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## **PROFESSIONAL EXPERIENCE**

### **University of Montana School of Law, Missoula, MT (2017-present)**

*Position:* Professor & Director of Natural Resource Clinics (2018-present); Visitor (2017-18)

*Courses:* Public Lands; Wildlife; Water Law; Clinic

### **University of Nebraska College of Law, Lincoln, NE (2003-18)**

*Position:* Law Professor (2005-18); Robert B. Daugherty Chair (2010-18); McCollum/Hevelone Research Chair (2006-10); Assc. Professor (2004-05); Visitor (2003-04)

*Appointments—University:* Faculty Advisory Board, Global Water for Food Institute (2011-18); Executive Vice-Chancellor Search Committee (2016-17); Co-Director, Water Resources Initiative (2004-11); Investigation Committee, Office of Research Compliance (2006-08)

*Appointments—Law:* Co-chair, Dean's Search Committee (2009-10); Chair, Honors Committee (2008-10); Admissions (2011-2014); Appointments (2004-05, 2015-16)

*Courses:* Natural Resources; Env'tl. Law; Water Law; Env'tl. Ethics; Disaster Law; Torts

*Awards:* Alumni Council Distinguished Faculty Award (2016)

### **Pepperdine School of Law, Malibu, CA (2015)**

Distinguished Visiting Professor, Disaster Law (Spring Semester)

### **Lewis & Clark Law School, Portland, OR (2008)**

Visiting Professor, Comparative Env'tl. Law (Summer Session)

### **University of Auckland College of Law, Auckland, NZ (2007)**

Visiting Lecturer, Comparative Env'tl. Law (Interim Session)

### **University of Toledo College of Law, Toledo, OH (1998-2004)**

Assc. Professor (2000-04); Asst. Prof. (1998-2000)

*Courses:* Property; Env'tl. Law; Natural Resources; Water Law; Biodiversity Law & Science

*Appointments:* Co-director, Legal Institute of the Great Lakes; Faculty Editor, Journal of Great Lakes Law, Science & Policy; Advisor, Moot Court

### **Tulane University School of Law, New Orleans, LA (2001-02)**

Visiting Assc. Professor (Fall 2001); Spetses, Greece (Summer 2002)

### **Drake University Law School, Des Moines, IA (1997-98)**

Visiting Asst. Professor: Property; Natural Resources; Indian Law; Pretrial Advocacy

### **U.S. Department of Justice, Washington, DC (1994-97)**

Trial Attorney, Environment & Natural Resources Division General Litigation Section

*Awards:* Attorney General's Special Achievement Award

### **The Honorable William Wayne Justice, U.S. Dist. Court, E.D. Texas, Tyler, TX (1992-93)**

Law Clerk

### **Faegre & Benson, Minneapolis, MN (1990-92)**

Associate Attorney

## EDUCATION

### **The George Washington University National Law Center, Washington, DC**

*Degree:* LL.M.—Environmental Law, with Highest Honors (1996)

*Awards:* Shaw Fellowship (full teaching scholarship and stipend)

### **University of South Dakota School of Law, Vermillion, SD**

*Degree:* Juris Doctor, Sterling Honor Graduate (1<sup>st</sup> in class) (1990)

*Awards:* Joe Robbie Award (full scholarship); Nat'l Order of Barristers; Moot Ct. Board; ABA Moot Ct. Competition (national finals)

### **Morningside College, Sioux City, IA**

*Degree:* Bachelor of Science, *magna cum laude* (1985)

## APPOINTED POSITIONS AND BAR MEMBERSHIPS

Board of Directors (2016-2018) and Trustee (2004-2018), Rocky Mountain Mineral Law Foundation

Board of Directors, Society for Wilderness Stewardship (2016-present)

Distinguished Summer Scholar, Vermont Law School (2014)

Visiting Scholar-in-Residence, Univ. of Colorado Law School (2014)

ABA Section on Environment, Energy, and Resources

Vice-Chair, Public Lands Committee (2012-present)

Chair, Marine Resources (2002-04)

Member, Water Law (2004-present)

Faculty Fellow, Robert B. Daugherty Water for Food Institute (2014-present)

Member, National Academy of Sciences National Research Council--Missouri River Recovery Committee (2008-10) (report published 2011)

Advisor, National Judicial College, Dividing the Waters Law School Network (2011-present)

Member Scholar, Center for Progressive Reform (2004-present)

Member, World Conservation Union (IUCN) Commission on Env'tl. Law (2006-present)

Nebraska Water Law Reporter, Rocky Mountain Mineral Law Foundation (2008-17)

Board of Directors, Northern Prairies Land Trust (2009-2015)

Senior Specialist—Roster Candidate, Fulbright Foreign Scholarship Board (2006-11)

Member, Resilience Alliance (2006-12)

Advisor, Council of Great Lakes Governors' Task Force: Reserved Water Rights (2002-04)

Steering Committee, Lake Erie Comm'n Blue Ribbon Panel on Balanced Growth (2001-04)

Member, Minnesota Bar (state & federal courts); Eighth & Ninth Circuit Courts of Appeals

## BOOKS AND BOOK CHAPTERS

LEGAL CONTROL OF WATER RESOURCES 6<sup>th</sup> ed. (with Thompson, Leshy & Abrams) (West 2018)

DEVELOPING PROFESSIONAL SKILLS IN ENVIRONMENTAL LAW (with Glicksman) (West 2016)

*Preemption and Displacement*, in ENVIRONMENTAL DECISIONMAKING (ed. Paddock) (Elgar 2016)

*Floods as Unnatural Disasters: The Role of Law*, in WATER POLICY IN A CHANGING CLIMATE (ed.

Miller) (Taylor 2016)  
WATER LAW IN A NUTSHELL (with Getches & Amos) (West 2015)  
NATURAL RESOURCES LAW: HORNBOOK SERIES (with Laitos) (West 2015)  
A CENTURY OF UNNATURAL DISASTERS: MISSISSIPPI RIVER TRAGEDIES (with Klein) (NYU 2014)  
PRINCIPLES OF NATURAL RESOURCES LAW: CONCISE HORNBOOK (with Laitos) (West 2014)  
*Wilderness: Still Relevant and Resilient*, in SOCIAL-ECOLOGICAL RESILIENCE AND LAW (ed. Anderies) (Columbia 2014)  
*Wilderness Imperatives and Untrammelled Nature*, in ENVIRONMENTAL LAW AND CONTRASTING IDEAS OF NATURE: A CONSTRUCTIVIST APPROACH (ed. Hirokawa) (Cambridge 2014)  
COMPARATIVE ENVIRONMENTAL & NATURAL RESOURCES LAW (Carolina 2013)  
NATURAL RESOURCES LAW (with Laitos & Wood) (West 2006) (2<sup>nd</sup> ed. 2012)  
*Missouri River Basin*, in WATERS & WATER RIGHTS (Lexis/Nexis 2010 ed., 2015 ed.)  
*Emergence of Environmental Considerations in the U.S.*, in THE EVOLUTION OF THE LAW AND POLITICS OF WATER (ed. Dellapenna) Springer 2009)  
*The Law of Instream Flow Protection*, in INSTREAM FLOWS FOR RIVER STEWARDSHIP (IFC 2009)  
*When Congress Goes Unheard*, in PREEMPTION CHOICE (ed. Buzbee) (Cambridge 2008)

#### ARTICLES AND ESSAYS

*Takings, Torts, and Background Principles*, 52 WAKE FOREST L. REV. 101 (2017)  
*Fish and Wildlife Management on Federal Lands: Debunking State Supremacy*, 47 ENVTL. L. 797 (2017) (with Nie et al.)  
*The Changing Nature of Private Rights to Federal Resources*, 2017 RMMLF-INST 5-1 (2017), reprinted in RMMLF Journal (2017)  
*The Fallacy of Judicial Supermajority Clauses*, 47 TOL. L. REV. 73 (with Miller) (2015)  
*Wilderness in National Parks and Wildlife Refuges*, 44 ENVTL. L. 497 (2014)  
*Treading Water While Congress Ignores the Environment*, 88 NOTRE DAME L. REV. 2323 (2013)  
*The Shallows Where Federal Reserved Water Rights Founder: State Court Derogation of the Winters Doctrine*, 18 DEN. W. L. REV. 261 (with Huber) (2013)  
*Assessing Institutional Ability for Adaptive Water Management*, 91 NEB. L. REV. 805 (with Hoffman) (2013)  
*Improving Water Quality Antidegradation Policies*, 3 G.W. J. E. & E.L. 1 (with Glicksman) (2013)  
*Water, Wilderness, and Climate Change*, 42 ENVTL. L. 313 (2012)  
*Managed Relocation: Integrating the Scientific, Regulatory, and Ethical Challenges*, BIOSCIENCE 62: 732-43 (with Schwartz, et al.) (2012)  
*Throwing Precaution to the Wind: NEPA and the Deepwater Horizon*, 2 G.W. J. E. & ENV. L. 83 (with Mintz & Glicksman) (2011)  
*Can Endangered Species Survive the Clean Water Act?*, 16 DRAKE AG. L.J. 1 (2011)  
*Floods, Famines, or Feasts: Too Much, Too Little, or Just Right*, 24 N. RES. & ENV. 20 (2010)  
*Preemption by Stealth*, 45 HOUSTON L.REV. 1659 (2009)  
*Why Resilience May Not Always be a Good Thing: Lessons in Ecosystem Restoration*, 87 NEB. L. REV. 893 (with Gunderson) (2009)

- Unbundling Property in Water*, 59 ALA. L. REV. 679 (with Harder) (2008)
- The Anti-Speculation Doctrine's Implications for Water Management*, 8 NEV. L. J. 994 (2008)
- Boom and Bust on the Great Plains: Déjà vu All Over Again*, 41 CREIGHTON L. REV. 385 (2008)
- Two Imperiled Rivers: Reflections from a Post-Katrina World*, 59 FLORIDA L. REV. 599 (2007)
- Mississippi Stories: A Century of Unnatural Disasters*, 60 S.M.U. L. REV. 1471 (with Klein) (2007)
- A New Corps of Discovery for Missouri River Management*, 83 NEB. L. REV. 305 (2004)
- A Preservation Paradox: Political Prestidigitation and Wildness*, 34 ENVTL. L. 1015 (2004)
- Managing Interjurisdictional Waters*, 18 N. RES. & ENV. 8 (with Squillace) (2003)
- Sustaining Geographies of Hope: Cultural Resources on Public Lands*, 73 COLO. L. REV. 413 (2002)
- Biodiversity in and Around McElligot's Pool*, 38 ID. L. REV. 473 (with Johnson) (2002)
- The Protection of Cultural Resources on Public Lands*, 39 PUBLIC LD & RES. L. DIGEST 101 (2002)
- The Nondelegation Doctrine: Fledgling Phoenix or Ill-fated Albatross?*, 31 ELR 11,151 (2001)
- The Virtues of Command and Control Regulation: Barring Exotic Species from Aquatic Ecosystems through the Clean Water Act*, 2000 U. ILL. L. REV. 1233 (2000)
- The Devil, The Details, and the Dawn of the 21<sup>st</sup> Century Administrative State: Beyond the New Deal*, 32 ARIZ. ST. L.J. 941 (2000)
- Conserving Ecosystems Through the Secretarial Order on Tribal Rights*, 14 N.R. & ENV. 162 (2000)
- Indian Lands as Critical Habitat for Indian Nations & Species*, 43 S.D. L. REV. 381 (1998)
- Sacrificing Legislative Integrity at the Altar of Appropriations Riders: A Constitutional Crisis*, 21 HARV. ENVTL. L. REV. 457 (1997)

## CONFERENCES, COLLOQUIA, AND SELECT PRESENTATIONS

### ***Planning/Coordination:***

- Planning Chair, 1<sup>st</sup> Annual Water Law, Policy & Science (WLPS) Conference, UNL (2004); Planning Committee, Annual WLPS Conferences (2005-08); Planning Committee, Global Water for Food Inst. Annual Conference, UNL, Daugherty, and Gates Foundations (2009-13)
- Planning Chair, 12<sup>th</sup> Inst. for Natural Resources Law Teachers, Rocky Mt. Mineral Law Foundation (RMMLF) (2003); Planning Committee & Field Trip Chair, RMMLF 15<sup>th</sup> Teachers Inst. (2009); Panel Organizer, RMMLF 17<sup>th</sup>, 18<sup>th</sup> & 19<sup>th</sup> Teachers Inst. (2013, 2015, 2017); Planning Committee, RMMLF Annual Inst. (2014)
- Founder and Organizer, UNL Half-Baked Faculty Colloquium Series (2009-14)
- Planning Committee, ABA Annual Water Law Conferences (2007-15)
- Planning Chair, An Ecosystem Approach to Fisheries Management, National SeaGrant Law Center and ABA Section on Env., Energy & Resources (2003)

### ***Presentations:***

- Wildlife Federalism on Public Lands*, Lewis & Clark Symposium: Envl. Law under Trump (2018)
- Pollution, Property, and Takings: Is There a Right to Water Quality?*, Univ. of Minnesota (2017)
- The Nature of Private Interests in Public Lands*, RMMLF Special Inst., Santa Fe, NM (2017)
- Torts, Takings, and Background Principles*, Tulane/Vermont Takings Conference, NOLA (2016)
- Facing Floods and Climate Change While Reforming Disaster Law*, Univ. of Missouri (2016)

*Wilderness Stewardship Annual Training*, Carhart Wilderness Center, Montana (2010-11, 2014-18)  
*The Role of Law in Disaster Management*, World Water Congress, Edinburgh, Scotland (2015)  
*A Century of Unnatural Disaster*, Yale Center for Env'l Law (2015)  
*Takings, Givings, and the Inherent Restrictions of Vulnerable Properties*, Stanford Univ. Center for the American West; Colorado and Pepperdine Faculty Colloquia; Denver Law Seminar (2015)  
*Unnatural Disasters: How Law Hurts, How Law Can Help*, Univ. of Minnesota (2014)  
*Water Security and Peacebuilding: Avenues for Cooperation*, UNITAR-Yale Conference on Env'l Governance and Democracy, Yale University (2014)  
*Portaging Around Environmental Logjams*, Florida State Law Symposium (2014)  
*Legal Issues for Protected Areas*, IUCN World Parks Congress, Sydney, Australia (2014)  
*Congress's Apathy Toward the Environment*, Notre Dame Symposium on Gridlock (2012)  
*Water Law, Conservation & Climate Adaptation*, IUCN Comm. on Envl. Law, Jeju, Korea (2012)  
*Anti-Degradation Policies in the Clean Water Act*, George Washington Nat'l Law Center (2012)  
*Water, Climate, and Wild Lands*, Law & Society, Honolulu, HI (2012)  
*Clean Water-Endangered Species Interface*, Missouri River Recovery Committee, Webcast (2012)  
*U.S. Water Law ABC's*, M.S. Swaminathan Foundation, Chennai, India (2011)  
*Regulating the Keystone XL Pipeline*, Special Session Testimony, Nebraska Unicameral (2011)  
*Managing Missouri River Mud: The Clean Water Act v. The Endangered Species Act*, ABA Annual Water Law Conference, San Diego, CA (2011)  
*Unbundling Property in Water: Takings and Due Process*, AALS Annual, San Francisco (2011)  
*21<sup>st</sup> Century Water Law, Climate, and Wilderness*, Lewis & Clark, Portland, OR (2011)  
*Protecting Instream Flows*, Testimony on L.B. 438, Nebraska Unicameral (2009)  
*Resilience Thinking and Progressive Law Reform*, Colloquium, Texas Law College (2008)  
*The Anti-Speculation Doctrine*, ABA Annual Water Law Conference, San Diego, CA (2008)  
*Non-Collaborative Water Management*, Univ. of Nevada-Las Vegas (2007)  
*Water is Not Takings Property*, Natural Resources Law Teachers Lunch, Vancouver, BC (2007)  
*Unbundling Property in Water*, Colloquia, Univs. of Nebraska, Canterbury, and Auckland (2007)  
*A Tale of Two Imperiled Rivers*, Int'l Ecohydraulics Conf., Christchurch, NZ (2007)  
*Federalism in the Overlapping Territory*, Colloquium, Duke University (2006)  
*Can the Law Learn to Think Like a River?*, Univ. of Florida Public Interest Envtl. Conf. (2006)  
*Frankenflakes & Killer Tomatoes: GMOs and the Environment*, Tulane Law Pub. Int. Conf. (2003)  
*Cultural and Historic Resources*, RMMLF Inst. on Public Lands, Albuquerque, NM (2003)  
*Reserved Water Rights & Tribal Fisheries*, Council of Great Lakes Governors, Quebec (2002)  
*The Roadless Area Controversy*, RMMLF Annual Institute, Tahoe, NV (2002)  
*Environmentalists & Indian Tribes: Friends or Foes?*, 7<sup>th</sup> Indian Law Symposium, USD (2002)  
*Aquatic Invaders*, ABA Annual Meeting - Panel on Envtl. Law, Chicago, IL (2001)  
*Preserving Cultural & Historic Resources*, ALI-ABA Envtl. Law, Washington, DC (2001)  
*Nondelegation*, 11<sup>th</sup> Institute for Natural Resources Law Teachers, RMMLF, Estes Park, CO (2001)  
*Keynote - Current Legal Issues: Wetlands*, Great Lakes Research Consortium, OH (2001)

*Biodiversity and the Yellowstone Wolf Reintroduction: Malice in Wonderland?*, Univ. of Mich. Dept. of Biology (2000); Toledo, Drake, and Creighton Env'tl. Law Societies (1997, 1999)  
*National Park Service Regulatory Authorities*, Dept. of Interior, Salt Lake City, UT (1999)  
*Administrative Issues in Env'tl. Law*, RMMLF Inst. on Admin. Law, Denver, CO (1999)  
*U.S. Water Law: Great Lakes Diversions*, International Joint Commission, Ontario, CAN (1999)  
*Cultural Resource Management*, Fed. Bar Ass'n Indian Law Conference, Abq., NM (1997)

## MIXED MEDIA

Editorial, *U-turn on Twin Metals a Massive Giveaway of Public Resources*, Duluth News Tribune (with Klass) (2018)  
Newsletter, *Beavers: Restoring Watersheds with Nature's Engineers*, Society for Ecological Restoration (with Bates) (2018)  
Webinar, *The Battle to Conserve National Monuments*, ABA Professors' Corner (2018)  
Blog, *Trump's Plan to Dismantle National Monuments Comes with Steep Cultural and Ecological Costs*, The Conversation (with Bryan and Mills) (2017)  
STIR Talk, *Le Malheur and Other Misfortunes*, UNL (2017)  
Blog, *Unnatural Disasters and Environmental Injustice*, Oxford Press (with Klein) (2016)  
Podcast, *Finding Agency Through Humility*, Yale Center for Env'l Law (2015)  
Blog, *World Water Congress Highlights Water for Global Development*, WFI Institute (2015)  
Perspective, *Open Rivers: Rethinking the Mississippi*, River Life Digital Journal, U. Minn. (2015)  
Distinguished Scholar Hot Topics Lecture, *Unnatural Disasters*, Vermont Law (2014)  
Radio Interview, *Thinking Aloud: Natural & Unnatural Disasters*, BYU Radio (2014)  
STIR Talk, *Mississippi River Tragedies: A Century of Unnatural Disaster*, UNL (2014)  
Blog, *Floodplain Landowners Seeking a "Double Take" from Taxpayers*, Env. Law Prof. (2014)  
Blog, *Natural Storms, Unnatural Disasters*, The Hill (2014)  
Interview, *Keystone May Turn on 19<sup>th</sup>-Century Reform*, WASH. POST (2014)  
Conference Paper, *NEPA and the Public Lands*, RMMLF Public Lands Special Institute (2014)  
Editorial, *Living Rivers: The Lifeblood of our State*, LINCOLN J-STAR (2013)  
Blog, *State Department's Keystone XL Pipeline EIS Fails Legal Scrutiny and Common Sense*, Progressive Reform (2013)  
Blog, *The CWA's Antidegradation Policy: Time to Rejuvenate a Program to Protect High Quality Water*, Progressive Reform (with Glicksman) (2012)  
White Paper and Blog, *Why the Convention on Biodiversity Should be Ratified*, Progressive Reform (ed. Knox) (2012)  
STIR Talk, *Gridlock and its Discontents*, UNL (2012)  
Editorial, *Species Conservation Not a Factor in Flooding*, OMAHA WORLD-HERALD (2011)  
Conference Paper, *Mudslinging on the Missouri and Mississippi Rivers*, ABA WATER LAW CONF. (2011) (awarded Best Paper)  
Blogs, *The Pipeline that Refuses to Die*, and *TransCanada Says Bill Unconstitutional: Here's Why They're Wrong*, Progressive Reform (2011-15) (search "Zellmer")  
White Paper, *Making Use of Adaptive Management*, Progressive Reform (2011) (ed. Doremus)

- Blog, *Atrazine, Confidential Data, EPA, and the Five Stages of Grief*, Alternet.org (reprinted in Pesticide Action Network as *Why is My Family Dying*) (2010)
- Interview, *Legislation to Curb Climate Change Slow in Coming*, DAILY RECORD (2010)
- On-camera Interview, *Instream Flow Protection*, Friends of the Niobrara River (2011)
- On-camera Interview, *Inside Nebraska Water*, Central Public Power & Irrigation Dist. (2009)
- Conference Paper, *Anti-Speculation: Ghost-Busting, Trust-Busting, or Beneficial Use*, ABA WATER LAW CONF. (2008) (awarded Best Paper)
- Editorial, *Fishermen Entitled to Punitive Damages*, MINN. STAR TRIB. (with Klass) (2008)
- Book Review, *Ogallala Blue* (ASHWORTH, OGALLALA BLUE), 17 G. PLAINS RES. J. 1 (2007)
- Perspective, *Is Water Property?*, NEB. LAWYER (with Harder) (2007)
- Editorial, *Women Warriors*, DES MOINES REGISTER and IOWA CITY PRESS (2007)
- Editorial, *Supreme Court Drops the Ball on Wetlands Protection*, HIGH COUNTRY NEWS (2006)
- Perspective, *Mountaintop Removal*, Progressive Reform (2006, updated in 2009)
- Comments to the U.S. Forest Service on the Roadless Rule (with Glicksman) (2005)
- Conference Paper, *The Roadless Area Controversy*, 48 ROCKY MT. M.L. INST. 21 (2002)
- Peer-Reviewed Paper, *Preventing Exotic Species Invasion*, 2 J. G.L. LAW, SCI. & POL. 207 (2000)
- Workshop Materials, *Putting the Public Trust Doctrine to Work (Ohio)*, Coastal States Org./Legal Inst. of Great Lakes (1999)
- Conference Paper, *Administrative Issues in 21<sup>st</sup> Century Environmental Law: A New Era in Agency Decision-making, or Back to the New Deal?*, 4 N.R. & ENV. ADM. L. 1-1 (1999)

## GRANT AWARDS

- Principle, RMMLF scholarship research grants (\$12,500 for student researchers). 2014-18.
- Co-Investigator, U-MT & USDA-FS, *Wildlife Management on Federal Lands & Wilderness* (PI Nies) (\$18,500). 2016-17.
- Supervisor, Global Water for Food—Environmental Defense Fund, *Sustainable Groundwater Management Act Implementation/Recommendations* (\$5,000 for student researchers). 2016-17.
- Collaborator, NSF, Integrative Graduate Education & Research Traineeship (IGERT), *Resilience in Stressed Watersheds* (PI Allen) (\$3,200,000). 2009-14.
- Co-Investigator, NSF, *Building Information Tools to Adaptively Manage Hydrological Resources* (PI Samal) (\$500,000). 2006–08.
- Co-Investigator, NSF, *Building a US-China Water Collaboratory* (PI Samal) (\$50,000). 2007-08.
- Co-Investigator, UNL, Program of Excellence Grant (PI Hoagland) (\$450,000). 2003-07.