

**J. B. RUHL**

*David Daniels Allen Distinguished Chair of Law*  
Vanderbilt University Law School  
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**April 2017**

**LEGAL EMPLOYMENT HISTORY**

**Academic Positions**

**permanent appointments**

- 2011-present **Vanderbilt University Law School**, Nashville, Tennessee  
*David Daniels Allen Distinguished Chair in Law (2011- )*  
-Teaching courses on Property, Environment, Food, and the Legal Industry  
-Director, Program on Law & Innovation  
-Co-Director, Energy, Environmental, and Land Use Law Program  
-Affiliated Faculty, Law & Economics PhD Program  
-Entry Level Appointments Committee (2012-13, 2013-14 (Chair))  
-Lateral Faculty Appointments Committee (2011-2012, 2013-14 (Chair), 2016-17)  
-Vanderbilt Institute for Energy and Environment
- 1999-2011 **Florida State University College of Law**, Tallahassee, Florida  
*Professor (1999-2003); University Professor (2003-05); Matthews & Hawkins Professor of Property (2005-11)*  
-Associate Dean for Academic Affairs (2004-2005)  
-Chaired Appointments, Promotion and Tenure, and Curriculum Committees  
-Co-Director of the Environmental & Land Use Law Program
- 1994-1999 **Southern Illinois University School of Law**, Carbondale, Illinois  
*Assistant Professor (1994-1997); Associate Professor (1997-98); and Professor (1998-99)*

**visiting appointments**

- Spring 2008 **Harvard Law School**, Cambridge, Massachusetts (full semester)
- 1998 – 1999 **George Washington University Law School**, Washington, D.C.
- Summer 2016 **Vermont Law School**, South Royalton, Vermont
- Summer 2014 **Vermont Law School**, South Royalton, Vermont
- Summer 2001 **Vermont Law School**, South Royalton, Vermont
- Summer 1997 **University of Texas School of Law**, Austin, Texas
- Summer 1996 **Lewis & Clark College of Law**, Portland, Oregon

## Practice

- 1982-1994 **Fulbright & Jaworski (now Norton Rose Fulbright)**, Austin, Texas, and Washington, D.C. *Associate (1982-1990) and Equity Partner (1991-1994)*: Practice in environmental and natural resources with focus on regulation of land development, site remediation, permitting, and transaction due diligence
- Since 1994 Of Counsel to various law firms, currently Nossaman LLP
- Licenses Licensed to practice and active in D.C., Texas, and Tennessee; inactive in Virginia and Illinois

## EDUCATION

- Ph.D. 2006 **Southern Illinois University** (Geography)
- LL.M. 1986 **George Washington University** (Environmental Law)
- J.D. 1982 **University of Virginia**
- B.A. 1979 **University of Virginia** (Economics)

## SELECTED CONSULTANCY and SERVICE ACTIVITIES

- 2015-present **Co-Editor**, LAND USE & ENVIRONMENT LAW REVIEW (West Publishing annual peer-selected compendium of leading articles)
- 2015-present **Fellow**, American College of Environmental Lawyers
- 2014-present **Editorial Board Member**, NATURAL RESOURCES & ENVIRONMENT (ABA Environmental Law Section's quarterly journal)
- 1999-present **Elected Member**, The American Law Institute
- 1997-present **Vice Chair (1997-present) and Co-Chair (2014-2016)**, ABA Environment, Energy, and Resources Section Committee on Endangered Species
- 2014-2015 **Co-Consultant**, Administrative Conference of the United States, Project 2015-4: Designing Regulatory Permitting Programs (with E. Biber)
- 1997-2014 **Director and Member**, Society for Evolutionary Analysis in Law (Founding member; President 2009-11)
- 2008-2011 **Special Employee**, U.S. Environmental Protection Agency, Ecosystem Services Research Project
- 2010-2011 **Consultant**, National Commission on the BP Deepwater Horizon Spill and Offshore Drilling
- 2008 **Chair**, AALS Natural Resources Section (Executive Council 2005-07)
- 2005-2006 **Member**, U.S. Senate Endangered Species Working Group

- 2001-2003 **National Research Council Committee Member**, Committee on Endangered Species in the Klamath River Basin
- 1998-2001 **Publications Officer**, ABA Environmental Law Section
- 1995-1998 **Editor in Chief**, NATURAL RESOURCES & ENVIRONMENT, ABA Environmental Law Section's quarterly journal (Editorial Board member 1987-1994)
- ongoing Appointment, tenure, or promotion review report written for law school committees at: Akron, American, Arizona State, Berkeley, Cleveland, Cornell, Denver, Florida, Florida A&M, Florida International, Florida State, Georgia State, Houston, Indiana-Indianapolis, Minnesota, New Mexico, Notre Dame, Ohio State, Otago (N.Z.), Richmond, South Carolina, Stetson, SUNY-Buffalo, UC-Irvine, UCLA, Utah, Vermont, Villanova, Virginia, Wayne State, Widener, and William & Mary
- ongoing Numerous peer reviews for scientific journals, grant funding institutions, and legal book publishers

### **HONORS AND AWARDS**

- various Selected ten times through an annual peer review process for having published one of the leading law review articles in the field of environmental law, with republication in LAND USE AND ENVIRONMENT LAW REVIEW (1989, 1991, 2001, 2002, 2009, 2011, 2012, 2013, 2015, 2016)
- various Selected three times through an annual peer review process for having published one of the leading law review articles in the field of environmental law, with edited republication in ENVIRONMENTAL LAW & POLICY ANNUAL REVIEW (2007, 2009, 2015)
- 2016 Vanderbilt University Law School Commencement Speaker (selected by graduating class)
- 2016 Vanderbilt University Law School Hall-Hartman Outstanding Professor Award – Upper Level (selected by 2L and 3L classes)
- 2016 Sustainability Science Award, Ecological Society of America
- 2015 Boehl Distinguished Lecture on Land Use Policy, University of Louisville
- 2014 Lloyd K. Garrison Lecturer on Environmental Law, Pace University Law School
- 2012 Lone Mountain Fellow, Property and Environment Research Center
- 2011 Appointed to the David Daniels Allen Distinguished Chair of Law, Vanderbilt Law School
- 2009 Natural Resources Law Distinguished Visitor, Lewis & Clark School of Law
- 2008 Teale Distinguished Lecturer, University of Connecticut

- 2007 Falvo Outstanding Dissertation Award, Southern Illinois University (selection by committee)
- 2005 Law Review Distinguished Speaker, St. Thomas University School of Law
- 2003 Appointed to the FSU College of Law Matthews & Hawkins Professorship
- 2002 Appointed to an FSU University-wide Named Professorship
- 1998 A.L. O'Quinn Distinguished Lecturer, University of Houston Law Center
- 1998 Houston Law Review Professional Writing Award
- 1996 Southern Illinois University School of Law Excellence in Scholarship Award
- 1996 Houston Law Review Professional Writing Award
- 1995 Duke Law Journal Annual Lecturer in Law

## **PUBLICATIONS**

(many of the following publications are available for downloading at <http://ssrn.com/author=178128>)

### **Law Journal Articles**

#### **work in progress**

*Curing Koontzphobia*

#### **submitted for review**

none at present

#### **accepted for publication or in press**

*Regulating Business Innovation as Policy Disruption*, VANDERBILT LAW REVIEW (forthcoming) (with E. Biber, J. Salzman, and S. Light)

*The Production Function of the Regulatory State*, MINNESOTA LAW REVIEW (forthcoming) (with J. Nash & J. Salzman)

#### **published**

*Agencies Running from Agency Discretion*, 58 WILLIAM & MARY LAW REVIEW 97 (2016) (with K. Robisch)

*Measuring, Monitoring, and Managing Legal Complexity*, 101 IOWA LAW REVIEW 191 (2015) (with D. Katz)

*Regulatory Exit*, 68 VANDERBILT LAW REVIEW 1295 (2015) (with J. Salzman)

*In Defense of Ecosystem Services*, 32 PACE ENVIRONMENTAL LAW REVIEW 306 (2015) (based on invited lecture)

*Does Congress Exist?*, 30 JOURNAL OF LAND USE & ENVIRONMENTAL LAW 79 (2015) (symposium)

*Buzzwords or Breakthroughs: Evaluating the New Language of Natural Resources Conservation*, 11 RESOURCES MANAGEMENT THEORY & PRACTICE 81 (2015) (based on invited lecture)

*Environmental Law in Austerity*, 32 PACE ENVIRONMENTAL LAW REVIEW 481 (2015) (with J. Salzman & J. Nash)

*The Permit Power Revisited: The Theory and Practice of Regulatory Permits in the Administrative State*, 62 DUKE LAW JOURNAL 975 (2014) (with E. Biber), *selected for reprinting in* 2016 LAND USE AND ENVIRONMENT LAW REVIEW (annual compendium of peer-selected leading law review articles in land use and environmental law), *and selected for reprinting in* 2016 ENVIRONMENTAL LAW & POLICY ANNUAL REVIEW (annual compendium of peer-selected leading law review articles in environmental law)(reprinted at 41 ELR 10651 (2015))

*Designing Administrative Law for Adaptive Management*, 67 VANDERBILT LAW REVIEW 1 (2014) (with R. Craig), *selected for reprinting in* 2015 LAND USE AND ENVIRONMENT LAW REVIEW (annual compendium of peer-selected leading law review articles in land use and environmental law)

*Managing Systemic Risk in Legal Systems*, 89 INDIANA LAW JOURNAL 559 (2014)

*Climate Change Adaptation and the Law of the Horse*, 62 DUKE LAW JOURNAL 975 (2013) (with J. Salzman)

*Harmonizing Distributed Energy and the Endangered Species Act*, 4 SAN DIEGO JOURNAL OF CLIMATE AND ENERGY LAW 121 (2012-13) (symposium)

*The Political Economy of Climate Change Winners*, 97 MINNESOTA LAW REVIEW 206 (2012)

*Harmonizing Commercial Wind Power and the Endangered Species Act through Administrative Reform*, 65 VANDERBILT LAW REVIEW 1769 (2012) (symposium)

*The Endangered Species Act's Fall from Grace in the Supreme Court*, 36 HARVARD ENVIRONMENTAL LAW REVIEW 487 (2012)

*An Empirical Assessment of Climate Change in the Courts: A New Jurisprudence or Business as Usual?*, 64 FLORIDA LAW REVIEW 15 (2012) (with D. Markell), *selected for reprinting in* 2013 LAND USE AND ENVIRONMENT LAW REVIEW (annual compendium of peer-selected leading law review articles in land use and environmental law)

*General Design Principles for Resilience and Adaptive Capacity in Legal Systems: Applications to Climate Change Adaptation Law*, 89 NORTH CAROLINA LAW REVIEW 1373 (2011) (symposium)

*Gaming the Past: The Theory and Practice of Historic Baselines*, 64 VANDERBILT LAW REVIEW 1 (2011) (with J. Salzman), *selected for reprinting in* 2012 LAND USE AND ENVIRONMENT LAW REVIEW (annual compendium of peer-selected leading law review articles in land use and environmental law)

*Adaptive Management in the Courts*, 95 MINNESOTA LAW REVIEW 424 (2010) (with R. Fischman)

*Climate Change, Dead Zones, and Massive Problems in the Administrative State: Guidelines for Whittling Away*, 98 CALIFORNIA LAW REVIEW 59 (2010) (with J. Salzman), *selected for reprinting in* 2011 LAND USE AND ENVIRONMENT LAW REVIEW (annual compendium of peer-selected leading

law review articles in land use and environmental law)

*Ecosystem Services and the Clean Water Act: Strategies for Fitting New Science into Old Laws*, 40 ENVIRONMENTAL LAW 1381 (2010)

*Background Principles, Takings, and Libertarian Property—A Reply to Professor Huffman*, 37 ECOLOGY LAW QUARTERLY 805 (2010) (with M. Blumm)

*Climate Change Adaptation and the Structural Transformation of Environmental Law*, 40 ENVIRONMENTAL LAW 363 (2010)

*Ecosystem Services and Federal Public Lands*, 20 DUKE ENVIRONMENTAL LAW AND POLICY FORUM 275 (2010)

*Climbing Mount Mitigation: A Proposal for Legislative Suspension of Climate Change “Mitigation Litigation,”* 1 WASHINGTON & LEE JOURNAL OF ENERGY, CLIMATE, AND THE ENVIRONMENT 64 (2010) (symposium)

*Cities, Green Construction, and the Endangered Species Act*, 27 VIRGINIA ENVIRONMENTAL LAW JOURNAL 147 (2009) (symposium)

*Keeping the Endangered Species Act Relevant*, 19 DUKE ENVIRONMENTAL LAW & POLICY FORUM 275 (2009) (symposium)

*Implementing the New Ecosystem Services Mandate of the Section 404 Compensatory Mitigation Program—A Catalyst for Advancing Science and Policy*, 38 STETSON LAW REVIEW 251 (2009) (symposium) (with J. Salzman & Iris Goodman)

*Law’s Complexity – A Primer*, 24 GEORGIA STATE UNIVERSITY LAW REVIEW 885 (2008) (symposium)

*Agriculture and Ecosystem Services – Strategies for State and Local Government*, 17 NYU ENVIRONMENTAL LAW JOURNAL 424 (2008) (symposium)

*Making Nuisance Ecological*, 58 CASE WESTERN RESERVE LAW REVIEW 753 (2008)

*Climate Change and the Endangered Species Act—Building Bridges to the No-Analog Future*, 88 BOSTON UNIVERSITY LAW REVIEW 1 (2008), *selected for reprinting in* 2009 LAND USE AND ENVIRONMENT LAW REVIEW (annual compendium of peer-selected leading law review articles in land use and environmental law) and in 2009 ENVIRONMENTAL LAW AND POLICY ANNUAL REVIEW (annual compendium of peer-selected leading law review articles in environmental law)

*Reconstructing the Wall of Virtue: Maxims for the Co-evolution of Environmental Law and Environmental Science*, 37 ENVIRONMENTAL LAW 1063 (2007) (symposium)

*The Background Principles of Natural Capital and Ecosystem Services—Did Lucas Open Pandora’s Box?*, 22 JOURNAL OF LAND USE AND ENVIRONMENTAL LAW 525 (2007) (symposium)

*The Law and Policy Beginnings of Ecosystem Services*, 22 JOURNAL OF LAND USE AND ENVIRONMENTAL LAW 157 (2007) (symposium) (with J. Salzman)

*Ecosystem Services and the Public Trust Doctrine—Working Change from Within*, 15 SOUTHEASTERN ENVIRONMENTAL LAW JOURNAL 223 (2007) (symposium) (with J. Salzman)

*The Pardy-Ruhl Dialogue on Ecosystem Management—Part IV: Narrowing and Sharpening the Questions*, 24 PACE ENVIRONMENTAL LAW REVIEW 25 (2007)

*In Defense of Regulatory Peer Review*, 84 WASHINGTON UNIVERSITY LAW REVIEW 1 (2006) (with J. Salzman), *selected for reprinting in* 2008 ENVIRONMENTAL LAW AND POLICY ANNUAL REVIEW (annual compendium of peer-selected leading law review articles in environmental law)

*Regulation by Adaptive Management—Is It Possible?*, 7 MINNESOTA JOURNAL OF LAW, SCIENCE & TECHNOLOGY 21 (2005) (symposium)

*The Background Principles of Natural Capital and Ecosystem Services—Did Lucas Open Pandora’s Box?*, 22 JOURNAL OF LAND USE AND ENVIRONMENTAL LAW 525 (2007) (symposium)

*Toward a Common Law of Ecosystem Services*, 18 ST. THOMAS LAW REVIEW 1 (2005)

*Taking Adaptive Management Seriously—A Case Study of the Endangered Species Act*, 52 KANSAS LAW REVIEW 1249 (2004) (symposium)

*Prescribing the Right Dose of Peer Review for the Endangered Species Act*, 83 NEBRASKA LAW REVIEW 398 (2004) (symposium)

*Endangered Species Act Innovations in the Post-Babbittonian Era—Are There Any?*, 14 DUKE ENVIRONMENTAL LAW & POLICY FORUM 419 (2004) (symposium)

*The Battle over Endangered Species Act Methodology*, 37 ENVIRONMENTAL LAW 555 (2004) (symposium)

*The Myth of What is Inevitable Under Ecosystem Management: A Response to Pardy*, 21 PACE ENVIRONMENTAL LAW REVIEW 315 (2004)

*Proposal for a Model State Watershed Management Act*, 37 ENVIRONMENTAL LAW 929 (2004) (with C. Lant et al.)

*Equitable Apportionment of Ecosystem Services: New Water Law for a New Water Age*, 19 JOURNAL OF LAND USE & ENVIRONMENTAL LAW 47 (2003)

*Mozart and the Red Queen: The Problem of Regulatory Accretion in the Administrative State*, 91 GEORGETOWN LAW JOURNAL 757 (2003) (with J. Salzman)

*Is the Endangered Species Act Eco-pragmatic?*, 87 MINNESOTA LAW REVIEW 885 (2003) (symposium)

*Farmland Stewardship—Can Ecosystems Stand Any More of It?*, 9 WASHINGTON UNIVERSITY JOURNAL OF LAW AND POLICY 1 (2002) (symposium)

*Agriculture and the Environment: Three Myths, Three Themes, Three Directions*, 25 ENVIRONS 101 (2002) (symposium)

*Three Questions for Agriculture about the Environment*, 17 JOURNAL OF LAND USE AND ENVIRONMENTAL LAW 395 (2002) (conference proceedings)

*Regulatory Traffic Jams*, 2 WYOMING LAW REVIEW 253 (2002) (with J. Salzman)

*Manifesto for the Radical Middle*, 38 IDAHO LAW REVIEW 385 (2002) (symposium)

*Integrating Ecosystem Services into Environmental Law: A Case Study of Wetlands Mitigation Banking*, 20 STANFORD ENVIRONMENTAL LAW REVIEW 365 (2001) (symposium) (with J. Gregg)

*Currencies and the Commodification of Environmental Law*, 53 STANFORD LAW REVIEW 607 (2000) (with J. Salzman), *selected for reprinting in* 2002 LAND USE & ENVIRONMENT LAW REVIEW (annual compendium of peer-selected leading law review articles in land use and environmental law)

*Working Both (Positivist) Ends to a New (Pragmatist) Middle in Environmental Law*, 68 GEORGE WASHINGTON LAW REVIEW 522 (2000) (book review essay of Daniel Farber's ECO-PRAGMATISM (1999))

*Farms, Their Environmental Harms, and Environmental Law*, 27 ECOLOGY LAW QUARTERLY 263 (2000), *selected for reprinting in* 2001 LAND USE & ENVIRONMENT LAW REVIEW (annual compendium of peer-selected leading law review articles in land use and environmental law)

*The Co-Evolution of Sustainable Development and Environmental Justice: Cooperation, then Competition, then Conflict*, 9 DUKE ENVIRONMENTAL LAW & POLICY FORUM 161 (1999)

*Sustainable Development: A Five-Dimensional Algorithm for Environmental Law*, 18 STANFORD ENVIRONMENTAL LAW REVIEW 31 (1999)

*The Metrics of Constitutional Amendments: And Why Proposed Environmental Quality Amendments Don't Measure Up*, 74 NOTRE DAME LAW REVIEW 245 (1999)

*How to Kill Endangered Species, Legally: The Nuts and Bolts of Endangered Species Act "HCP" Permits for Real Estate Development*, 5 THE ENVIRONMENTAL LAWYER 345 (1999), *reprinted in* 36 PUBLIC LAND AND RESOURCES LAW DIGEST 231 (semi-annual compendium of peer-selected leading law review articles in public lands and natural resources law)

*The Endangered Species Act and Private Property: A Matter of Timing and Location*, 8 CORNELL JOURNAL OF LAW & PUBLIC POLICY 37 (1998) (symposium)

*Taming the Suburban Amoeba in the Ecosystem Age: Some Do's and Don'ts*, 3 WIDENER SYMPOSIUM LAW JOURNAL 61 (1998) (symposium)

*The Seven Degrees of Relevance: Why Real-World Environmental Attorneys Should Care Now About Sustainable Development*, 8 DUKE ENVIRONMENTAL LAW & POLICY FORUM 273 (1998)

*Who Needs Congress?—An Agenda for Administrative Reform of the Endangered Species Act*, 6 NEW YORK UNIVERSITY ENVIRONMENTAL LAW JOURNAL 367 (1998)

*Thinking of Environmental Law as a Complex Adaptive System—How to Clean Up the Environment by Making a Mess of Environmental Law*, 34 HOUSTON LAW REVIEW 933 (1997) (awarded the Houston Law Review's 1998 Professional Writing Award)

*Thinking of Mediation as a Complex Adaptive System*, 1997 BRIGHAM YOUNG UNIVERSITY LAW JOURNAL 777 (1997)



*The Case of the Speluncean Polluters—Six Themes of Environmental Law, Policy, and Ethics*, 27 ENVIRONMENTAL LAW 343 (1997)

*The Arrow of the Law In Modern Administrative States: Using Complexity Theory to Reveal the Diminishing Returns and Increasing Risks the Burgeoning of Law Poses to Society*, 30 U.C.-DAVIS LAW REVIEW 405 (1997) (with H. Ruhl)

*The Fitness of Law: Using Complexity Theory to Describe the Evolution of Law and Society and its Practical Meaning for Democracy*, 49 VANDERBILT LAW REVIEW 1407 (1996)

*Complexity Theory as a Paradigm for the Dynamical Law-and-Society System: Wake-Up Call for Legal Reductionism and the Modern Administrative State*, 45 DUKE LAW JOURNAL 849 (1996) (presented as the 1996 Duke Law Review Annual Lecture in Law)

*Malpractice and Environmental Law: Should Environmental Law Specialists Be Worried?*, 33 HOUSTON LAW REVIEW 174 (1996) (awarded the Houston Law Review's 1996 Professional Writing Award)

*Section 7(a)(1) of the "New" Endangered Species Act: Rediscovering and Redefining the Untapped Power of Federal Agencies' Duty to Conserve Species*, 25 ENVIRONMENTAL LAW 1107 (1995)

*Biodiversity Conservation Policy and the Ever-Expanding Web of Federal Laws Regulating Nonfederal Lands: Time for Something Completely Different?*, 66 UNIVERSITY OF COLORADO LAW REVIEW 555 (1995)

*The Plight of the Passive Past Owner: Defining the Limits of Superfund Liability*, 45 SOUTHWESTERN (NOW SMU) LAW JOURNAL 1129 (1991)

*The Oil Pollution Act of 1990: Opening a New Era in Federal and State Regulation of Oil Spill Prevention, Containment and Clean-up, and Liability*, 32 SOUTH TEXAS LAW REVIEW 475 (1991) (with M. Jewell) (also published in the United Kingdom at 8 OIL & GAS LAW AND TAXATION REVIEW 234 [Part I] and 304 [Part II] (1990))

*Regional Habitat Conservation Planning Under the Endangered Species Act: Pushing the Legal and Practical Limits of Species Protection*, 44 SOUTHWESTERN (NOW SMU) LAW JOURNAL 1393 (1991), *reprinted in* 1991 LAND USE & ENVIRONMENT LAW REVIEW (annual compendium of peer-selected leading law review articles in land use and environmental law)

*Finding Federalism in the Admiralty: "The Devil's Own Mess" Revisited*, 12 TULANE MARITIME LAW JOURNAL 263 (1988)

*Interstate Pollution Control and Environmental Planning: Outmoded Approaches or Outmoded Politics?*, 28 NATURAL RESOURCES JOURNAL 293 (1988), *reprinted in* 1989 LAND USE & ENVIRONMENT LAW REVIEW (annual compendium of peer-selected leading law review articles in land use and environmental law)

*The Third Party Defense to Hazardous Waste Liability: Narrowing the "Contractual Relationship" Exception*, 29 SOUTH TEXAS LAW REVIEW 291 (1987)

*Toxic Tort Remedies: The Case Against the "Superduper Fund" and Other Reform Proposals*, 38 BAYLOR LAW REVIEW 597 (1986)

## **Peer-Reviewed Scientific Journal Articles**

### **work in progress**

*The Breadth and Depth of Policy in Science* (with T. Ricketts)

*Principles for Responsible Use of the Ecosystem Services Framework* (with J. Salzman)

### **submitted for review**

### **in press**

*none at present*

### **published**

*Harnessing Legal Complexity*, 355 SCIENCE 1377 (2017) (with D. Katz and M. Bommarito)

*Legal and Institutional Foundations of Adaptive Environmental Governance*, 22 ECOLOGY AND SOCIETY 32 (2017)

*Transformative Environmental Governance*, 41 ANNUAL REVIEW OF ENVIRONMENTAL RESOURCES 399 (2016) (with B. Chaffin et al.)

*Adaptive Management of Ecosystem Services Across Land Use Regimes*, 183 JOURNAL OF ENVIRONMENTAL MANAGEMENT 418 (2016)

*Financial Complexity: Regulating Regulation*, 352 SCIENCE 301 (2016) (letter)

*Aligning Restoration Science and the Law to Sustain Ecological Infrastructure for the Future*, 13 FRONTIERS IN ECOLOGY & THE ENVIRONMENT 512 (2015) (with M. Palmer), recipient of the Ecological Society of America's 2016 Sustainability Science Award

*Judging Adaptive Management Practices of U.S. Agencies*, 29 CONSERVATION BIOLOGY 268 (2015) (with R. Fischman)

*Barriers and Bridges to the Integration of Social-Ecological Resilience and Law*, 13 FRONTIERS IN ECOLOGY & THE ENVIRONMENT 332 (2015) (with O. Green et al.)

*Committing to Ecological Restoration*, 348 SCIENCE 638 (2015) (with K. Suding et al.)

*Stacking Ecosystem Services*, 12 FRONTIERS IN ECOLOGY & THE ENVIRONMENT 186 (2014) (with M. Robertson, T. BenDor, R. Lave, A. Riggsbee, and M. Doyle)

*Panarchy and the Law*, 17 (3) ECOLOGY AND SOCIETY 31 (2012) (online journal [link](#))

*Assisted Colonization: Facilitate Migration First*, 330 SCIENCE 1316 (2010) (letter)

*Governing for Sustainable Coasts: Complexity, Climate Change, and Coastal Ecosystem Protection*, 2 SUSTAINABILITY 1361 (2010) (with R. Craig)

*The Tragedy of Ecosystem Services*, 58 BIOSCIENCE 969 (2008) (with C. Lant and S. Kraft)

*Farms and Ecosystem Services*, 23(2) CHOICES 32 (2008)

*Water Wars, Eastern Style: Divvying Up the Apalachicola-Chattahoochee-Flint River Basin*, 131 JOURNAL OF CONTEMPORARY WATER RESEARCH AND EDUCATION 47 (2005)

*The (Political) Science of Watershed Management in the Ecosystem Age*, 35 JOURNAL OF THE AMERICAN WATER RESOURCES ASSOCIATION 519 (1999)

### **Books and Chapters**

#### **published books**

THE PRACTICE AND POLICY OF ENVIRONMENTAL LAW (Foundation Press University Casebook Series, 4th ed., 2014) (with J. Nagle, J. Salzman, and A. Klass)

THE LAW OF BIODIVERSITY AND ECOSYSTEM MANAGEMENT (Foundation Press University Casebook Series, 3d ed., 2013) (with J. Nagle and K. Robbins)

THE LAW AND POLICY OF ECOSYSTEM SERVICES (Island Press, 2007) (with S. Kraft and C. Lant)

#### **published chapters**

*Agriculture and Payments for Ecosystem Services in the Era of Climate Change*, in RESEARCH HANDBOOK ON CLIMATE CHANGE AND AGRICULTURE (Edward Elgar Press, M.J. Angelo & A Du Plessis, eds., 2017)

*Ecosystem Services, Ecosystem Resilience, and Resilience of Ecosystem Management Policy*, in SOCIAL ECOLOGICAL RESILIENCE AND LAW (Columbia University Press, Ahjond Garmestani ed., 2014) (with T. Chapin)

*Ecosystem Services and Ecosystem Management—How Good a Fit?*, in THE LAWS OF NATURE: REFLECTIONS ON THE EVOLUTION OF ECOSYSTEM MANAGEMENT LAW AND POLICY (University of Akron Press, Kalyani Robbins ed., 2013)

*Agriculture and Ecosystem Services—Paying Farmers to Do the New Right Thing*, in FOOD, AGRICULTURE, AND THE ENVIRONMENT (Environmental Law Institute/Island Press, Mary Jane Angelo, Jason J. Czarnecki, and William S. Eubanks II eds., 2013)

*New Sustainable Governance Institutions for Estuaries and Coasts*, in ECOLOGICAL ECONOMICS OF ESTUARIES AND COASTS (Elsevier Press 2012) (with R. Craig)

*Cooperative Federalism and the Endangered Species Act: A Comparative Assessment and Call for Change*, in THE ENDANGERED SPECIES ACT AND FEDERALISM (Resources for the Future Press, 2011)

*Pit Bulls Can't Fly – The ESA and Climate Change*, in REBUILDING THE ARK (American Enterprise Institute Press, Jonathan Adler ed., 2011)

*The Future Public Law of Private Ecosystems*, in THE EVOLUTION OF NATURAL RESOURCES LAW (ABA Press, 2010)

*Listing Endangered and Threatened Species: The Gateway to the Endangered Species Act*, in THE ENDANGERED SPECIES ACT (ABA Press, 2d ed., 2010)

*Ecosystem Services: The Nature of Valuing Nature*, in CONSERVATION FOR A NEW GENERATION - REDEFINING NATURAL RESOURCES MANAGEMENT (Island Press, 2008)

*"No Net Loss": Instrument Choice in Wetlands Protection*, in MOVING TO MARKETS IN ENVIRONMENTAL REGULATION: LESSONS FROM TWENTY YEARS OF EXPERIENCE (Oxford University Press, Jody Freeman ed., 2007) (with J. Salzman)

*Cooperative Federalism and the Endangered Species Act—Is There Hope for Something More?*, in STRATEGIES FOR ENVIRONMENTAL SUCCESS 325 (Environmental Law Institute Press, 2005)

*The Endangered Species Act*, in ENVIRONMENTAL ASPECTS OF REAL ESTATE TRANSACTIONS (ABA Press, 3rd ed., 2004)

*Is the Endangered Species Act Ecopragmatic?*, in THE JURISDYNAMICS OF ENVIRONMENTAL PROTECTION: CHANGE AND THE PRAGMATIC VOICE IN ENVIRONMENTAL LAW (Environmental Law Institute Press, 2003) (lead chapter).

*Paying to Protect Watershed Services: Wetland Banking in the United States*, in SELLING FOREST ENVIRONMENTAL SERVICES (Earthscan Press, 2002)

*Section 4 of the ESA: The Keystone of Species Protection Law*, in THE ENDANGERED SPECIES ACT (ABA Press, 2002)

*The Endangered Species Act*, in ENVIRONMENTAL ASPECTS OF REAL ESTATE TRANSACTIONS (ABA Press, 2nd ed., 1999)

*Regulation of Solid and Hazardous Waste in the United States*, in ENVIRONMENTAL LAW AND POLICY IN THE EUROPEAN UNION AND THE UNITED STATES (Praeger, 1997)

### **Other Publications**

*Endangered Species*, in YEAR IN REVIEW (ABA Press) (annual summary of legal developments under the Endangered Species Act, compiled each year since 1997)

*The Presidential Memorandum on Mitigation*, 31 NATURAL RESOURCES & ENVIRONMENT 50 (Fall 2016)

*The Permit Power Revisited: The Theory and Practice of Regulatory Permits in the Administrative State*, 41 ENVIRONMENTAL LAW REPORTER 10651 (2015) (edited and condensed version of law journal article)

*A New Federal Policy for Ecosystem Services*, 30 NATURAL RESOURCES & ENVIRONMENT 50 (Spring 2016)

*The Tale of the Fee Tail in Downton Abbey*, 68 VANDERBILT LAW REVIEW EN BANC 131 (2015).

*How Climate Change Could Change the Gatekeeper Provisions of the Endangered*, 45 TRENDS 1 (Mar-Apr 2014).

*Preparing Students for the Big Reinvention in Law*, THE FEDERAL LAWYER, Aug. 2013, at 36.

*An Empirical Survey of Climate Change Litigation in the United States*, 40 ENVIRONMENTAL LAW REPORTER 10644 (2010) (with D. Markell)

*Facilitated Migration as Mitigation*, 32 NATIONAL WETLANDS NEWSLETTER 26 (July-Aug. 2010)

*Stacking and Bundling and Bears, Oh My!*, 32 NATIONAL WETLANDS NEWSLETTER 24 (Jan.-Feb. 2010)

*Adapting the Endangered Species Act to Climate Change*, 41 TRENDS 6 (Nov. 2009)

*It's Time to Learn to Live with Adaptive Management (Because We Don't Have a Choice)*, 39 ENVIRONMENTAL LAW REPORTER (ELI) 10920 (2009)

*Who's Number One?*, THE ENVIRONMENTAL FORUM (Fall 2009) (with J. Salzman)

*Compensatory Mitigation in the Climate Change Era—Business as Usual or Need for a Change?*, 31 NATIONAL WETLANDS NEWSLETTER 28 (July-Aug 2009)

*Adaptive Management for Natural Resources—Inevitable, Impossible, or Both?*, 54 ROCKY MTN. MINERAL LAW INSTITUTE ANNUAL PROCEEDINGS 11-1 (2008) (conference proceedings).

*Law for Sustainable Development: Work Continues on the Rubik's Cube*, 44 TULSA LAW REVIEW 1 (2008) (symposium foreword)

*Bank Failure*, THE ENVIRONMENTAL FORUM, Jan-Feb 2009, at 22

*The Endangered Species Act*, ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (2008)

Book Review of *DOWN TO THE WATERLINE: BOUNDARIES, NATURE, AND THE LAW IN FLORIDA* (Sara Warner, University of Georgia Press, 2005), 48 AMERICAN JOURNAL OF LEGAL HISTORY 103 (2006)

*The Effects of Wetlands Mitigation Banking on People*, NATIONAL WETLANDS NEWSLETTER, Mar.-Apr. 2006, at 1, 9-14 (2006) (with J. Salzman)

*A Practical Guide to Habitat Conservation Banking*, 20 NATURAL RESOURCES & ENVIRONMENT 26 (Summer 2005) (with A. Glen and D. Hartman)

*The Disconnect Between Environmental Assessment and Adaptive Management*, TRENDS, July-Aug. 2005, at 1 (2005)

*No Net Loss and Instrument Choice in Wetland Protection*, 26 NATIONAL WETLANDS NEWSLETTER 3 (Jan.-Feb. 2004) (with J. Salzman)

*Past, Present, and Future Trends of the Endangered Species Act*, 25 PUBLIC LANDS AND RESOURCES LAW REVIEW 15 (2004)

*Environmental Compliance: Another Integrity Crisis or Too Many Rules?*, 17 NATURAL RESOURCES & ENVIRONMENT 24 (2002) (with J. Salzman, K. Song & H. Yu).

*Apples for Oranges: The Role of Currencies in Environmental Trading Markets*, 31

ENVIRONMENTAL LAW REPORTER 11438 (2001) (with J. Salzman) (edited and condensed version of journal article)

*State and Local Government Vicarious Liability Under the ESA*, 16 NATURAL RESOURCES & ENVIRONMENT 70 (2001)

*The Environmental Law of Farms: 30 Years of Making a Mole Hill Out of a Mountain*, 31 ENVIRONMENTAL LAW REPORTER 10203 (2001) (edited and condensed version of law journal article)

*Ecosystem Management, the ESA, and the Seven Degrees of Relevance*, 14 NATURAL RESOURCES & ENVIRONMENT 156 (2000)

*Legal Ethics When Advocacy Involves the Government—Can We Talk?*, 44 ROCKY MOUNTAIN MINERAL LAW INSTITUTE 4-1 (1998) (invited) (conference proceedings)

*Valuing Nature's Services—The Future of Environmental Law?*, 13 NATURAL RESOURCES & ENVIRONMENT 359 (1998)

*While the Cat's Asleep: The Making of the "New" ESA*, 12 NATURAL RESOURCES & ENVIRONMENT 187 (1998)

*An Environmental Rights Amendment: Good Message, Bad Idea*, 11 NATURAL RESOURCES & ENVIRONMENT 46 (Winter 1997)

*Greenlining as Ecosystem Management—Panacea or Pandora's Box*, 11 NATURAL RESOURCES & ENVIRONMENT 53 (Summer 1996)

*Section 4 of the Endangered Species Act: The Cornerstone of Species Protection*, 8 NATURAL RESOURCES & ENVIRONMENT 26 (Summer 1993)

*EPA Proposes Two Approaches for a New Hazardous Waste Identification Rule*, 7 NATURAL RESOURCES & ENVIRONMENT 45 (Summer 1992)

*Phase Three of the ESA: Using Endangered Species Protection as a Natural Resource Management Tool*, 6 NATURAL RESOURCES & ENVIRONMENT 38 (Winter 1992)

Collection: *Environmental Audit Standards—Something's Happening, De Minimis Waste Contributors—Keep on Worrying, and Solving Litigation by Rulemaking—Administrative Activism?*, 5 NATURAL RESOURCES & ENVIRONMENT 40 (Winter 1991)

*Innovative Proposals for Familiar Statutes: Are Environmental Statutes the Silver Lining of the Lending Industry Cloud?*, 5 NATURAL RESOURCES & ENVIRONMENT 40 (Summer 1990)

*Devising Standards for Property Transfer Environmental Audits*, 4 NATURAL RESOURCES & ENVIRONMENT 30 (Summer 1989)

*State Restrictions on Waste Disposal—More Regulation than the Federal Government Can Handle?* 3 NATURAL RESOURCES & ENVIRONMENT 41 (Winter 1989)

*Increased Public Information: How Will It Be Used or Abused?*, 3 NATURAL RESOURCES & ENVIRONMENT 32 (Fall 1988)

*De Minimis Settlement Policy Leaves Small Volume Contributors Guessing*, 3 NATURAL RESOURCES & ENVIRONMENT 35 (Winter 1988)

### **SELECTED PRESENTATIONS**

(previous 10 years)

*The Production Function of the Regulatory State*, University of Georgia Law School Faculty Workshop (February 2017)

*Regulating Business Innovation as Policy Disruption*, Florida International University Law School Faculty Workshop (January 2017)

*Engaging in Policy Relevant Science*, SESYN Post-Doc Immersion Workshop (December 2016)

*Adaptive Management of Ecosystem Services Across Land Use Regimes*, 2016 Conference on Ecosystem Services (December 2016)

*Adaptive Governance Initiatives*, Arctic Centre, University of Rovaniemi, Finland (August, 2016)

*Agencies Running from Agency Discretion*, University of Richmond Law School Faculty Colloquium Series (February 2016)

*Complexity Theory and Law—Where are We and Where Must We Go?*, Lancaster University (UK) Law School (September 2015)

*Agencies Running from Agency Discretion*, Duke Law School (March 2015)

*Buzzwords or Breakthroughs: Assessing the New Conservation Language*, Duke University Nicholas Institute (March 2015)

*Localism and the New Language of Conservation*, University of Louisville Boehl Lecture (March 2015)

*Trends in the Law of Ecosystem Services*, 2014 Annual Conference on Ecosystem Services (December 2014)

*Buzzwords or Breakthroughs: Assessing the New Conservation Language*, New Zealand Resource Management Law Association Annual Meeting, Dunedin, N.Z. (September 2014)

*The Promise of Local Government Climate Change Adaptation*, University of Auckland Law School and Planning Department, Auckland, N.Z. (September 2014)

*Designing Administrative Law for Adaptive Management*, George Washington University Law School workshop (September 2014) (with Robin Craig)

*Private Governance for Climate Change Adaptation*, Northwestern University Law School, Searle Center Workshop on Conservation (July 2014)

*Understanding and Applying Koontz in the Context of Environmental Law*, Vermont Law School Hot Topics Series (June 2014)

*In Defense of Ecosystem Services*, Pace University School of Law, Lloyd K. Garrison Annual Lecture (March 2014)

*How Complex Is the Law?*, University of San Diego Center for Computation, Mathematics, and the Law Inaugural Workshop (March 2014)

*Does Congress Exist?*, Florida State University College of Law (February 2014)

*Understanding and Applying Koontz in the Context of Environmental Law*, Tennessee Bar Conference on Changes in Land Use Law (June 2014)

*Natural Capital and the Rule of Law*, Asian Judges Conference on the Environment, Philippines (December 2013)

*Ecosystem Services Governance*, University of Rennes, France (November 2013)

*The Endangered Species Act Turns 80 (In 40 Years)*, University of Tennessee, Baker Center Interdisciplinary Forum on Environmental Policy (October 2013)

*Designing Administrative Law for Adaptive Management*, 2013 Annual Natural Resources Law Teachers Conference (May 2013)

*The Endangered Species Act at 40*, AALS Annual Meeting, Section of Natural Resources Law (January 2013)

*Harmonizing Distributed Energy and the Endangered Species Act*, University of San Diego Law School (November 2012)

*The Political Economy of Climate Change Winners*, University of Michigan Law School (October 2012)

*Will Climate Change Change Property Law?*, PERC Lone Mountain Fellow Lecture (July 2012)

*Environmental Law and Climate Change*, AALS Mid-Year Meeting (2012)

*Climate Change and Endangered Species*, ALI-ABA Species Protection Law Conference (May 2012)

*Robust Yet Fragile*, Public Policy Workshop, Indiana University-Bloomington (Feb. 2012)

*An Empirical Assessment of Climate Change in the Courts*, UC Berkeley Environmental Law Scholarship Workshop (Apr. 2011)

*An Empirical Assessment of Climate Change in the Courts*, Texas Wesleyan Law School Faculty Workshop (Mar. 2011)

*General Design Principles for Resilience and Adaptive Capacity in Legal Systems*, University of North Carolina Law Review Symposium (Oct. 2010)

*Climate Change and Property*, AALS Summer Workshop on Property (June 2010)

*Green Infrastructure and Urban Ecosystem Services*, Annual Environmental Law Conference, Florida Coastal School of Law (Nov. 2010)



*Green Infrastructure and Urban Ecosystem Services*, Symposium: A 2020 View of Urban Infrastructure, Georgia State University School of Law (Mar. 2010)

*The Theory and Practice of Historic Baselines in the Administrative State*, University of Arizona Law School (Feb. 2010)

*Climate Change and the Endangered Species Act*, ALI-ABA Conference on Species Protection: Critical Legal Issues (Nov. 2009)

*Ecosystem Services and Federal Public Lands*, Conference on Next Generation Conservation: The Government's Role in Emerging Ecosystem Markets, Duke University (Oct. 2009)

*Climate Adaptation and Environmental Law*, Lewis & Clark Law School (Sept. 2009)

*Pit Bulls Can't Fly—The ESA and Climate Change*, American Enterprise Institute Symposium on Rebuilding the Ark, (Sept. 2009)

*After Cap-and-Trade*, Southeastern Association of Law School Annual Meeting, Panel on Climate Change Law in the Obama Administration (Aug. 2009)

*Climate Change and the Endangered Species Act*, Vanderbilt Law School and Environmental Law Institute Symposium (Apr. 2009) (presentation of selected paper)

*Climbing Mount Mitigation Without a Map*, Washington & Lee Law School Climate Change Symposium (Feb. 2009)

*Climate Change and the Endangered Species Act*, National Conservation Training Center (Jan. 2009)

*Whittling Away at Massive Problems*, Wake Forest University Law School (Dec. 2008)

*Whittling Away at Massive Problems*, University of California – Irvine Law School (Nov. 2008)

*Ecosystem Services – A New Old Policy Comes of Age*, University of Connecticut (Oct. 2008) (Teale Distinguished Lecture)

*Whittling Away at Massive Problems*, University of Connecticut Law School (Oct. 2008)

*Climate Change and Endangered Species*, University of North Carolina Law School Climate Change Conference (Oct. 2008)

*Green Building and the Endangered Species Act*, Virginia Environmental Law Journal Annual Symposium (Oct. 2008)

*Keeping the Endangered Species Act Relevant*, Duke Environmental Law & Policy Forum Annual Symposium (Oct. 2008).

*Whittling Away at Massive Problems*, Indiana University-Bloomington Law School (Sept. 2008)

*Adaptive Management – Inevitable, Impossible, or Both?*, Rocky Mountain Mineral Law Foundation Annual Meeting (Aspen, July 2008)

*Complex Systems and the Law*, Southeastern Association of Law Schools Annual Meeting (Palm Beach, FL., July 2008)

*Global Climate Change and the Endangered Species Act*, CLE International Conference on the Endangered Species Act (San Diego, June 2008)

*Law's Complexity*, Georgia State University Law Review Symposium on Law as a Dynamical System (February 2008)

*Global Climate Change and the Endangered Species Act*, AALS Annual Meeting (January 2008)

*Agriculture and Environmental Policy Innovation*, AALS Annual Meeting (January 2008)

*Climate Change and the Endangered Species Act*, University of Virginia School of Law (November 2007)

*Agriculture and Environmental Policy Innovation*, NYU Law School Environmental Policy Seminar (November 2007)

*Global Climate Change and the Endangered Species Act*, CLE International Conference on the Endangered Species Act (Austin, October 2007)

*Climate Change and the Endangered Species Act*, Georgetown University Environmental Law Seminar (October 2007)

*Science and Ecosystem Management Policy*, Arizona State University College of Law (September 2007)

*Environmentalism and Democracy*, SEALS Annual Conference (August 2007)

*Science and Ecosystem Management Policy*, CLE International Conference on the Endangered Species Act (San Diego, June 2007)

*The Future Public Law of Private Ecosystems*, University of Colorado Natural Resources Law Center 25th Annual Conference (June 2007)

*Ecosystem Services—Law and Policy*, Colorado State University School of Natural Resources Conference on Environmental Policy (April 2007)

*The Co-evolution of Environmental Law and Environmental Policy*, Lewis & Clark Law School Symposium on Law, Science, and Environment (April 2007)

*Making the Common Law Ecological*, University of Florida School of Law (Feb. 2007)

*Ecosystem Services and Law*, Houston Bar Association (Feb. 2007)