



Institute for Biodiversity Law and Policy 2017–2018 Annual Report

Stetson University College of Law provides environmental education, service, and scholarship at the local, national, and international level. The Institute for Biodiversity Law and Policy coordinates Stetson Law’s environmental programs and initiatives and was the 2016 recipient of the **Distinguished Achievement in Environmental Law and Policy Award** from the **American Bar Association’s Section of Environment, Energy, and Resources (ABA SEER)**. Below are highlights of the Institute’s 2017–2018 activities. For more information about the Institute and to support our initiatives, please visit www.stetson.edu/law/biodiversity.



Professor Long, Professor Gardner, and students on a swamp walk [Photo credit: Maria White]

Supporting international and national conservation efforts:

For years, Stetson Law has provided support to the **Ramsar Convention on Wetlands**, an intergovernmental treaty that promotes the wise use and conservation of wetlands. The Ramsar Convention has 170 Contracting Parties around the world, and Stetson is the only law school that has a memorandum of cooperation with the Convention’s Secretariat. Professor Royal Gardner, Director of Stetson’s Institute for Biodiversity Law and Policy, has served as the chair of the Ramsar **Scientific and Technical Review Panel (STRP)** for the 2016–2018 triennium. The STRP is the Convention’s scientific advisory body.

In his capacity as STRP Chair, Professor Gardner participated in meetings in Costa Rica, Germany (twice), and Switzerland (three times). Along with Dr. Max Finlayson of Charles Sturt University in Australia, Professor Gardner is a lead coordinating author for the *Global Wetland Outlook: State of the World's Wetlands and their Services to People*. This will be the Ramsar Convention's flagship publication and will be launched at the 13th Conference of the Parties in the United Arab Emirates in October 2018.



A message from the Secretary General of the Ramsar Convention on Wetlands

In November 2017, Professor Gardner and Erin Okuno, the Institute's Foreman Biodiversity Fellow, published a working paper, "**Bibliography of 2016 Scientific Publications on the Ramsar Convention or Ramsar Sites**," on SSRN. The paper provides a consolidated and categorized list and summaries of scientific articles published in 2016 that discuss the Ramsar Convention or designated Ramsar Sites. From 2015–2017, the Institute provided summaries and links to the articles to the Ramsar Forum, which is the Convention's public email list with almost 2,000 members. The project was a recognized activity under the Ramsar-Stetson memorandum of cooperation. Stetson Law alumnus Miles Archabal and the Institute's undergraduate interns, Kaitlyn Murphy and Jackson Willis, provided research assistance on the project.

Professor Gardner, Erin Okuno, Dr. Steph Tai (Associate Professor of Law at University of Wisconsin Law School), Kathleen Gardner, and Christopher Greer (Park Jensen Bennett LLP) filed an amicus curiae brief in the **U.S. District Court for the Southern District of New York** in May 2018. They filed the brief on behalf of the Society of Wetland Scientists, a leading

professional association of wetland and aquatic scientists around the world. The brief explains the necessity of considering the scientific basis of the **Clean Water Rule**, which defines the geographic coverage of the Clean Water Act. The brief is available online at <http://stetso.nu/qpl0m>. Professor Gardner, Erin Okuno, and Dr. Tai previously filed an amicus curiae brief in the **U.S. Court of Appeals for the Sixth Circuit** on behalf of water and wetland scientists in support of the Clean Water Rule. That brief also is available online at <http://stetson.edu/law/amicicuriae>. In June 2018, Professor Gardner received the **Society of Wetland Scientists President's Service Award** in recognition of his work on Clean Water Act policy issues and Clean Water Rule litigation on behalf of the Society.



The Environmental Law Institute (ELI) and Stetson's Biodiversity Institute received a two-year **Wetland Program Development Grant** from the U.S. Environmental Protection Agency for a project to support the ability of states, tribes, and local governments to develop rigorous in-lieu fee (ILF) mitigation programs that yield ecologically effective and sustainable compensatory mitigation. Throughout 2017 and 2018, Stetson has been reviewing and analyzing ILF program instruments for all approved ILF programs to assess and compare specific program components.

In May 2018, Professor Gardner presented at the 21st Annual **National Mitigation and Ecosystem Banking Conference** in Louisville, Kentucky. Professor Gardner provided updates and discussed possible implications of the rulemakings and litigation surrounding the Clean Water Rule in his presentation "What's up with WOTUS? (a never-ending saga)." Erin Okuno facilitated a workshop on in-lieu fee programs with ELI at the conference.

Professor Paul Boudreaux did volunteer work for a number of environmental matters, including giving advice on defending claims by landowners against local governments under Florida's Bert J. Harris Act. Professor Lance Long (with student volunteers) provided research and drafted pleadings and FOIA requests in connection with climate change litigation brought by Our Children's Trust (OCT). The OCT complaint has been filed in Florida, and various motions and discovery are underway. Professor Long's most recent article, "The Climate Necessity Defense: Proof and Judicial Error in Climate Protest Cases," will be published in the fall in the *Stanford Environmental Law Journal*. The article sets forth a comprehensive history of the necessity defense in environmental and climate change cases and explains where the courts have improperly ignored legal precedent and constitutional rights that require a jury to decide whether a defendant is entitled to the necessity defense.



Professor Long with Stetson Law alumni and student who assisted with OCT climate change litigation

Teaching environmental law through innovative methods:

In spring 2017, Professor Gardner organized **Topics in Biodiversity Law: Illegal Wildlife Trafficking**. The presence of Vivek Menon (Wildlife Trust of India) on campus was the impetus for this short course. In addition to meeting with Vivek Menon, the students had a videoconference with Carolina Caceres of Canada, who is Chair of the Standing Committee for the Convention on International Trade of Endangered Species. A Customs official and Fish and Wildlife Service agent also joined the class with examples of confiscated animal products. It was a Stetson-wide effort as Professor Boudreaux, Professor Ellen Podgor, and Stetson alumna Elise Bennett with the Center for Biological Diversity lectured as well. Students learned about regulation of wildlife trade at the state, national, and international level.



Students in the illegal wildlife trafficking short course



Catherine Paler-Amaya and Cindy Mercado

Professor Long taught **Environmental Advocacy** in spring 2018. Students in the class learned about the art and skill of persuasion in the environmental arena. Students chose a particular environmental issue and designed a project that includes a FOIA request, media advocacy, and either a collaborative project with a public or private entity, a draft of a citizen’s suit, or legislative advocacy. This year’s projects included innovative and successful projects by students Jennifer Winn, who spearheaded the City of Gulfport’s proposed plastic straw ban, Leah Johnson, who is establishing a campus garden at the law school, and Dane Peterson, who installed and will maintain for the first year, two monofilament recycling tubes in Medard Park. The Environmental Advocacy class is a model of combining theory, skills, and experiential learning.

In spring 2018, Professor Gardner and Professor Long again taught **Research and Writing II—Environmental Law**, which is a special section of Research and Writing II that covers the same fundamental skills as other sections but in an environmental context, with an emphasis on real-world issues. The students researched and submitted public comments on proposed offshore oil and gas activities. The memorandum of law assignment and complicated appellate brief problem required the students to wrestle with Article III standing issues and a hypothetical challenge to the U.S. Fish and Wildlife Service’s final rule downlisting the West Indian manatee from endangered to threatened under the Endangered Species Act.



Students with the Ranger after the swamp walk at Big Cypress National Preserve



Campfire and s’mores on the Research and Writing II field trip

Professor Gardner taught the **Ecosystem Banking Workshop** again this year. The workshop is a voluntary enrichment program in which students learn about market-based approaches that may be used to restore and enhance wetlands and their resources, protect habitat for endangered species, improve water quality, and decrease greenhouse gas emissions. At the end of the workshop, students researched and presented case studies on specific mitigation and conservation banks.

This past year, Stetson Law students participated in **environmental law externships** across the country, where the students had opportunities to practice hands-on legal skills. Placements included a variety of private and governmental organizations: the Ocean Conservancy, the Center for Biological Diversity, the National Oceanic and Atmospheric Administration, the Environmental Protection Commission of Hillsborough County, and Tampa's Lowry Park Zoo.

Creating a dialogue about environmental challenges:

Stetson Law helped organize the **18th International Wildlife Law Conference (IWLC-18)**, which was hosted by Tilburg University's Department of European and International Public Law in Tilburg, the Netherlands on April 18–19, 2018. The conference featured sessions on transboundary challenges to wildlife management, wildlife conservation mechanisms and treaties, wildlife crime, and international and national issues in wildlife protection, among others. Dr. David Macdonald, Director of Oxford's Wildlife Conservation Research Unit (WildCRU), presented the keynote address, and Professor Gardner was the closing plenary speaker.



Dr. David Macdonald of Oxford's WildCRU at IWLC-18 [Photo credit: Arie Trouwborst]

In November 2017, Stetson Law and the Environmental Law Institute co-sponsored the **Fifth Annual ELI-Stetson Wetlands Workshop**. The theme of the workshop was “Conserving the Coasts: The State of Marine Ecosystems and Coastal Compensatory Mitigation.” Panelists and speakers discussed the status and conservation of reefs, mangroves, and seagrasses, and the use of compensatory mitigation to offset coastal wetland impacts. Dr. Max Finlayson (Institute for Land, Water and Society, Charles Sturt University, Australia) presented a Foreman Biodiversity Lecture to begin the workshop, and David Urban (Ecosystem Investment Partners) delivered the keynote address. Other speakers included Dr. Frank Muller-Karger (University of South Florida College of Marine Science), Dr. Benjamin Tanner (Stetson University), Dr. Gary Raulerson (Tampa Bay Estuary Program), Christina Storz (Natural Resources Section, NOAA Office of General Counsel), Michael Dema (City of St. Petersburg), and Erin Okuno (Stetson University College of Law). Dr. Kirsten Work (Stetson University) and John Pendergrass (ELI) moderated the panel discussions. This year’s workshop also featured a field trip led by **Tampa Bay Watch** to nearby aquatic restoration sites. The Institute is grateful to **Mechanik Nuccio Hearne & Wester, P. A.** for sponsoring the poolside networking reception and to the **Law School Liaison Committee of The Florida Bar’s Environmental and Land Use Law Section (ELULS)** for providing a special grant to Stetson Law to support the workshop.



Students and attendees on the field trip during the 2017 ELI-Stetson Wetlands Workshop

Professor Boudreaux serves as the editor in chief of the *Journal of International Wildlife Law & Policy (JIWLP)*, and Professor Gardner and Erin Okuno are on the journal’s editorial advisory board. Students at Stetson Law have the opportunity to serve as student editors for the journal, in which capacity they perform “cite and source” reviews of articles and other editing tasks. Select

student articles may be chosen for publication. *JIWLP* published its 20th volume in 2017–2018, with articles on topics from protections for marine mammals in captivity to the future of the Convention on International Trade in Endangered Species.



Professor Boudreaux and Dean Pietruszkiewicz with the graduating student editors of *JIWLP*

Thanks to the continued, generous support of Bonnie Foreman, the Biodiversity Institute offered the **Edward and Bonnie Foreman Biodiversity Lecture Series** again this year. The lecture series is free and open to the Stetson and larger Tampa Bay communities. Numerous scientists, attorneys, judges, policymakers, and other experts have presented at the lecture series, which fosters a dialogue about important environmental issues and has created meaningful connections and opportunities for students and other attendees over the years. The speakers this last year included Dr. Dwight T. Pitcaithley (National Park Service), Tonya Long (Florida Fish and Wildlife Conservation Commission), Dr. Max Finlayson (Institute for Land, Water and Society, Charles Sturt University, Australia), Vivek Menon (Wildlife Trust of India), Anne Harvey Holbrook (Save the Manatee Club), and Dr. Ruth Cromie (Wildfowl & Wetlands Trust, UK).



Professor Gardner, Dr. Ruth Cromie, Erin Okuno, and Professor Long



Vivek Menon

In spring 2018, we hosted the 22nd Annual **International Finals of the Stetson International Environmental Moot Court Competition**. Founded by Stetson Law in 1996, it is now the world’s largest moot court competition devoted exclusively to global environmental issues. This year’s problem focused on responses to highly pathogenic avian influenza and transboundary wetlands.



Professor Gardner with the final round judges and the team from the University of the Philippines College of Law



Erin Okuno, Professor Gardner, and Dr. Ruth Cromie with teams from the University of Nairobi and Queen Mary University of London

During fall 2017 and spring 2018, student teams submitted written memorials and presented oral arguments at regional and national rounds throughout the world. The top teams advanced to compete in the International Finals on March 22–24, 2018, at Stetson Law’s Gulfport campus. Twenty-one teams from Brazil, China, Colombia, India, Ireland, Kenya, Nepal, the Philippines, Republic of Korea, Singapore, the United Kingdom, Ukraine, and the United States participated in the International Finals. The final round judges were Dr. Wil Burns (Co-Executive Director, Forum for Climate Engineering Assessment, American University), Dr. Ruth Cromie (Head of Ecosystem Health, Wildfowl & Wetlands Trust, UK), and Professor Jason Palmer (Stetson University College of Law). Two universities from Kenya, the University of Nairobi and the Catholic University of Eastern Africa, received the Spirit of Stetson Award. This year’s semifinalists were the Law Society of Ireland and Universidade Federal da Bahia, Brazil. The runner-up was the National Law Institute University, India, and the champion was the University of the Philippines College of Law. We sincerely appreciate everyone’s support of the competition and would especially like to thank the **Joy McCann Foundation** and the **Law School Liaison Committee of the ELULS** for their financial support of the International Finals.



Participants, coaches, and competition judges with Professor Gardner after the championship round at the International Finals of the Stetson International Environmental Moot Court Competition

Stetson's Environmental Law Society, Student Animal Legal Defense Fund, and other student organizations hosted the annual **Earth Day Celebration** on campus in April 2018. Attendees enjoyed fresh, local food and had the opportunity to speak with various environmental groups at the event. Professor Gardner, Professor Long, Amy Long, and Stetson students Logan Manderscheid, Travis Hearne, Rebecca Mitchko, Emily Preu, and Christine Yo provided musical entertainment during the event.



Professor Long, Professor Gardner, and Stetson Law students performing at the Earth Day Celebration

Stetson and the Institute were well represented at the **Public Interest Environmental Law Conference** in Eugene, Oregon this year. Professor Long, together with University of Oregon professors, gave a presentation addressing the psychological considerations for effective environmental advocacy. Professor Long also participated on a panel discussing the necessity defense in environmental civil disobedience cases. Stetson students Jennifer Winn, Jake Black, and Katherine Pratt attended the conference, and Stetson Law alumna Rachael Curran presented at the conference.

Recognizing the accomplishments of students and recent graduates:

Travis Hearne, Vanessa Moore, and Jessica Baik were quarterfinalists in the **Jeffrey G. Miller National Environmental Law Moot Court Competition** in February 2018. The competition was held at the Elisabeth Haub School of Law at Pace University in White Plains, New York. Professor Gardner and Erin Okuno coached the team.



Vanessa, Travis, and Jessica



Travis at his scholarship presentation

In April 2018, Travis Hearne discussed Tampa Bay's successful seagrass recovery during his presentation, "From Category 4(B) to Category 2: How Local Stakeholders in the Tampa Bay Nitrogen Management Consortium Solved Tampa Bay's Nitrogen Pollution Problem." Travis presented as part of the *Stetson Law Review* Scholarship Presentation Series.



Vanessa Denk with the Hearnes and Dean Pietruszkiewicz

Congratulations to Stetson’s environmental students who received awards at the spring 2018 graduation: Vanessa Denk received the Hearne Environmental Law Award, Vanessa Moore was the recipient of the Walter Mann Award, John Pilz received The Florida Bar City, County and Local Government Law Section Law Student Award, and Breanne Whited was the recipient of the Nader/Zrake Memorial Award. Jennifer Winn received the Distinguished Achievement Award from the Florida Bar Animal Law Section in June 2018.

We are proud of our graduates who were recently hired for environmental law and policy positions. Rachael Curran joined the Center for Biological Diversity as a Florida Staff Attorney, and Vanessa Moore was selected for the Attorney General’s Honors Program, working in the Environment and Natural Resources Division of the U.S. Department of Justice. Emily Carter worked as a fellow for the Virgin Islands Bar Association doing research on the U.S. Virgin Islands’ position on environmental and economic policies.

And special notes of gratitude:

The Institute would like to thank Dick and Joan Jacobs for endowing the “**Dick and Joan Jacobs’ Environmental Law Externship Fund**” at Stetson Law. Because of their generous support, this fund has enabled students at Stetson Law to participate in meaningful environmental law internships and externships around the country and the world. In fall 2017, the fund covered the travel expenses for Kai Su to travel to Tallahassee to testify before the Florida Constitution Revision Commission in favor of a proposed amendment to guarantee the right to a healthy environment. This summer, the fund helped defray travel expenses for Katherine Welch to participate in an externship with the Wildlife Trust of India.



Dick and Joan Jacobs



Kai Su speaking to the Florida Constitution Revision Commission

Thank you to **Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.** for sponsoring a special networking event in January 2018 at Stetson's Gulfport campus for students who are interested in pursuing careers in environmental, land use, and real estate law. Attorneys from the firm's multiple offices shared their experiences and advice with Stetson Law students.



Students and attorneys at the networking event

The Institute also would like to thank **Hopping Green & Sams, P.A.** for sponsoring a book award at Stetson Law that is given each year to the student in Research & Writing II—Environmental Law who receives the highest grade in the course. Brian Remler received the book award in spring 2018.

For more information about the **Institute for Biodiversity Law and Policy** or how to support its programs, please contact Erin Okuno at okuno@law.stetson.edu.



Stetson Law environmental professors and students on a swamp walk



Cake to celebrate the final class of the Wetlands Seminar