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University of Nebraska College of Law
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PROFESSIONAL EXPERIENCE: TEACHING AND ADMINISTRATION

University of Nebraska, Lincoln, NE (2003-present)

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

School of Natural Resources: Professor, Courtesy Appt. (2004-present)

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

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

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

Advising: Women's Law Caucus; Env'tl./Agricultural Law Society; Env'tl. Law Program of Concentrated Studies; Env'tl. Externships

Awards: Alumni Council Distinguished Faculty Award (2016)

Pepperdine School of Law, Malibu, CA (2015)

Distinguished Visiting Professor, Disaster Law

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

Visiting Professor, Comparative Law

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

Visiting Lecturer, Comparative Law

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

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

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

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

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

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

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

Visiting Asst. Professor

Courses: Property; Natural Resources; Indian Law; Pretrial Advocacy

PROFESSIONAL EXPERIENCE: PRACTICE AND CLERKSHIP

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

Trial Attorney, Environment & Natural Resources Division General Litigation Section

Awards: Attorney General's Special Achievement Award

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

Faegre & Benson, Minneapolis, MN (1990-92)
Associate Attorney

EDUCATION

The George Washington University National Law Center, Washington, DC

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

Awards: Shaw Fellowship (full teaching scholarship)

University of South Dakota School of Law, Vermillion, SD

Degree: Juris Doctor, Sterling Honor Graduate (1st in class) (1990)

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

Morningside College, Sioux City, IA

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

APPOINTED POSITIONS AND BAR MEMBERSHIPS

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

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

Distinguished Summer Scholar, Vermont Law School (2014)

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

ABA Section on Environment, Energy, and Resources

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

Chair, Marine Resources (2002-04)

Member, Water Law (2004-present)

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

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

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

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

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

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

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

Member, Resilience Alliance (2006-12)

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

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

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

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

BOOKS AND BOOK CHAPTERS

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

ARTICLES AND ESSAYS

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

- REV. 893 (with Gunderson) (2009)
- Boom and Bust on the Great Plains: Déjà vu All Over Again*, 41 CREIGHTON L. REV. 385 (2008)
- The Anti-Speculation Doctrine and Implications for Water Management*, 8 NEV. L.J. 994 (2008)
- Unbundling Property in Water*, 59 ALA. L. REV. 679 (with Harder) (2008)
- Mississippi Stories: A Century of Unnatural Disasters*, 60 S.M.U. L. REV. 1471 (with Klein) (2007)
- Two Imperiled Rivers: Reflections from a Post-Katrina World*, 59 FLORIDA L. REV. 599 (2007)
- A New Corps of Discovery for Missouri River Management*, 83 NEB. L. REV. 305 (2004)
- A Preservation Paradox: Political Prestidigitation and Wildness*, 34 ENVTL. L. 1015 (2004)
- Managing Interjurisdictional Waters*, 18 N. RES. & ENV. 8 (with Squillace) (2003)
- Sustaining Geographies of Hope: Cultural Resources on Public Lands*, 73 COLO. L. REV. 413 (2002)
- Biodiversity in and Around McElligot's Pool*, 38 ID. L. REV. 473 (with Johnson) (2002)
- The Protection of Cultural Resources on Public Lands*, 39 PUBLIC LD & RES. L. DIGEST 101 (2002)
- The Nondelegation Doctrine: Fledgling Phoenix or Ill-fated Albatross?*, 31 ELR 11,151 (2001)
- The Virtues of Command and Control Regulation: Barring Exotic Species from Aquatic Ecosystems through the Clean Water Act*, 2000 U. ILL. L. REV. 1233 (2000)
- The Devil, The Details, and the Dawn of the 21st Century Administrative State: Beyond the New Deal*, 32 ARIZ. ST. L.J. 941 (2000)
- Conserving Ecosystems Through the Secretarial Order on Tribal Rights*, 14 N.R. & ENV. 162 (2000)
- Indian Lands as Critical Habitat for Indian Nations & Species*, 43 S.D. L. REV. 381 (1998)
- Sacrificing Legislative Integrity at the Altar of Appropriations Riders: A Constitutional Crisis*, 21 HARV. ENVTL. L. REV. 457 (1997)

CONFERENCES, COLLOQUIA, AND SELECT PRESENTATIONS

Planning/Coordination:

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

Presentations:

- The Nature of Private Interests in Public Lands*, RMMLF Special Inst., Santa Fe, NM (2017)
- Torts, Takings, and Background Principles*, Tulane/Vermont Takings Conference, NOLA (2016)
- Facing Floods and Climate Change While Reforming Disaster Law*, Univ. of Missouri (2016)
- Wilderness Stewardship Annual Training*, Carhart Wilderness Center, Montana (2010-11, 2014-16)

- The Role of Law in Disaster Management*, World Water Congress, Edinburgh, Scotland (2015)
- A Century of Unnatural Disaster*, Yale Center for Env'l Law (2015)
- Takings, Givings, and the Inherent Restrictions of Vulnerable Properties*, Stanford Univ. Center for the American West; Colorado and Pepperdine Faculty Colloquia; Denver Law Seminar (2015)
- Unnatural Disasters: How Law Hurts, How Law Can Help*, Univ. of Minnesota (2014)
- Water Security and Peacebuilding: Avenues for Cooperation*, UNITAR-Yale Conference on Env'l Governance and Democracy, Yale University (2014)
- Portaging Around Environmental Logjams*, Florida State Law Symposium (2014)
- Legal Issues for Protected Areas*, IUCN World Parks Congress, Sydney, Australia (2014)
- Congress's Apathy Toward the Environment*, Notre Dame Symposium on Gridlock (2012)
- Treading Water While Congress Ignores the Environment*, STIR Talk, at <http://is.gd/OI9P7n> (2012)
- Water Law, Conservation & Climate Adaptation*, IUCN Comm. on Env'l. Law, Jeju, Korea (2012)
- Anti-Degradation Policies in the Clean Water Act*, George Washington Nat'l Law Center (2012)
- Water, Climate, and Wild Places*, Law & Society, Honolulu, HI (2012)
- Clean Water-Endangered Species Interface*, Missouri River Recovery Committee, Webcast (2012)
- U.S. Water Law ABC's*, M.S. Swaminathan Foundation, Chennai, India (2011)
- Regulating the Keystone XL Pipeline*, Special Session Testimony, Nebraska Unicameral (2011)
- Managing Missouri River Mud: The Clean Water Act v. The Endangered Species Act*, ABA Annual Water Law Conference, San Diego, CA (2011)
- Unbundling Property in Water: Takings and Due Process Implications*, AALS Annual Conference, San Francisco, CA (2011)
- 21st Century Water Law, Climate, and Wilderness*, Lewis & Clark, Portland, OR (2011)
- Protecting Instream Flows*, Testimony on L.B. 438, Nebraska Unicameral (2009)
- Resilience Thinking and Progressive Law Reform*, Colloquium, Texas Law College (2008)
- The Anti-Speculation Doctrine*, ABA Annual Water Law Conference, San Diego, CA (2008)
- Non-Collaborative Water Management*, Univ. of Nevada-Las Vegas (2007)
- Water is Not Takings Property*, Natural Resources Law Teachers Lunch, Vancouver, BC (2007)
- Unbundling Property in Water*, Colloquia, Univs. of Nebraska, Canterbury, and Auckland (2007)
- A Tale of Two Imperiled Rivers*, Int'l Ecohydraulics Conf., Christchurch, NZ (2007)
- Federalism in the Overlapping Territory*, Colloquium, Duke University (2006)
- Can the Law Learn to Think Like a River?*, Univ. of Florida Public Interest Env'tl. Conf. (2006)
- Frankenflakes & Killer Tomatoes: Env'tl. Implications of GMOs*, Tulane Law Pub. Int. Conf. (2003)
- Cultural and Historic Resources*, RMMLF Inst. on Public Lands, Albuquerque, NM (2003)
- Reserved Water Rights & Tribal Fisheries*, Council of Great Lakes Governors, Quebec (2002)
- The Roadless Area Controversy*, RMMLF 48th Annual Institute, Tahoe, NV (2002)
- Environmentalists & Indian Tribes: Friends or Foes?*, 7th Indian Law Symposium, USD (2002)
- Aquatic Invaders*, ABA Annual Meeting - Panel on Env'tl. Law, Chicago, IL (2001)
- Preserving Cultural & Historic Resources*, ALI-ABA Env'tl. Law, Washington, DC (2001)
- Nondelegation*, 11th Institute for Natural Resources Law Teachers, RMMLF, Estes Park, CO (2001)

Keynote - Current Legal Issues: Wetlands, Great Lakes Research Consortium, OH (2001)
Biodiversity and the Yellowstone Wolf Reintroduction: Malice in Wonderland?, Univ. of Mich. Dept. of Biology (2000); Toledo, Drake, and Creighton Env'tl. Law Societies (1997, 1999)
National Park Service Regulatory Authorities, Dept. of Interior, Salt Lake City, UT (1999)
Administrative Issues in Env'tl. Law, RMMLF Inst. on Admin. Law, Denver, CO (1999)
U.S. Water Law: Great Lakes Diversions, International Joint Commission, Ontario, CAN (1999)
Cultural Resource Management, Fed. Bar Ass'n Indian Law Conference, Abq., NM (1997)

MIXED MEDIA

STIR Talk, *Le Malheur and other Misfortunes*, UNL (2017)
Blog, *Unnatural Disasters and Environmental Injustice*, Oxford Press (with Klein) (2016)
Podcast, *Finding Agency Through Humility*, Yale Center for Env'l Law (2015)
Blog, *World Water Congress Highlights Water for Global Development*, WFI Institute (2015)
Perspective, *Open Rivers: Rethinking the Mississippi*, River Life Digital Journal, U. Minn. (2015)
Hot Topics Lecture, *Unnatural Disasters*, Vermont Law (2014)
Radio Interview, *Thinking Aloud: Natural & Unnatural Disasters*, BYU Radio (2014)
STIR Talk, *Mississippi River Tragedies: A Century of Unnatural Disaster*, UNL (2014)
Blog, *Floodplain Landowners Seeking a "Double Take" from Taxpayers*, Env. Law Prof. (2014)
Blog, *Natural Storms, Unnatural Disasters*, The Hill (2014)
Interview, *Keystone May Turn on 19th-Century Reform*, WASH. POST (2014)
Conference Paper, *NEPA and the Public Lands*, RMMLF Public Lands Special Institute (2014)
Editorial, *Living Rivers: The Lifeblood of our State*, LINCOLN J-STAR (2013)
Blog, *State Department's Keystone XL Pipeline EIS Fails Legal Scrutiny and Common Sense*, Progressive Reform (2013)
Blog, *The CWA's Antidegradation Policy: Time to Rejuvenate a Program to Protect High Quality Water*, Progressive Reform (with Glicksman) (2012)
White Paper and Blog, *Why the Convention on Biodiversity Should be Ratified*, Progressive Reform (ed. Knox) (2012)
STIR Talk, *Gridlock and its Discontents*, UNL (2012)
Editorial, *Species Conservation Not a Factor in Flooding*, OMAHA WORLD-HERALD (2011)
Conference Paper, *Mudslinging on the Missouri and Mississippi Rivers*, ABA WATER LAW CONF. (2011) (awarded Best Paper)
Blogs, *The Pipeline that Refuses to Die*, and *TransCanada Says Bill Unconstitutional: Here's Why They're Wrong*, Progressive Reform (2011-15) (search "Zellmer")
White Paper, *Making Use of Adaptive Management*, Progressive Reform (2011) (ed. Doremus)
Blog, *Atrazine, Confidential Data, EPA, and the Five Stages of Grief*, Alternet.org (reprinted in Pesticide Action Network as *Why is My Family Dying*) (2010)
Interview, *Legislation to Curb Climate Change Slow in Coming*, DAILY RECORD (2010)
On-camera Interview, *Instream Flow Protection*, Friends of the Niobrara River (2011)
On-camera Interview, *Inside Nebraska Water*, Central Public Power & Irrigation Dist. (2009)

- Conference Paper, *Anti-Speculation: Ghost-Busting, Trust-Busting, or Beneficial Use*, ABA WATER LAW CONF. (2008) (awarded Best Paper)
- Editorial, *Fishermen Entitled to Punitive Damages*, MINN. STAR TRIB. (with Klass) (2008)
- Book Review, *Ogallala Blue* (ASHWORTH, OGALLALA BLUE), 17 G. PLAINS RES. J. 1 (2007)
- Perspective, *Is Water Property?*, NEB. LAWYER (with Harder) (2007)
- Editorial, *Women Warriors*, DES MOINES REGISTER and IOWA CITY PRESS (2007)
- Editorial, *Supreme Court Drops the Ball on Wetlands Protection*, HIGH COUNTRY NEWS (2006)
- Perspective, *Mountaintop Removal*, Progressive Reform (2006, updated in 2009)
- Comments to the U.S. Forest Service on the Roadless Rule (with Glicksman) (2005)
- Conference Paper, *The Roadless Area Controversy*, 48 ROCKY MT. M.L. INST. 21 (2002)
- Peer-Reviewed Paper, *Preventing Exotic Species Invasion*, 2 J. G.L. LAW, SCI. & POL. 207 (2000)
- Workshop Materials, *Putting the Public Trust Doctrine to Work (Ohio)*, Coastal States Org./Legal Inst. of Great Lakes (1999)
- Conference Paper, *Administrative Issues in 21st Century Environmental Law: A New Era in Agency Decision-making, or Back to the New Deal?*, 4 N.R. & ENV. ADM. L. 1-1 (1999)

GRANT AWARDS

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