



Student and Alumni Activities

NYU School of Law offers varied and interesting activities for students and alumni to explore their interests in environmental and land use law. From student journals and groups, such as the *NYU Environmental Law Journal* and Environmental Law Society, to alumni panels, roundtables, and events related to environmental and land use law, NYU School of Law students and alumni benefit from extraordinary educational opportunities.



(from left): Jennifer Coghlan ('03), Kate Sinding ('97), and Carrie Noteboom ('03) attended the *NYU Environmental Law Journal* annual event, which explored new approaches to environmental review.

NYU Environmental Law Journal

In 1992, a group of students interested in environmental law, led by Michael Anastasio ('92) and Bernard Weintraub ('93), launched the *NYU Environmental Law Journal* (ELJ) to promote high-quality scholarly debate about environmental law and policy from a wide range of perspectives. In the ensuing 12 years, ELJ has published a wide range of articles on environmental and land use topics of both national and international scope, in

addition to articles addressing the particular challenges confronting urban environments such as New York City. This coming year, ELJ will begin hosting a national writing competition titled the "NYU ELJ Urban Environment Writing Competition," which will center around environmental issues important in urban settings, including water availability, water quality, land use, air pollution, sewage treatment, and recycling, among many others. The journal now stands as one of the leading environmental law journals in the nation, and is carried by more than 340



libraries at law schools, law firms, government agencies, and courthouses throughout the United States and the world.

ELJ's staff is composed of about 50 second- and third-year law students, many of whom are dedicated to pursuing careers in environmental and land use law. The journal strongly encourages students to publish notes, and features case comments and book reviews by students as well. Each year, the faculty advisers — Professors Been, Revesz, Stewart, and Wyman — encourage students on the journal to embark on a research paper that will be publishable as a student note by hosting a “note topic dessert party.” At the party, faculty and 3Ls share suggestions about how to choose a good topic for a research project over apple crisp and other treats baked by the faculty.

Each year, ELJ hosts a colloquium on an emerging topic of concern in environmental and land use law. Past colloquium topics have included *New Approaches to Environmental Review*; *Regulatory Expropriations in International Law* (see p. 46); *Ozone Non-Attainment in the Northeast: Moving Towards an Effective Cure*; and *The Impact of Title VI on Environmental Enforcement*. This fall, ELJ will host a colloquium titled *Governing Transboundary Water Allocation in the 21st Century* (see p. 53). ELJ publishes the proceedings of its colloquia in the journal, and those colloquia issues serve as an especially valuable resource for practitioners and academics trying to stay abreast of important developments in environmental law.

Reviewing Environmental Review: The NYU Environmental Law Journal Colloquium

“I’m a big musical theater fan,” declared James Connaughton, chairman of the Council on Environmental Quality at the White House. “I always think of the song ‘The Farmers and the Cowhands Must Be Friends’ when discussing environmental review. We need better collaboration and less cultural and institutional conflict.”

Connaughton delivered the keynote speech at the *NYU Environmental Law Journal* Colloquium “New Approaches to Environmental Review.” Although Congress passed the National Environmental Policy Act (NEPA) in 1970, the journal organized the discussion to address several recent challenges to environmental review: the Bush administration’s initiative to “modernize” the statute through the NEPA Task Force; current deliberations about how to apply environmental review to the redevelopment of Lower Manhattan; and the growing use of environmental review procedures around the world.

NYU Environmental Law Journal: Recent Issues

Volume 10, Number 3 (2002)

Articles

The Illusion of Care: Regulation, Uncertainty, and Genetically Modified Food Crops
Rebecca Bratspies

Water, Conflict, and Regional Security in Central Asia
Eric W. Sievers

Student Article

Public Lands Grazing Fee Reform: Welfare Cowboys and Rolex Ranchers Wrangling with New West
Michelle M. Campana ('02)

Volume 11, Number 1 (2002)

Colloquium Articles

Regulatory Takings: The International Law Perspective
Barry Appleton

Does an International “Regulatory Takings” Doctrine Make Sense?
Vicki Been

Indirect Expropriations: New Developments?
Rudolf Dolzer

Regulatory Expropriations in International Law: Lessons from the Multilateral Agreement on Investment
Rainer Geiger

Incomplete Compensation for Takings
Thomas W. Merrill

Regulatory Expropriations in Europe: The Approach of the European Court of Human Rights
Helen Mountfield

The Approach Taken by the European Court of Human Rights to the Assessment of Compensation for “Regulatory Expropriations” of the Property of Foreign Investors
Hélène Ruiz Fabri

Could Principles of Fifth Amendment Takings Jurisprudence Be Helpful in Analyzing Regulatory Expropriation Claims Under International Law?
Ethan Shenkman

Searching for Balance: Concluding Remarks
Philippe Sands

Student Article

In the Cold Shadow of Metalclad: The Potential for Change to NAFTA’s Chapter Eleven
Lauren E. Godshall ('03)

Volume 11, Number 2 (2003)

Articles

Government Tax and Financial Incentives in Brownfields Redevelopment: Inside the Developer’s Pro Forma
Scott Sherman

The International Conservation Mandate of the United States Government
Ian A. Bowles and Cyril F. Kormos

The Devil Is in the Details: Increasing International Law’s Influence on Domestic Environmental Performance
Dorit Talitman, Alon Tal, and Shmuel Brenner

Water, Conflict, and Regional Security in Central Asia Revisited
Dinara Kemelova and Gennady Zhalkubaev

Student Article

Sustainable Development and the Selfish Gene: A Rational Paradigm for Achieving Intergenerational Equity
Shorge Sato ('02)

Volume 11, Number 3 (2003)

Articles

A Pound of Cause for a Penny of Proof: The Failed Economy of an Eroded Causation Standard in Toxic Tort Cases
Jonathan C. Mosher

Not So Fast: The Sealed Air Asbestos Settlement and Methods of Risk Management in the Acquisition of Companies with Asbestos Liabilities
Kenneth S. Rivlin and Jamaica D. Potts

Beyond Compliance: Regulatory Incentives to Implement Environmental Management Systems
Allison F. Gardner ('01)

The Disappointing History of the National Marine Sanctuaries Act
Dave Owen

Student Articles

If the Shoe Fits, [Don’t] Wear It: Preacquisition Notice and Stepping into the Shoes of Prior Owners in Takings Cases After *Palazzolo v. Rhode Island*
Eric D. Albert ('02)

When Political Muscle Is Enough: The Case for Limited Judicial Review of Long Distance Transfers of Development Rights
Matthew P. Garvey ('02)

Book Review

Developing Regionalism: A Review of *The Regional City: Planning for the End of Sprawl* (by Peter Calthorpe and William Fulton)
Ashley S. Miller ('04)

Connaughton discussed ways to improve and update NEPA. "A lot of NEPA work is still done on pen and paper or old computers," he explained. "We must dramatically bring to the fore the tools we have in front of us." He also encouraged adaptive management. "NEPA is not a project, it's a mindset. We should constantly rethink and revisit the situation. Environmental review should never end."

During the first panel, "Environmental Review at the Federal Level: The Vitality of NEPA in the 21st Century," Sharon Buccino, a senior attorney for the Natural Resources Defense Council, argued that the Bush administration's proposals were taking NEPA in the wrong direction. She encouraged continued monitoring of projects for which environmental impact reviews were performed: "We need to make NEPA a living process."

Professor Bradley Karkkainen from Columbia University proposed that the government pressure agencies to produce accurate predictions of environmental impact.

Michael Gerrard ('78), an environmental partner at Arnold & Porter, suggested that the government require environmental impact statements (EISs) to be submitted on the Internet. "EISs were born in 1970 and still look like the Sears catalog," he lamented. "They're so huge that people are afraid to open them up and look through them. In fact, a senator even threw out her back and required hospitalization from lifting one." Putting the EISs on the Internet would be enormously cheaper and faster, allow for better distribution, make them immediately searchable, and avoid the endlessly redundant technical appendices.

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The second panel, "Environmental Review at the State and Local Level: The Reconstruction of Lower Manhattan," was perhaps the most timely discussion of the day. James Tripp, general counsel for Environmental Defense, encouraged comprehensive environmental review during all stages of the World Trade Center reconstruction process.

Sandy Hornic, deputy executive director of strategic planning for the New York City Department of City Planning, laughed, "As the only non-attorney of the day, I have a slightly different perspective." Using both hands, Hornic hauled out an enormous EIS for the Second Avenue subway and thumped it on the table. He explained that the subway was contemplated in the 1950s, started in the '70s, and then stopped in a fiscal crisis. In 1995, the city's transit authority agreed to revive the construction, but has spent the subsequent years only on the production of the EIS.

"I find it appalling that they went through the strongest growth of the city's economy in 50 years, and instead of building the subway, they had to study it." He hoisted up the

EIS for the audience. "Shouldn't we simplify the process?"

Hornic then turned to the redevelopment of Lower Manhattan. "Lower Manhattan is a valuable resource," he explained, "but it's hemorrhaging. We need a transportation system soon to bring people back, keep businesses in the area, and prevent sprawl." He implored the audience: "Do we really need such extensive environmental review?"

Professor William Buzbee from Emory University School of Law answered with a resounding "Yes." While admitting that the process could be managed more efficiently, he explained that environmental review provides important benefits. "Even with largely 'benign' projects," he clarified, "there are still trade-offs and choices, which need good consideration. Furthermore, EISs enhance political accountability and encourage the public to accept legal decisions since they have a say in the process."

Evan Van Hook, assistant commissioner for the New Jersey Department of Environmental Protection, emphasized the need for a process to determine who the stakeholders are and to allow them to be involved in decision-making. He pointed out the diversity of stakeholders in the rebuilding of the World Trade Center: international participants; property owners; victims' friends and families; business owners; and many others.

During the question period, Law School students, including many living in Tribeca, challenged the speakers and stressed the need for community involvement.

The final panel, "Environmental Review in the Global Arena," focused on international environmental impact assessment. Panelists included Richard Smardon, professor at SUNY College of Environmental Science and Forestry; Professor Nicholas Robinson from Pace University School of Law; Carl Bruch from the Environmental Law Institute; Jake Werksman, the environmental institutions and governance adviser to the U.N. Development Programme and an adjunct professor at the Law School; and Professor John Knox from Pennsylvania State University.



Dean Richard Revesz (left), U.S. Council on Environmental Quality Chairman James Connaughton (center), and Professor Richard Stewart at the *Environmental Law Journal's* Symposium on New Approaches to Environmental Review. Connaughton delivered the keynote address on the National Environmental Policy Act.



Water quality and availability may well be the foremost concern of environmental and land use law over the next century as clean freshwater resources have grown increasingly scarce.

Charles Di Leva, lead counsel for the World Bank, stressed the importance of recognizing cultural differences. “When considering environmental review in developing countries,” he also noted, “we must think about poverty issues. At the Johannesburg Summit, there was a push-back against much of the environmental agenda because so many basic services weren’t being met.”

Even as the colloquium came to a close, the debates continued. Students, attorneys, and professors gathered in groups to discuss the role of environmental review in the 21st century. Panelists stayed late to clarify their proposals, and community members stressed the need for more public participation.

NYU Environmental Law Journal's Fall 2003 Colloquium: Governing Transboundary Water Allocation in the 21st Century

Water quality and availability may well be the foremost concern of environmental and land use law over the next century as clean freshwater resources have grown increasingly scarce. The Third World Water Forum, held in Kyoto, Japan, during March 2003, brought together thousands of experts and on-the-ground practitioners to address the problems of providing safe drinking water and sanitation systems, improving and protecting water quality, and preserving river and ocean ecosystems in the developing world. Debates over water privatization pervaded the World Summit on Sustainable Development in Johannesburg in August 2002, as did discussions of transboundary water management.

Controversies over allocation of water among states and between cities and agricultural uses in the United States have exploded in recent years.

This fall, the *NYU Environmental Law Journal* will sponsor a colloquium to explore strategies for managing and allocating water resources. The colloquium's first panel will feature a debate over the comparative advantages of three competing strategies for governing water resources. Proponents of the United Nations model envision a continuing role for treaty and customary law in resolving interstate disputes and creating norms to guide resource allocation. Advocates of regional-level initiatives among states to manage water resources at the ecosystem level, such as the Mekong River Delta Commission, argue that such initiatives respond to the failure of traditional international law to encourage comprehensive ecosystem management. Practitioners in large international organizations and scholars of global governance increasingly advocate global public policy networks, such as the Global Water Partnership, as a means of sharing knowledge and formulating comprehensive policy frameworks for the use of global public goods.



The second panel will address the legal and policy issues raised by cross-border sales of water. Using Canada's recent ban on the export of water, and the ensuing legal challenges under the North American Free Trade Agreement, as a case study, the panel will debate whether bulk water should be treated as a “good” under the General Agreement on Tariffs and Trade, and if so, whether states should be able to employ trade restrictions to protect water as an “exhaustible natural resource.” The third panel will explore controversies over various options for the allocation of water within the United States. Discussion will focus on new models for interstate water compacts, the wisdom of Congressional pre-emption of state regulation and federal allocation of water rights, and the appropriate role for the judiciary in the allocation of water rights.

Drawing on the expertise of a diverse group of academics, policy-makers, and practitioners in international, environmental, and land use law, the colloquium promises to make headway on the daunting problems of how to allocate one of our world's most precious assets fairly and efficiently.

JILP Symposium

Oil and International Law

“Our goal here is not only to train students to do well in their first jobs, but also to be leaders of the profession and society 20 years into their careers,” said Dean Revesz. This goal, he explained, is achieved in a variety of ways: hiring top-notch faculty; recruiting a diverse body of the ablest J.D. and graduate students; and organizing conferences on such crucial and timely issues as the geopolitical influence of oil, the focus of the most recent *Journal of International Law and Politics* (JILP) Symposium.

The event, titled “Oil and International Law: The Geopolitical Significance of Petroleum Corporations,” although long planned, was held just weeks before the war in Iraq began. The symposium combined case studies that had been intensively researched by JILP members with presentations by leading academics and practitioners from the interna-



(from left): Professor Benedict Kingsbury, Professor Stephen Kobrin, Dr. Simon Chesterman, Professor Michael Klare, and Christina Bost ('04) all shared their expertise as panelists at the JILP Symposium, which discussed the geopolitical significance of petroleum corporations.

tional oil industry and non-governmental organizations to explore the multiple dimensions of this issue.

JILP symposium editor Bridget Kurtt ('03) introduced the topic, thanking NYU School of Law Professor Kingsbury for suggesting it. Kingsbury in turn congratulated Kurtt and the whole team of student organizers and case study presenters for their creativity and dedication.

Christina Bost ('04) provided a case-study background for the first panel on the "Social and Political Economy of Oil" by analyzing the historical background of the political and legal battle over oil production in the Caspian Sea region. "Depending on whether it's a lake or a sea, the surrounding countries would have different legal rights," Bost said. Based on a temporary agreement between the countries in the region, the floor of the Caspian is currently considered a sea and the waters above it are considered a lake. This gives all the countries a shared ownership with inherent rights to oil exploration, without giving up navigation rights. Bost also described other legal and political issues involved with the division and shipping of oil in the Caspian Sea region.

Michael Klare, professor of peace and world security studies at Hampshire College, responded with an analysis of the coming war with Iraq. Klare provided a background on the Middle East conflict, the Carter Doctrine, and the goals and potential outcomes of a war in Iraq. Professor Stephen Kobrin, the William H. Wurster Professor of Multinational Management at the Wharton School of the University of Pennsylvania, then spoke on the changing dynamics of corporate involvement in Third World countries. He focused on the activity of Canada's Talisman Oil Company in

" While these NGOs found pressuring businesses to be an effective strategy, success was only achieved when pressure was simultaneously applied across a wide spectrum of channels, including private actors; local, state, and federal governments; and the courts."

ROBERT DELONIS ('04), SPEAKING ON PROTESTING PETROLEUM FIRM OPERATIONS IN BURMA

Sudan, which has been in the midst of a brutal civil war since 1984.

Talisman, which left Sudan despite an otherwise successful production campaign, was forced out by some of the company's investors, who were concerned with human rights violations in that country. "You have a whole slew of actors involved," said Kobrin. "Very importantly, NGOs. This is very new." He concluded with a layered question: How far should this new dynamic be pushed, and to what extent can private organizations like non-governmental organizations and corporations be expected to act as a vehicle of public policy?

Dr. Simon Chesterman, a research associate at International Peace Academy and the panel's self-ascribed "token lawyer," addressed a question from the audience on the movement towards global government. "Global governance does not imply world government," he said. "It implies a harmony of nations' legal rules, internationally. And in many areas, we are not that far away."

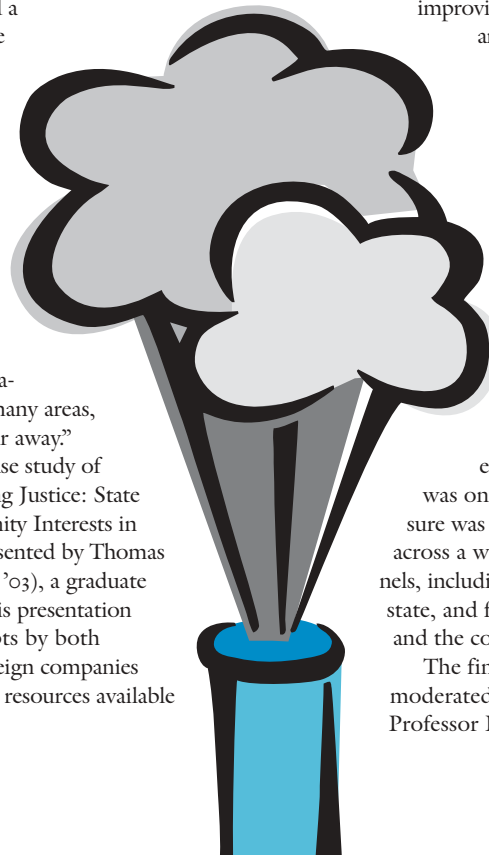
The second case study of the day, "Accessing Justice: State and Oil Community Interests in Nigeria," was presented by Thomas Obidairo (LL.M. '03), a graduate editor of JILP. His presentation described attempts by both domestic and foreign companies to tap the natural resources available in Nigeria.

The panel, which focused on how nations can take advantage of their natural resources, rather than having them exploited by international corporations, included Venezuelan Ambassador Bernardo Alvarez Herrera; Dr. Bernard Mommer, adviser of the president of Petr6leos de Venezuela (PDV); Professor Hurst Groves, director of the Center for Energy, Marine Transportation, and Public Policy at Columbia University; and Judith Kimerling, associate professor of law and policy at CUNY School of Law and Queens College. The dialogue emphasized issues in Venezuela. Venezuelan LL.M. students leapt at the opportunity to question important leaders in the public and private sectors on key decisions about stabilizing and improving their home economy and political situation.

The final case study was given by Robert Delonis ('04), who spoke about "Methods of Dissent: Protesting the Operations of Petroleum Firms in Burma." Delonis explained the important role of NGOs, but noted: "While these NGOs found pressuring businesses to be an effective strategy, success

was only achieved when pressure was simultaneously applied across a wide spectrum of channels, including private actors; local, state, and federal governments; and the courts."

The final panel of the day was moderated by NYU School of Law Professor Philip Alston. The first



speaker was Gavin Power, director of public affairs and communications of the U.N. Global Compact, who spoke about, among other things, his organization's efforts to develop strategies to deal with companies that ignore the principles of the compact. "The compact needs to be judged on its ability to produce substantive change in company behavior," he said.

Professor Cynthia Williams ('89), associate professor of law at the University of Illinois, spoke about ways companies have been forced to improve their social consciousness, offering words of inspiration and validation to the students in attendance. "I think we have to remember that the anti-sweatshop movement in the United States was led by students," Williams said. In the post-Enron era, Williams said that stakeholder dialogue and initiatives have begun to play a larger role in improving the social, economic, and environmental behavior of corporations.

Richard Herz, the litigation director of EarthRights International, praised the organizers for conducting the symposium. Herz spoke about global compacts and the Alien Tort Claims Act. He said that creating voluntary corporate responsibility requirements is like asking for "the fox's idea of how to guard the chicken coop." He concluded the panel by arguing that parties with conflicts of interest are not the best monitors of corporations, of resources, or any combination of the two.

Environmental Law Society

NYU School of Law's Environmental Law Society (ELS) is the foundation of the community of law students interested in environmental and land use issues, and provides avenues for students' interests in academics, activism, and career development. While ELS works closely with the Law School's environmental and land use law faculty, it is an entirely student-run organization. A committed group of students organizes and participates in a range of activities, including seminars, career panels, legal projects, and environmental advocacy.

In the past few years, ELS has hiked and camped in the Catskills, toured a waste management facility, reviewed the president's nominees for the federal bench, and overseen a University-wide campaign to transform NYU into a more environmentally efficient institution. Law students participate from their first day of orientation, when ELS co-hosts an incoming student happy hour with the International Law

Society. Second-year students provide the core leadership for the program, and 3Ls continue to participate by providing advice and counsel to 1Ls about their experiences in the environmental field at career panels and other events.

ELS will kick off its 2003-04 programs by co-hosting an environmental justice panel discussion with BALSAs (the African-American student group) and local professors and activists who are involved in the environmental justice movement. The group also is planning a series of environmental brown-bag lunches as the monthly anchor events for ELS. It will invite professors, local practitioners, and student note-writers to share their wisdom and engage in discussion with a regular lunch bunch. ELS also will bring back some of the most popular activities from years past: an overnight ELS-sponsored camping trip; a regional ELS happy hour (last year, ELS brought together students from Columbia, Cardozo, and Brooklyn law schools and hopes to have Pace Law School attend this year); tulip planting in the Vanderbilt Hall garden; and career and student internship panels.

Wyman Discusses Fishery Regulations

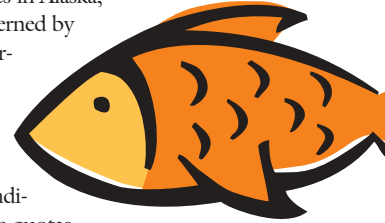
An ELS dinner discussion with Professor Wyman, NYU School of Law's newest member of the Environmental Law and Property faculty, drew about 30 students. They dined on Chinese takeout in the student lounge as Wyman gave an introduction to her current research in fisheries regulation, which draws on her previous studies about why government regulators turn to property rights and

markets to regulate environmental and natural resources.

Wyman is currently examining why some jurisdictions have moved faster than others to implement individual transferable fishing quotas. These quotas, a controversial instrument for regulating fisheries promoted by economists for roughly three decades, are not used widely in the United States. Several important fisheries in Alaska, however, are governed by individual transferable quotas and functionally similar regulatory instruments. Internationally, individual transferable quotas are used in countries such as New Zealand and Iceland, and to a lesser extent Australia and Canada.

The discussion among Wyman and the diverse group of students was animated. When Wyman mentioned, for example, that she planned to travel to Alaska to further study her theories, a student quipped, "And will you be bringing your research assistant?" Participants ranged from first-year students to international LL.M.s interested in market-based approaches abroad.

The dinner, sponsored by ELS, was organized by Angela Kleine ('05) to provide a casual forum for discussing a current environmental issue, and to bring together students and faculty with a common set of interests and diversity of perspectives. ELS plans to sponsor more get-togethers with students, faculty, and alumni in fall 2003.



Property, Poverty, and Race NYU School of Law Hosts Roundtable Discussion with Justice Clarence Thomas

NYU School of Law was proud to sponsor a roundtable discussion in July 2003 at Villa La Pietra in Florence, Italy, that brought together a distinguished group of academics, students, and leaders of the bar to tackle the problem of the relationship between property law and poverty and race. Modeled on the highly successful Aspen Institute for Justice summer seminars, the Law School's roundtable was led by U.S. Supreme Court Justice Clarence Thomas and Professor Richard Pildes. Under their guidance, the group debated the issues posed by the role property law has played in the experience of African Americans and other people of color in the United States.

The group's first discussion, titled "Forty Acres and a Mule: Property-Based Approaches to Race and Poverty," focused on how the law could move beyond the anti-discrimination model to address disparities between the races in property holdings. The topics of the discussion included both the acquisition of property and wealth by low-income and minority communities and obstacles to deriving the full benefits from ownership. The conversation addressed the role of inheritance laws in leading to fractured ownership of agricultural land in the South, and the resulting underuse and inability to leverage the property; the role of barriers to entry that entrepreneurs face in certain areas and the relative costs and benefits of operating businesses informally; and the potential of different government interventions and programs, including individual development accounts, to remedy persistent disparities in wealth and assets. The discussion concluded with an assessment of the relative merits of targeting policies in a way that is based on race versus class.

The second day centered around a discussion of Hernando de Soto's book *The*



Peter Sudler ('73) and Eileen Sudler ('74) participated on a panel exploring the relationship between property law and poverty and race.



Since 1994, NYU has used Villa La Pietra as an academic center for students. In addition, Villa La Pietra is used by the University for meetings, conferences, and special events, such as the Law School's roundtable discussion titled, "Property, Poverty, and Race."

" The seminar on race, poverty, and property was just outstanding. The discussion included a diversity of views and opinions. They were also spirited, informative, and constructive."

U.S. SUPREME COURT JUSTICE CLARENCE THOMAS

Other Path. De Soto's research was based on many interviews with individuals who live and work outside of the formal economy in Peru, and documented the obstacles that exist to joining the formal economy. He concluded that defining and enforcing property rights is the key to integrating the poor into the formal economy and generating wealth. While de Soto's work focused on Peru, there were some important parallels to the United States. Professor Stephen Holmes supplied both a critical perspective and a framework for understanding de Soto's work in the context of other countries' experiences. The discussion addressed the potential attractiveness and limitations of solutions that are based exclusively on changes in the legal system.

Focus then shifted back to the United States and the effect current trends in land use regulation, such as the "smart growth" movement, might have on the property holdings of people of color and the poor. Professor Been's introduction highlighted the need to define carefully what is meant by sprawl, the concerns that motivate efforts to regulate it, and the goals of regulation to address sprawl. Sprawl is viewed as problematic for a number of reasons including that it

is an inefficient type of development that results in greater infrastructure costs; the cost of housing in the suburbs does not fully reflect the cost of suburban development due to the presence of subsidies and externalities; and the negative environmental effects of sprawl on air quality and green space. On the other hand, smart growth policies may be problematic because they privilege established homeowners relative to newcomers to the suburbs, who increasingly include many families of color; they may also prevent owners of agricultural property — including African Americans who managed to hold on to their land in the Southeast — from realizing the profits available from development.

The conference's hosts and participants agreed that the conference was a success. Thomas asserted, "The seminar on race, poverty, and property was just outstanding. The discussion included a diversity of views and opinions. They were also spirited, informative, and constructive. I would love participating in future seminars or discussions structured and conducted in a similar way."

Eileen Sudler ('74) commented, "It has been a rare privilege to participate in the Property, Poverty, and Race Seminar in the beautiful setting of La Pietra. The subject

matter was compelling and very well presented. The active involvement of Justice Thomas led to deep and earnest discussion which I hope will continue long after the close of these proceedings.” Manuel Klausner (’62, LL.M. ’63) added, “This was a memorable chapter for NYU School of Law — no less auspicious than the inauguration of the Madison Lectures by Hugo Black! The setting was magnificent. The participants were knowledgeable, articulate, and genuinely diverse. The discussion was robust. And Justice Thomas was masterful in guiding the discussion. An extraordinary experience!”

Participants in the roundtable included Professors Been, Schill, and Wyman, Dean Revesz and Professor Deborah Malamud from NYU School of Law, and Professors Nicole and Richard Garnett, who teach at Notre Dame Law School. Several students and recent graduates interested in the issues of property and race participated as well: Kristina Daugirdas (’05); Theano Evangelis (’03), law clerk to Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit; Sheridan England (’04); Troy McKenzie (’00), law clerk to Justice John Paul Stevens; and Leila Thompson (’05). Others who participated in the debate included Alfred Engelberg (’65), trustee of the Engelberg Foundation, an expert in intellectual property law, and trustee of NYU School of Law; Gail Engelberg, trustee of the Engelberg



U.S. Supreme Court Justice Clarence Thomas (left) and NYU School of Law Professor Richard Pildes lead a roundtable on property, poverty, and race in Florence, Italy.

Foundation; Jay Furman (’71), principal, RD Management Corporation, a major real estate development firm, and trustee of the University and NYU School of Law, accompanied by Victoria Moran; Manuel Klausner (’62, LL.M. ’63), a leading practitioner in the areas of constitutional and election law; Willette Klausner, president, Edgework Productions; Lester Pollack (’57), managing partner, Centre Partners, chairman of NYU School of Law Foundation, and University trustee, accompanied by his wife, Geri Pollack; Barry Slotnick (’61), of Slotnick, Shapiro & Crocker, LLP, a leading criminal

defense firm; Donna Slotnik, realtor, Julia B. Fee Real Estate; Eileen Sudler (’74) and Peter Sudler, (’73), general counsel and president, respectively, of The Sudler Company, a major real estate development firm; Virginia Thomas, director of executive branch relations, the Heritage Foundation; Brenda Thompson, clinical/school psychologist and smart growth community activist; Anthony Welters (’77), chairman and chief executive officer, AmeriChoice Corporation, University trustee and NYU School of Law trustee; and Beatrice Welters, founder of the An-Bryce Foundation.



Villa La Pietra, Florence, Italy. Sir Harold Acton, an historian, author, and aesthete, bequeathed the villa to New York University on his death in 1994.



Professor Ross Sandler ('65) (left) discusses domestic environmental policy on a Reunion panel that included Professor Katrina Wyman, moderator (center), Hal Candee ('83) (back), and Michael Gerrard ('83) (right).

Reunion Panel Delves into Environmental Policy

Felicia Marcus ('83) brought her experience; Michael Gerrard ('78) brought his advice; Hal Candee ('83) brought his inspiration; and Ross Sandler ('65) brought a decades-old letter from a young girl.

Candee, Gerrard, Marcus, and Sandler were panelists in a 2003 Reunion Weekend presentation on "Domestic Environmental Policy" at NYU School of Law. Moderated by Professors Stewart and Wyman, the panel attracted both Law School alumni and current students.

Sandler recalled the evolution of the field of environmental law that began in the 1970s. He was a senior attorney for the Natural Resources Defense Council (NRDC), a partner at Jones, Day, Reavis & Pogue, and the commissioner of transportation for New York City, before joining New York Law School as a professor of law and director of the Center for New York City Law. Sandler emphasized the importance of citizen action, sharing a letter that he received many years ago when he was an assistant U.S. attorney in Manhattan. He keeps the letter, written by a grade school student who urged Sandler to prosecute a firm that was polluting near her home, as a reminder of the importance of his work.

Candee served as a legislative assistant in the U.S. Senate before studying at NYU School of Law. After graduating, he clerked for a federal judge, then became a senior staff attorney in NRDC's San Francisco office, where he is the director of the Western Water Project. Candee focused on his efforts to reform state and federal water policies, and the

frustrations and successes that he has experienced in his career. Candee was named as one of California's "Lawyers of the Year" by *California Lawyer* magazine in 1999 for that work.

Gerrard, a partner at Arnold & Porter and an adjunct professor at Columbia Law School, has written several books and articles discussing the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Gerrard discussed risk prioritization, arguing that the risks associated with many Superfund sites do not justify the extensive costs associated with remediation. He called for a reassessment of environmental risks (such as radon) and a realignment of regulatory attention to focus on more dangerous, unattended hazards.

Marcus, who was regional administrator for the Environmental Protection Agency (EPA) in San Francisco under President Clinton, is now the executive vice president and chief operating officer for

" Sometimes when I think about the grief that I gave EPA folks when I was working in the community, and then I think about my subsequent experiences working for the EPA, it's like my karma ran over my dogma."

FELICIA MARCUS ('83)

the Trust for Public Land. Marcus also practiced extensively as a public interest lawyer and served as president of the Board of Public Works for Los Angeles. She spoke about the tensions between environmental advocates and the federal agencies charged with the administration of environmental statutes and described the difficulties that both face when trying to promote public welfare.

"Sometimes," Marcus said, "when I think about the grief that I gave EPA folks when I was working in the community, and then I think about my subsequent experiences working for the EPA, it's like my karma ran over my dogma."



Dean Richard Revesz asks environmental law practitioners a question at the domestic environmental law panel.

Been began by asking the panelists how, if at all, the redevelopment of the WTC site would impact the greater metropolitan area. The panelists agreed that the unprecedented level of interest from the general public in how to develop the WTC site would influence all of New York City and potentially all urban areas.

Envisioning the Next New York

More than a year ago, a *New York Times* op-ed article proclaimed the American city dead. The editorial prompted an NYU School of Law student, Anika Singh (’04), and two friends, Adam Gordon and Seth Brown, to launch a new magazine, *The Next American City*. To celebrate the publication’s debut, the Law School’s Center on Environmental and Land Use Law and the Furman Center for Real Estate and Urban Policy hosted a panel discussion titled “The Future of the City: Envisioning the Next New York.”

The magazine’s editor, Adam Gordon, welcomed hundreds of guests, including leaders in urban planning, architecture, development, and the environment. He described the new magazine as a forum for the exchange of ideas about the wide range of fields that combine to shape our cities’ futures.

The distinguished panelists were Alexander Garvin, then head of the agency redeveloping the World Trade Center (WTC) site; Paul Goldberg, well-known *New Yorker* architecture critic; Hugh Hardy, a renowned architect who reviews the WTC plans on behalf of New York New Visions, a civic advocacy group; and Joseph Rose, former New York City planning commissioner. Professor Been, a member of the magazine’s advisory board, moderated.

Been began by asking the panelists how, if at all, the redevelopment of the WTC site would impact the greater metropolitan area. The panelists agreed that the unprecedented level of interest from the general public in how to develop the WTC site would influence all of New York City and potentially all urban areas. Hardy pointed to Mayor Bloomberg’s plan, which calls for new public spaces. Goldberg noted that if urbanists can harness the

public’s interest in improving the downtown area, “this process will have a deep, broad meaning that goes beyond lower Manhattan.”

Been asked how such intense civic engagement impacts the balance of power between the stakeholders in the development process and the citizens. Garvin responded that community activism in New York is nothing new. “Planning boards began here, so this is fairly normal,” he said. But, the Lower Manhattan Development Corporation Web site has had 6 million visits — certainly not “normal.” As Goldberg said, the “balance of power is shifting all the time.” Government and the developers are figuring out how to listen to the public: public hearings are dead, and “what’s alive is the Web, the exhibits, and the Javits Center forum last summer,” Goldberg said.

Been followed up by asking whether government regulation, such as zoning, needed to be changed and whether the public hearing should be abolished. Hardy noted that

Albany controls so many aspects of New York City that major changes would be unlikely. Garvin said that, historically, every development problem has been answered with regulation — incentives and bonuses to do certain things. He doubts they have worked. Regulatory incentives have created 80 acres of public space in midtown Manhattan, among the most valuable land in the world, but these areas fail as public spaces, he argued, because they are not inviting or user-friendly. To compound matters, these 80 acres represent a fortune in foregone development.

Hardy questioned the value of design guidelines, which have led to many New York skyscrapers, including Battery Park City. Goldberg felt guidelines prevent both “creativity and disaster — they force structure to the banal middle.” The speakers agreed that New Yorkers are more willing to experiment with creative and bold structures, and that the redevelopment of lower Manhattan could herald the city’s aesthetic future.

The evening ended with a spirited question-and-answer session. Guests and panelists lingered long after the session ended, both to continue the debate and to celebrate the magazine’s first issue.

Dean’s Roundtables

Each year, Dean Revesz invites several NYU School of Law alumni and a few select guests to share their work experiences with students at the “Dean’s Roundtable Luncheons.” (See p. 143 for other roundtable guests.) One of the most popular programs among students, the roundtables are a unique chance for students to learn about alternatives to traditional career paths. Four roundtables this year focused on environmental and real estate issues.



Panelists from the launch of *The Next American City* (from right): Joseph Rose, former commissioner of the New York City Planning Commission; Paul Goldberg, architecture critic for the *New Yorker*; Hugh Hardy, noted national architect; Professor Vicki Been (’83), member of the magazine’s advisory board; Adam Gordon, editor-in-chief, *The Next American City*; Alexander Garvin, former head of the agency redeveloping the World Trade Center site; and Seth Brown, publisher, *The Next American City*.



One of the most popular programs among students, the roundtables are a unique chance for students to learn about alternatives to traditional career paths.

Robert Rohdie ('65) is president and chief executive officer of Tarragon Development Corporation, a subsidiary of Tarragon Realty Investors, Inc. Tarragon is a public real estate development, acquisition, and management company. The company controls approximately 20,000 apartment units and almost 2.5 million square feet of commercial space located throughout the continental United States. Rohdie is responsible for all of Tarragon's development and construction activities. Since 1988, he has been president and chief executive officer of Rohdhouse Investments, Inc., his wholly owned real estate development company, which acted as Tarragon's joint venture partner in new construction and development projects from 1997 through 2000. He has more than 35 years of real estate development experience. He has also served as an adjunct professor in business law at Montclair State University.

Peter ('73) and Eileen ('74) Sudler are president and general counsel, respectively, of The Sudler Company, a privately held construction, development, and management organization, which started as a small contracting firm in 1907. The Sudler Company has since grown into a major developer and owns and manages more than 10 million square feet of office buildings, warehouses, and shopping centers in New Jersey and across the United States. Peter Sudler was an assistant U.S. attorney for the Southern District of New York, and served as the lead prosecutor in the income tax evasion case against Studio 54 owners Steve Rubell and Ian Schrager. He is a director of Independence Community Bank and the New Jersey Sports and Exposition Authority. Eileen Sudler began her career as a criminal defense attorney with Legal Aid Society in the Bronx. In 1976, she was appointed as assistant U.S. attorney for the Southern District of New York, where she served first in the civil divi-

sion, then in the bankruptcy unit, becoming chief of that unit in 1978. She was a name partner in the law firm of Sudler & Barth and of counsel to Courter, Kobert, Laufer, Purcell, and Cohen.

Steven Swerdlow ('75) is president of Global Corporate Services for CB Richard Ellis, a global real estate brokerage and management company headquartered in Los Angeles with over 250 offices in 47 countries. As president of Global Corporate Services, he is responsible for all global business units including global outsourcing, advisory, and transaction services. He is also responsible for strategic occupancy planning, facilities management, financial consulting, and lease administration. Swerdlow joined CB Richard Ellis in 1990 as managing director of the New York City office. He then served as president of the Eastern Division, managing 46 local offices and responsible for \$400 million in annual revenue. Swerdlow began his professional career at the New York law firm of Barrett Smith Schapiro Simon and Armstrong. He has also served as senior vice president and general counsel at the international advertising agency Kenyon & Eckhardt (now Bozell, Jacobs, Kenyon & Eckhardt), and as a development officer for Gerald D. Hines Interests, a major real estate development company. He serves on the board of governors for the Real Estate Board of New York and on the Realty Foundation Board of Directors. He is a member of the Business Council for Lincoln Center and chairman of the CB Richard Ellis 9/11 Disaster Relief Effort, a corporate cause dedicated to raising funds and awareness for the events of September 11.

Geoffrey Wharton ('67) is chief executive officer of Insignia Douglas Elliman, the residential real estate brokerage subsidiary of Insignia Financial Group, Inc. Insignia Douglas Elliman is one of the largest providers of

residential sales and rental brokerage in the New York City market. Wharton oversees more than 950 employees, including 830 brokers, in nine offices in New York City and three offices on Long Island. Insignia Douglas Elliman completed in excess of \$2.4 billion of residential sales and rentals in 2001, and the company arranged \$1.5 billion of transactions in the first half of 2002. Wharton joined Insignia Douglas Elliman in September 2002 from Silverstein Properties, where he served as managing director of the World Trade Center Re-Development Program. From 1982 to 2000, Wharton was a senior executive at Tishman-Speyer, where he led the redevelopment and management of Rockefeller Center and the Chrysler Building, two iconic New York City landmarks. Wharton has also held positions with Edward S. Gordon Company, now part of Insignia Financial, and Weil, Gotshal & Manges.

Rose on Green Development Real Estate and Urban Policy Forum Hosts Renowned Developer

The Real Estate and Urban Policy Forum hosted noted "green" developer Jonathan Rose and his general counsel, Jonathan Vogel ('96), to speak to students about the issues surrounding sustainable development. (See p. 49 for more on the Forum's Segal Real Estate Roundtables.)

Rose is president of a limited liability company that works with a variety of organizations to coordinate, plan, and develop environmentally sound and socially responsible housing and urban projects in conjunction with municipal governments. The firm's objective is to create "vibrant, diverse cultural centers with a balance of jobs, housing, open land, and mass transit."

Rose spoke at length about the five guiding principles of his development projects: impermanence; diversity (including affordability); environmental friendliness; interdependence; and community participation.

Following his presentation, Professor Schill, the Forum's faculty adviser, challenged Rose with questions about options for affordable housing. Playing devil's advocate, Schill proposed that it might be better to spend money on affordable housing outside of Manhattan, in a "less pricey" borough where more good could be done.

"Let's take downtown Manhattan," Schill said. "Why specifically does it require a mix of income in order to make downtown

“ Why specifically does it require a mix of income in order to make downtown Manhattan a thriving community? If I could get two or three units for every one in Brooklyn, it seems like a real tradeoff, a hard one. I love the idea of mixed income communities, but when it’s that stark, it’s hard to justify.”

PROFESSOR MICHAEL SCHILL



Jonathan Rose plans and develops environmentally sound and socially responsible housing and urban projects with municipal governments. He spoke to a group of NYU School of Law students at a Real Estate and Urban Policy Forum.

Manhattan a thriving community? If I could get two or three units for every one in Brooklyn, it seems like a real tradeoff, a hard one. I love the idea of mixed income communities, but when it’s that stark, it’s hard to justify.”

Rose based his answer on the principle that diversity really matters. “Lower Manhattan, in particular, the World Trade Center redevelopment plan, is going to be the defining urbanistic vision for the next century,

like Rockefeller Center was for the last,” he said. “We have to model the kind of place we want to live in.”

On a practical point, he added, “Security cuts two ways: One is the fear of getting blown up. The other is the convenience of the city itself. I think there are serious questions being asked about cities. We have to make the most compelling case for what a quality urban life can be. The eyes of the whole world are seeing how we can do this.”

Forum co-chair Nick Kujawa (’04) asked Vogel and Rose to describe the career trajectory they would recommend for an aspiring green developer. “Call up Professor Schill and say you don’t like what you do, and ask him where to work,” Vogel answered.

Although his reply was humorously intended, Vogel was loosely referencing his own biography. After his call to Professor Schill, Vogel began working with the New York City Housing Partnership and continued his involvement with affordable housing from there.

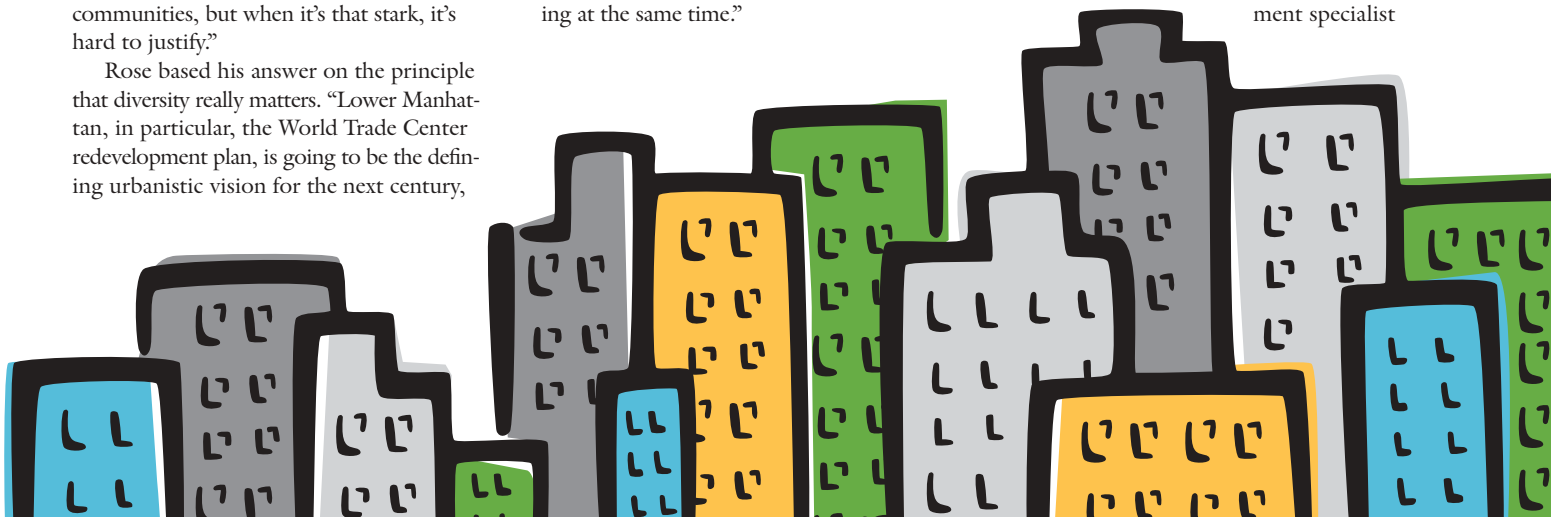
Rose said that he agreed with Vogel that it was best to get started working for nonprofits. “I got into affordable housing at the ground level and worked my way up from that,” he said. “It’s a way of giving and learning at the same time.”

The Travails of the Brazilian Panará Tribe

NYU School of Law’s Institute for International Law and Justice (IILJ), the *Environmental Law Journal*, and the Rainforest Foundation hosted a remarkable public meeting on the experiences of the Panará, an indigenous people of the Brazilian Amazon. The Panará lived largely in isolation until a government road project through their territory brought them in contact with the outside world in 1973. The encounter proved almost fatal — diseases brought by road workers led the tribe to dwindle to 79 people. In an emergency remedy, they were airlifted to the Xingu Park many miles away. Unable to find an ecologically suitable environment for their ways of living in Xingu, they decided to return home. Their 20-year struggle resulted in two landmark decisions: They won the title to their land in a government administrative process in 1996, and an unprecedented court order of compensation for material and moral damages in 2001, payable by the end of 2003. From near oblivion, the Panará are rebuilding their community and are engaged actively in managing and protecting their rainforest.

The panel was opened by Patiká Panará, a leader of the Panará community, who discussed the struggles faced by the Panará peoples during the period of contact and relocation, as well as their continuing struggles to subsist. Stephan Schwartzmann, an anthropologist with Environmental Defense who has worked closely with the Panará people for two decades, translated the dialogue and also provided background information on the decision to undertake the road project and relocate the Panará. Ana Valéria Araújo, executive director of the Rainforest Foundation and a lawyer in the Panará case, commented on the legal challenges and the public interest lawyering strategies used in presenting the claims of the Panará to the Brazilian government and the courts. André Villas-Bóas,

a community development specialist





Participants in a meeting on the Panará people of Brazil: (front row, from left) six members of the Panará community, including Patika Panará (fourth from left), a leader of the Panará community; Cynthia Liebman ('03), *Environmental Law Journal*; (back row, from left) Erik Bluemel ('04), *Environmental Law Journal*; Andre Villas-Boas, community development specialist with Instituto Socio-Ambiental in Brazil; Steven Schwartzmann, an anthropologist affiliated with Environmental Defense, who worked with the Panará for 20 years; Ana Valéria Araújo, executive director, Rainforest Foundation and a lead lawyer in the Panará case; and Professor Benedict Kingsbury, director, Institute for International Law and Justice.

with the Instituto Socio-Ambiental in Brazil, outlined the current strategies of the Panará to attain self-sufficiency and to prevent encroachment on their lands, and the future challenges they face in these efforts. The panel was moderated by Professor Kingsbury, director of the Institute for International Law and Justice at NYU School of Law.

Attended by more than 100 Law School students and members of the public, the panel presented a unique opportunity to hear from Panará representatives and others involved in their struggles. Many of the stu-

dents attending had extensive experience as public interest lawyers or non-governmental organization interns on indigenous people's land issues in Latin America, the Philippines, Indonesia, Australia, and elsewhere, enabling a stimulating discussion of ways in which the Panará experiences and their legal victories might be significant for other indigenous peoples. A detailed report of the discussions, and an English translation of key aspects of the compensation decision by the Brazilian courts, are available on the IILJ's Web site at www.nyuilj.org. ■

Korein Foundation Environmental Program

In the fall of 2002, NYU School of Law launched the Korein Foundation Environmental Program, supported by a major three-year grant from the Korein Foundation, the family foundation of alumna Elysbeth Kleinhans ('88). The Program will strengthen the Law School's environmental and land use programs by funding public interest summer placements to allow students to work on environmental and land use policy initiatives and litigation in their first and second summers; by supporting student participation in the International Environmental Law Clinic; and by supporting an annual conference on a major issue in environmental and land use law and policy.

The Korein Program started well with the selection of 10 outstanding students who served as the 2002-03 Korein Fellows. The 10 fellows spent the past summer working for environmental and land use organizations and government agencies in the United States and abroad. This fall, the fellows will participate in a special seminar on environmental and land use public interest practice.

The 2002-03 Korein Fellows

Nathan Alley ('04) interned this past summer at Environmental Defense (ED) in New York. Alley's work focused on analyzing policy options for addressing New York City's commercial waste problems. ED and the Natural Resources Defense Council (NRDC) are jointly providing legal and policy input to the city as it works to improve commercial waste management. Alley had begun to tackle commercial waste management in the city while enrolled in the NRDC Environmental Law Clinic (see p. 37) during his second year, so he was already well-versed on the issue when he began his Korein internship. This summer, Alley also co-authored an article

with James Tripp, ED's general counsel, recommending options for streamlining the environmental review process under the National Environmental Policy Act without making legislative changes. The article will be published later this academic year in the Law School's *Environmental Law Journal*, of which Alley is co-editor-in-chief. Alley's policy work at ED complemented the litigation and direct action experiences he had in the summer of 2002 at Forest Guardians, a regional environmental NGO in Santa Fe, New Mexico.

Warren Braunig ('05) served his Korein internship at the Sierra Club Environmental Law Program in San Francisco. Braunig wanted to work at the Sierra Club because of the way it integrates litigation into broad public interest campaigns, using litigation as one tool in the political arsenal rather than treating it as an end in itself. Over the summer, Braunig provided research support for two cases in which the Sierra Club is challenging Forest Service initiatives that promote logging in national forests, in one instance through a timber sale, and in the other case by granting a permit that allows a power company to run a transmission line through 11 miles of national forest. In addition, he drafted an amicus brief for litigation challenging pollution generated by factory farms in the Midwest. Braunig is co-chair of the Law School's Environmental Law Society in 2003-04, and is committed to fighting toxic pollution and to hastening the transition to alternative energy sources.

Sam Brooke ('06), who is simultaneously pursuing a J.D. at NYU School of Law and an M.A. in Law and Diplomacy at the Fletcher School at Tufts University, spent the summer at the Instituto de Derecho y Economía Ambiental (IDEA, the Institute of Economic and Environmental Rights) in Asunción, Paraguay. Brooke worked on a project to assess the environmental impact that the proposed Free Trade Area of the Americas Agreement (FTAA) could have on Paraguay. He looked at both how the FTAA might threaten the environment, and at what sort of legislation might be used to guard against the expected threats. The project is part of a broader regional project to determine what provisions should be included in the FTAA to protect the environment in Latin American countries. Brooke, who traces his interest in environmental issues to his childhood on a grain farm in North Dakota, opted to spend the summer at IDEA because he wanted to work in Latin America on land use and development issues.

Geoff Davenport ('06), who is pursuing both a J.D. at NYU School of Law and an M.B.A. at NYU's Stern School of Business, worked over the summer with New York Lawyers for the Public Interest (NYLPI). Davenport's interest in environmental law is related to his commitment to community development work. Before coming to the Law School, he worked for five years at an organization in northern California that helps severely abused and neglected children. Attracted to NYLPI's commitment to community lawyering and by its reputation for investing in its interns, his summer included researching the environmental justice implications of several proposed governmental initiatives. For example, he reviewed an environmental impact study of the effects of spraying pesticides to address the West Nile virus that was prepared by New York State's Department of Environmental Conservation. In addition, Davenport analyzed New York State data on the location of permitted facilities in low-income neighborhoods and communities of color.

Dallas DeLuca ('05) spent his internship at the Office of the City Attorney of San Francisco. He worked in the Land Use and Environment group, researching and helping to draft briefs and legal memoranda for cases in which city land use ordinances and decisions are being challenged as regulatory takings. In addition, DeLuca provided legal research that was used in drafting land use planning commission approvals. Before attending NYU School of Law, he was employed in the private sector, and in the U.S. and Foreign Commercial Service of the U.S. Department of Commerce, where he worked exclusively with pollution control and environmental technologies for two years. DeLuca, who is interested in pursuing a career in government working on environmental law, opted to spend the summer at the Office of the City Attorney because it is one of the most active local government offices in the land use field, working to defend many zoning and regulatory takings cases.

Kris Genovese ('04) worked over the summer in Earthjustice's International Program in Oakland, California. She contributed to court briefs by researching legal issues and conducted case investigations. One of the cases Genovese worked on concerns two Mexican power plants near California's border, which Earthjustice's client, the Border Power Plant Working Group, argues will cause increased air and water pollution on both sides of the border. Earthjustice won the merits phase of the case, in which a district court judge held that an environmental assessment conducted by the

U.S. Department of Energy had failed to consider the impact of ammonia emissions from the plants. For the remedies phase of the trial, Genovese researched whether the court had to find irreparable harm before issuing an injunction, or whether federal legislation required that the permits the federal government issued authorizing transmission of power from the two plants had to be set aside and the transmission of power over the lines enjoined. After graduating next spring, she wants to work at a non-profit international environmental law organization, and she chose Earthjustice's program because of the innovative work that it is doing in international environmental law. In addition, she had met the lead attorney in the international program, Martin Wagner, while she was working at the Center for Internation-

Escalera Náutica project in Baja, which entails building or enhancing 24 marinas along the Baja coast and the Sea of Cortés; constructing hotels, golf courses, condos, and various services at each marina; and building a "land bridge" across Baja for boat hauling. She chose to intern at CEMDA because she wanted experience working in environmental law outside the United States, and she had heard great things about CEMDA from Kris Genovese, who had worked there in the summer of 2002. At CEMDA, Knight worked mostly in Spanish, which did wonders for her language skills.

Sam Lutz ('05) interned at the Northwest Environmental Defense Center in Portland, Oregon. Lutz was interested in working at NEDC because it is one of the leading legal

In the fall of 2002, NYU School of Law launched the Korein Foundation Environmental Program, supported by a major three-year grant from the Korein Foundation, the family foundation of alumna Elysabeth Kleinhans ('88).

al Environmental Law before coming to law school. During her previous summer, Genovese interned at the Centro Mexicano de Derecho Ambiental (the Mexican Center for Environmental Law) in Mexico City, where Alexandra Knight ('05), another Korein-funded intern, worked this summer.

Stephanie Hogan ('05) served her internship at the U.S. Department of Justice in Washington D.C. She worked in the Wildlife and Marine Resources Section of the Environment and Natural Resources Division, providing research assistance for cases arising under various federal wildlife and fisheries statutes. Hogan opted to work at the Department of Justice in order to gain valuable insights into environmental law from a government perspective, and her particular interest in fisheries issues.

Alexandra Knight ('05) worked at the Centro Mexicano de Derecho Ambiental (CEMDA, the Mexican Center for Environmental Law) in Mexico City. She was a member of the litigation team, which counsels NGOs and individuals seeking to pursue violations of Mexican environmental legislation. Knight's responsibilities included evaluating the environmental impact statement for the

advocates for the environment in the Pacific Northwest, and he wanted to get involved in on-the-ground litigation. His summer experiences exceeded his expectations. He did the legal groundwork for a potentially precedent-setting appeal concerning the permitting process used for general permits under the Clean Water Act. Depending on the outcome, the case may result in significant changes in the way that permits are issued, and provide the environmental community with a new avenue for overseeing the permitting process. Lutz had the opportunity to shape the center's litigation and post-litigation strategies, and to draft important legal documents for the case.

Karen Spiegel ('05) worked at Earthjustice in Washington, D.C. Before coming to NYU School of Law, Spiegel interned at a number of government agencies and at a non-profit group working on environmental and land use issues. She wanted to work for the summer at Earthjustice to learn more about environmental law and policy from the NGO perspective. As an intern, she researched issues arising in Earthjustice's Clean Water Act litigation, and attended legislative subcommittee hearings on environmental issues. A native of Long Island, she is very interested in the potential for land use regulation to address urban sprawl. ■

PIC Grants Fund Many Students to Work in Environmental and Land Use Law

In addition to the Korein Fellows, many of the 221 NYU School of Law students who received Public Interest Committee (PIC) grants for work this past summer in the United States served in internships with non-profit organizations and government agencies working on environmental and land use issues. For example, students armed with PIC grants worked at such organizations as:

- > Brooklyn Bridge Park Coalition: Michele Antis ('05)
- > Earthjustice's International Program: Cynthia Liebman ('04)
- > Local Institutes Support Corporation: Adam Giuliano ('05)
- > New York Environmental Law and Justice Project: Annie Fox ('04)
- > Northwest Indian Fisheries: John Levy ('05)
- > RiverKeeper, Inc.: Elizabeth Vicens ('05)
- > Santa Barbara ChannelKeeper: Ben Lippert ('04)
- > United Nations Development Programme: Andre Verani ('05)
- > Urban Justice Center: Community Development Project / Workers' Rights Project: Kati Griffith ('04)
- > U.S. Environmental Protection Agency: Jeffrey Roberson ('04)
- > U.S. Environmental Protection Agency's Region 9 Office: Andrew Wong ('05)

Another 60 Law School students used PIC grants to undertake internships in other countries for the summer of 2003. Several worked on environmental projects. Keil Mueller ('05), for example, interned at the U.N. International Law Commission (ILC) under the supervision of the distinguished international environmental lawyer and diplomat Bill Mansfield. Mueller's work focused on strengthening transnational institutions in monitoring and controlling use of transboundary freshwater resources such as international rivers and aquifers. Similarly, Cade Mosley ('05), a junior fellow of the Institute for International Law and Justice pursuing a combined J.D.-LL.M. in International Law, interned at the U.N. International Law Commission. Supervised by Global Law Professor and ILC member Martti Koskenniemi, Mosley wrote a major paper on the social insurance function of international law liability regimes for transboundary damage caused by privately-owned facilities such as power plants. ■



Public Interest Committee Grants A Student's Perspective

Ben Lippert ('04)

The NYU School of Law Public Interest Committee (PIC) grants provided the opportunity for me to work at environmental non-profit organizations following my first and second years of Law School. My positions as an intern at San Diego BayKeeper and Santa Barbara ChannelKeeper have provided me with diverse environmental experience. I have helped develop presentations to the San Diego Regional Water Quality Control Board, commented on the Storm Water Management Plans of the cities of Santa Barbara and Goleta, and researched case law for litigation with staff attorneys. The exposure to both policy and legal assignments has been very important to me, and I don't think that a position at a law firm would have provided the same opportunities to work at close-knit organizations with committed individuals who have also become good friends.

I hope to pursue a career in environmental policy in Southern California, and with the grants I have been able to spend my summers at the jobs I wanted most. I had the freedom to apply for positions that provided environmental policy experience and the opportunity to establish professional contacts in California. BayKeeper and ChannelKeeper are local public interest organizations dedicated to protecting Southern California's water resources, and do not have the funding to pay summer interns. Without the grants, I wouldn't have been able to afford the cost of moving to and working on the West Coast.



Post-Graduate Fellowships Prepare Scholars for Academic Careers

Responding to the needs of alumni interested in pursuing teaching careers in environmental and land use law, the Center on Environmental and Land Use Law at NYU School of Law began several years ago to offer post-graduate research fellowships to help promising young scholars embark on academic and public service careers. Under close faculty supervision, academic fellows work on research projects that culminate in law review articles, and thereby develop a credential essential to land teaching positions in law schools today. The Law School is proud of the achievements of its four fellows.

The Center's first fellow, **Jonathan Nash**, graduated *magna cum laude* from NYU School of Law in 1992, then clerked for (then) Chief Magistrate (now Judge) Nina Gershon of the U.S. District Court for the Southern District of New York, and for Judge Donald Russell of the U.S. Court of Appeals for the Fourth Circuit. After several years in private practice, Nash earned an LL.M. at Harvard Law School, then returned to NYU School of Law as the Center's 2000 fellow. During his several months at the Center, Nash worked with Professor (now Dean) Revesz on an article that was later published as "Markets and Geography: Designing Marketable Permit Schemes to Control Local and Regional Pollutants," *Ecology Law Quarterly* (2001). Nash also used the fellowship to write "Too Much Market? Conflict Between Tradable Pollution Allowances and the 'Polluter Pays' Principle," *Harvard Environmental Law Review* (2000).

After his fellowship, Nash served as a Bigelow Fellow at the University of Chicago Law School where he taught a seminar on international environmental law, as well as courses in legal research and writing. He then joined the faculty of Tulane Law School, where he now teaches Environmental Law; Property; and Law and Economics. He has been a prolific scholar, and has two articles about to be published: "Examining the Power of Federal Courts to Certify Questions of State Law," *Cornell Law Review* (forthcoming 2003), and "A Context-Sensi-

tive Voting Protocol Paradigm for Multi-member Courts,” *Stanford Law Review* (forthcoming 2003).

Samuel J. Rascoff, a 2001 graduate of the Yale Law School, spent fall 2001 at the Center. During his fellowship, Rascoff and Dean Revesz co-authored “The Biases of Risk Tradeoff Analysis: Towards Parity in Environmental and Health-and-Safety Regulation,” *University of Chicago Law Review* (2002). After his fellowship, Rascoff clerked for Judge Pierre Leval of the U.S. Court of Appeals for the Second Circuit. Fluent in Arabic and Farsi, Rascoff was then tapped to serve as a special assistant to L. Paul Bremer, presidential envoy and civil administrator of the Coalition Provisional Authority in Iraq. Important as that work was, Rascoff left Iraq over the summer to take up his current post as law clerk to U.S. Supreme Court Justice David Souter.

Joel C. Beauvais, a *magna cum laude* graduate of NYU School of Law in 2002, was a fellow at the Center for academic year 2002-03. During his fellowship, Beauvais and Professor Been co-authored “The Global Fifth Amendment? NAFTA’s Investment Protections and the Misguided Quest for an International ‘Regulatory Takings’ Doctrine,” *New York University Law Review* (2003). He and Been also are in the midst of another project exploring the ramifications of the increasing convergence of environmental and land use law. This fall, Beauvais will serve as a law clerk to Judge Harry Edwards on the U.S. Court of Appeals for the D.C. Circuit.

Laura Tesser, the Center’s 2003-04 fellow, graduated *magna cum laude* from NYU School of Law in 2000. She returns to the Law School after several years in private practice, and will be working with Dean Revesz on an article examining the various methodologies that have been employed in the cost-benefit analyses of environmental regulation. The article will seek to shed some critical light on a few key assumptions used by various regulatory agencies that systematically undervalue human lives and, thereby, underestimate the air pollution-related benefits that flow from reductions in premature mortality risk.

Jacqueline Peel to Serve as Hauser Global Research Fellow

Jacqueline Peel (LL.M. '00) is returning from Australia to NYU School of Law this fall as a Hauser Global Research Fellow. Her research project will take an interdisciplinary approach to examining the role of scientific knowledge in WTO decision-making on health and environmental threats, arguing that non-science-based knowledge sources have a role to play in these decisions, especially in circumstances of scientific uncertainty. Her research at the Law School will contribute to a book she is currently writing titled *Environmental Decision-making in Circumstances of Scientific Uncertainty: The Precautionary Principle in Practice*. She will also be participating in the Project on International GMO Regulatory Conflicts headed by Professor Stewart (see p. 40).



Peel is currently lecturer on law at the University of Melbourne, where she teaches in the graduate and undergraduate environmental law program. Prior to taking up an academic career in September 2000, she earned her LL.M. at NYU School of Law as an Australian Fulbright Scholar. Her master’s studies focused on international environmental law and its linkages with other areas of international law, including trade law and human rights. As part of her master’s degree, she undertook an International Environmental Law Clinic project on the requirements for ensuring appropriate verification, reporting, and compliance under a global emissions trading program to reduce greenhouse gas emissions.

Following her Law School graduation, Peel received a scholarship to undertake an internship at the U.N. International Law Commission in Geneva, where she assisted the special rapporteur on state responsibility, Professor James Crawford of Cambridge University, in drafting commentaries to the commission’s Articles on the Responsibility of States for Internationally Wrongful Acts.

Peel’s major area of research interest is environmental law, particularly the international dimension of environmental regulation, although she has also published in the field of domestic environmental law. Her interdisciplinary research interest in environmental regulation goes back to her time as an undergraduate student at the University of Queensland, Australia, where she undertook a joint bachelor of science/ bachelor of laws course, focusing on environmental science and biotechnology in her science studies. After graduating in 1996 with first class honors and a University Medal in law, Peel worked as a solicitor in the planning and environmental division of the Australian legal firm of Allen, Allen, and Hemsley Solicitors. ■

Dagan’s Dissertation to Explore Israeli Emissions Trading System

Ruth Beltzer Dagan (LL.M. '00) is a J.S.D. candidate researching market-based instruments for pollution control, particularly emissions trading systems, with a focus on the application of such systems to control air pollution in Israel.

An Israeli citizen, Dagan is an attorney with eight years of experience in corporate practice and commercial litigation in Israel and in New York. She first became interested in environmental law while working on a major environmental litigation in Israel and decided to pursue a graduate degree in the field in the United States. After completing an M.S. degree in environmental management at NYU’s Robert F. Wagner Graduate School of Public Service, she joined the LL.M. program at the Law School, concentrating her studies in environmental law and policy. She researched such topics as environmental risk management by financial institutions and economic instruments for the control of pollution from transportation. Following the award of her LL.M., she was admitted to the Law School’s J.S.D. program.

Her dissertation, supervised by Professor Stewart, aims to advance understanding regarding the design and practical implementation of an emissions trading system for air pollution control in Israel. In addition to examining theories of trading systems design, her research draws on practical experience with implementation of trading mechanisms in the United States and other countries. The goal of the dissertation is to determine, based on worldwide experience in emissions trading, the feasibility of emissions trading in Israel. With her research, Dagan hopes to contribute to the growing base of international knowledge on the practical aspects of emissions trading, as well as provide additional tools for the design of Israeli domestic policy on pollution control.