatory policy, and legal history. He has served as a visiting professor at Harvard Law School and Georgetown University Legal Center, and as a J. William Fulbright Distinguished Lecturer at the China University of Political Science and Law in Beijing. In total, he has served as a guest lecturer, presenter, and workshop organizer in more than 30 countries on six continents, and he has received numerous awards for his teaching and scholarship.

Erin Ryan, Florida State University College of Law
Elizabeth C. & Clyde W. Atkinson Professor of Law

Professor Ryan earned her J.D., cum laude, from Harvard University in 2001. Prior to law school, she served as a U.S. Forest Service ranger on the Mono Lake District of the Inyo National Forest, east of Yosemite National Park. While a law student, she was an editor of the Harvard Law Review and a Hewlett Fellow at the Harvard Negotiation Research Project. She clerked for Judge James R. Browning, of the U.S. Court of Appeals for the Ninth Circuit, before practicing environmental, land use, and local government law in San Francisco.

Professor Ryan began her academic career at the College of William & Mary, and then joined the faculty at the Northwestern School of Law at Lewis & Clark College. Ryan served as a Fulbright Scholar in China, where she taught American law, studied Chinese governance, and lectured throughout the country. She has also lectured at universities in Japan, Vietnam and India. She joined the Florida State University College of Law faculty in 2015, and teaches in the areas of environmental and natural resources law, property and land use, water law, negotiation, and federalism. She has presented widely in the U.S., Europe, and Asia, including the Ninth Circuit Judicial Conference, the National Association of Attorneys General, the United States Forest Service, and the United Nations Institute for Training and Research. She has advised National
Sea Grant multilevel governance studies involving Chesapeake Bay and consulted with multiple institutions on developing sustainability programs. She is the author of many scholarly works, including *Federalism and the Tug of War Within* (Oxford University Press 2012), and her work has been featured widely throughout national and international news media.

**Zhang Jingjing, University of Maryland Carey School of Law**  
Lecturer of Law  

Professor Zhang earned her Master’s Degree of Public Administration from Harvard University Kennedy School of Government, and her law degrees from Wuhan University and China University of Political Science and Law. She was a visiting scholar at the Yale China Law Center in 2009 and at the Harvard Law School’s East Asia Legal Studies Program from 2013-14. In 2009, she delivered the Fedder Lecture at the University of Maryland Carey School of Law.

Professor Zhang is a prominent Chinese environmental lawyer. Called “China’s Erin Brockovich” by media, she won several milestone environmental litigation cases in the Chinese courts as the first litigation director with the Beijing-based Center for Legal Assistance to Pollution Victims. She also worked for the Natural Resource Defense Council’s China Program and PILnet: the Global Network for Public Interest Law, a New York-based organization to promote public interest litigation in China. She has also served as an Open Society Fellow, focusing on monitoring China’s global environmental footprint, and investigating Chinese companies’ environmental performance in Africa, Latin America, and Southeast Asia. Professor Zhang has received several awards for her work, including the Women of Courage Award given at the U.S. Embassy in Beijing in 2011. Her work has been featured in the *New York Times, Newsweek*, and in several documentaries.
WILLIAM & MARY
ENVIRONMENTAL LAW AND
POLICY REVIEW

VOLUME 43 WINTER 2019 ISSUE 2

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Special Acknowledgments

Special thanks to the following, without whom this event would not have been possible:

The William & Mary Publishing Council, for sponsoring the Symposium.
The William & Mary Law School and Staff, for providing a forum for the Symposium.

To All our Speakers and Attendees, for their time and efforts.

The Environmental Law and Policy Review Staff, for their tireless efforts to promote the advancement of knowledge in environmental law and policy.

Thank You
Notes