

## Environmental Law at Duke Law School – Fall 2022

### Environmental Law Faculty

(New and Returning Faculty: [Monica Iyer](#) , [Tim Meyer](#) , [Jedediah Purdy](#) , [Sarah Bloom Raskin](#) )



[MATTHEW ADLER](#)



[MONICA IYER](#)



[NANCY LAUER](#)



[RYKE LONGEST](#)



[TIMOTHY MEYER](#)



[LEE MILLER](#)



[MICHELLE NOWLIN](#)



[AMY PICKLE](#)



[JEDEDIAH PURDY](#)



[SARAH BLOOM RASKIN](#)



[STEPHEN ROADY](#)



[JONATHAN WIENER](#)

## Environmental Law courses recently offered at Duke

Law 200 – Administrative Law – *Matt Adler*  
Law 235 – Environmental Law – *Jonathan Wiener*  
Law 298 – Ocean and Coastal Law – *Steve Roady*  
Law 320 – Water Resources Law – *Ryke Longest and Nancy Lauer*  
Law 327 – Energy Law – *Amy Pickle*  
Law 368 – Natural Resources Law – *Jonas Monast*  
Law 443 – Environmental Law and Policy Clinic – *Ryke Longest and Michelle Nowlin*  
Law 520 – Climate Change Law – *Jonathan Wiener and Jonas Monast*  
Law 523 – Law of the Sea – *Coalter Lathrop*  
Law 566 – International Environmental Law – *Tim Meyer*  
Law 590 – Risk Regulation – *Jonathan Wiener*  
Law 617 – Environmental Law Readings, for LLM Environmental Certificate – *multiple faculty*  
Law 636 – Food Agriculture and Environment – *Lee Miller*  
Law 647 – Marine Species and the Changing Atlantic – *Steve Roady and Michelle Nowlin*  
Law 737 – Environmental Litigation – *Steve Roady*  
Law 741 – Climate Change and Financial Markets – *Sarah Bloom Raskin*  
Environ 592 – FCCC Climate Negotiations Practicum (Duke students attended COP26 in Glasgow and COP27 in Sharm El-Sheikh – see [blog posts here](#)) – *Billy Pizer and Jonathan Wiener*

(Additional courses are offered at the Nicholas School of the Environment, and at the Sanford School of Public Policy, at Duke University.)

## Recent Events and Activities

### Duke Environmental Law & Policy Forum (DELPF)

Annual Symposium: “The Clean Water Act at 50: Challenges and Ways Forward” (October 28, 2022) – featuring keynote speaker Felicia Marcus, the William C. Landers Visiting Fellow at Stanford University and former chair of the California State Water Resources Control Board.

### Environmental Law & Policy Clinic

In March, 2022, Duke Law School’s Moot Court team reached the finals in the Jeffrey G. Miller Pace National Environmental Law Moot Court Competition, hosted virtually by Pace University’s Elisabeth Haub School of Law. <https://law.duke.edu/news/duke-law-moot-court-team-finalist-national-environmental-law-competition/>

Also in March, Michelle Nowlin, co-director of the Duke Environmental Law and Policy Clinic, presented a talk, *Plastics in the Ocean: Problem and Solutions*, at the Oceans Advocacy Workshop sponsored by NC State University, UNC-Greensboro, the Plastic Oceans Project, and the NC Wildlife Federation. <https://ncwf.org/blog/ocean-advocacy-workshop/>

In April, Michelle Nowlin and the Clinic’s Staff Scientist, Dr. Nancy Lauer, presented a session on Local Policies for Reducing Plastic Pollution at a NC Plastic Policy Workshop sponsored by Coastal Carolina

Riverwatch, the NC Marine Debris Symposium, the NC Wildlife Federation, the NC Coastal Federation, and the Plastic Oceans Project. Clinic Fellow Emma Wellbaum also presented a talk at the workshop on Abandoned Derelict Vessels Program Development. <https://coastalcarolinariverwatch.org/nc-plastic-policy-workshop-and-tool-kit/>

Clinic Fellow, Lee Miller, and Michelle Nowlin wrapped up a three-year interdisciplinary Bass Connections project, “Regenerative Grazing to Mitigate Climate Change,” which examined sustainable production methods to reduce greenhouse gas emissions from livestock production and foster resilience in the agriculture sector in the face of climate change. Taught in conjunction with staff from Duke’s Climate Offsets Initiative, the class included students from NC State University, UNC-Chapel Hill, and NC Central University as well as Duke. Students studied the science behind healthy soils and carbon sequestration, agricultural policy, and carbon offsets markets. The teams presented at several conferences and developed a menu of options for policymakers and advocates on the federal, state and local levels to galvanize adoption of regenerative grazing practices on North Carolina farms. <https://bassconnections.duke.edu/project-teams/regenerative-grazing-mitigate-climate-change-2019-2020;> <https://bassconnections.duke.edu/project-teams/regenerative-grazing-mitigate-climate-change-2020-2021;> <https://bassconnections.duke.edu/project-teams/regenerative-grazing-mitigate-climate-change-2021-2022;> <https://www.regenerativegrazingnc.org>

Nancy Lauer and Michelle Nowlin have a new article published in *Frontiers in Marine Science*, titled “A framework for inland cities to prevent marine debris: A case study from Durham, North Carolina.” The article stems from the Environmental Law and Policy Clinic’s work on local policies to reduce plastic pollution and highlights the need for inland cities to collect data, reduce plastics at the source, and implement stormwater controls for litter. See the full article at <https://www.frontiersin.org/articles/10.3389/fmars.2022.983256/full>.

The Environmental Law and Policy Clinic along with its client, NC Child, and partners, RTI International and the North Carolina Department of Health and Human Services, were awarded Mutual of America’s Community Partnership Award for 2021. The partnership was recognized for its efforts to reduce toxic lead in drinking water in child care centers in North Carolina. Learn more at <https://2021communitypartnershipaward.mutualofamerica.com/award-winners/clean-water-for-carolina-kids/>.

Clinic co-director, Ryke Longest, and Fellow, Lee Miller, traveled to Denver for the Soil and Water Conservation Society’s 77<sup>th</sup> Annual Conference. Among hundreds of soil and water practitioners and professionals, they presented their article, “Reconciling Environmental Justice with Climate Change Mitigation: A Case Study of NC Swine CAFOs,” which was selected as one of the top environmental law articles of the year by the Environmental Law and Policy Annual Review. [https://scholarship.law.duke.edu/faculty\\_scholarship/4034/](https://scholarship.law.duke.edu/faculty_scholarship/4034/)

Ryke Longest and Lee Miller launched a new interdisciplinary Bass Connections project, “Environmental Justice, Climate Change, and Community Engagement,” which will run the duration of the 2022/23 school year. The project team of undergraduate, graduate, and PhD students will focus on two primary goals: confronting systemic exploitation in North Carolina’s decarbonization policy and creating an equitable, community-led alternative. <https://bassconnections.duke.edu/energy-and-environment>

Professor of the Practice, Steve Roady, and Clinic Fellow, Emma Wellbaum, submitted an *amicus curiae* brief on behalf of former FERC Commissioners to the U.S. Supreme Court in the case, *West Virginia v. EPA*. [https://www.supremecourt.gov/DocketPDF/20/20-1530/211251/20220125112241992\\_Clean%20Power%20Plan%2020-](https://www.supremecourt.gov/DocketPDF/20/20-1530/211251/20220125112241992_Clean%20Power%20Plan%2020-)

[1530%20Amicus%20Brief%20of%20Former%20Commissioners%20of%20the%20Federal%20Energy%20Regulatory%20Commission%201.25.22.pdf](https://www.sciencedirect.com/science/article/pii/S0308597X22003554?casa_token=BJ6AhLDRgtYAAAAA:6q0ykqj9ppmKGLUAYrfnuofDjAhJoJmXeSaSD6WeFvc-pWxzM7Cvjpv5thiZAndcyWookKs)

Steve Roady, along with colleagues at Duke’s Nicholas School of the Environment and the Pew Charitable Trust, published an article in the journal, *Marine Policy*, “Public participation in seabed mining in areas beyond national jurisdiction: Lessons learned from national regulators in the terrestrial mining sector.” The article reviews Stakeholder engagement practices in the extractive industries of several countries with robust mining regulatory regimes to identify common themes and regulatory standards for the consideration of the International Seabed Authority to apply the context of seabed mining in areas beyond national

jurisdiction. [https://www.sciencedirect.com/science/article/pii/S0308597X22003554?casa\\_token=BJ6AhLDRgtYAAAAA:6q0ykqj9ppmKGLUAYrfnuofDjAhJoJmXeSaSD6WeFvc-pWxzM7Cvjpv5thiZAndcyWookKs](https://www.sciencedirect.com/science/article/pii/S0308597X22003554?casa_token=BJ6AhLDRgtYAAAAA:6q0ykqj9ppmKGLUAYrfnuofDjAhJoJmXeSaSD6WeFvc-pWxzM7Cvjpv5thiZAndcyWookKs)

Steve Roady and Michelle Nowlin are leading a one-semester interdisciplinary research tutorial, “US-Canada Governance of Highly Migratory Species.” With faculty guidance and input from guest speakers with expertise in the field, the team of law students and graduate students at the Nicholas School of the Environment are conducting independent research to prepare for and support an upcoming workshop convened by Duke University School of Law and Marine Lab, Dalhousie University, and the Environmental Law Institute, which will focus on governance challenges in protecting highly migratory marine species at risk in the changing Atlantic.

## **International Human Rights Clinic**

In Spring 2022, the International Human Rights Clinic (IHRC) under the leadership of Prof. [Aya Fujimura-Fanselow](#) launched a website, “[Catalyzing Rights: Index of Advances during COVID-19](#)” tracking more than two hundred human rights advances that governments globally have made in response to the COVID-19 pandemic. The website includes an [Environmental Justice](#) category containing relevant international human rights norms with respect to this topic as well as examples of advances in countries ranging from Colombia to India to Nigeria to Pakistan to the United States in areas such as mitigation and adaptation to climate change, the expansion of solar-based energy, and the creation of “green jobs.”

The Clinic also provided support, including legal research, for the [United Nations Special Rapporteur on trafficking in persons, especially women and children](#), for her [report to the General Assembly](#) on “Addressing the gender dimensions of trafficking in persons in the context of climate change, displacement and disaster risk reduction.” For this report, Clinic students were supervised by Prof. Aya Fujimura-Fanselow and new Clinical Fellow Prof. [Monica Iyer](#), who joined the Clinic from the Climate Change and Environment team at the Office of the United Nations High Commissioner on Human Rights and whose research focuses on the intersection of the environment and human rights, with a particular emphasis on migration and structural inequality.

In Spring 2022, as part of its “Human Rights in Practice” series, the IHRC and [Center for International and Comparative Law](#) also hosted an [event](#) on “Climate and Environmental Litigation and Human Rights.”

## Recent Publications

### [Matthew Adler](#)

Richard A. Horvitz Professor of Law, Professor of Economics, Philosophy and Public Policy, and Director of the Duke Center for Law, Economics and Public Policy

*Risk, Death and Well-Being: The Ethical Foundations of Fatality Risk Regulation* (Oxford University Press, under contract)

[Prioritarianism in Practice](#) (Cambridge University Press, 2022) (co-edited with Ole F. Norheim)

How to Balance Lives and Livelihood, in *Pandemic Ethics* (Julian Savulescu ed., Oxford University Press, under contract) (co-authored with Richard Bradley, Maddalena Ferranna, Marc Fleurbaey, James Hammitt, and Alex Voorhoeve)

Age and the Social Value of Risk Reduction: Three Perspectives, in *Aging without Ageism: Conceptual Puzzles and Policy Proposals* (Greg Bognar and Alex Gosseries eds., Oxford University Press, under contract)

Age and the Value of Life, in *The Routledge Handbook of the Economics of Ageing* (David E. Bloom, Alfonso Sousa-Poza, and Uwe Sunde eds., forthcoming) (co-authored with Maddalena Ferranna and James Hammitt)

Well-Being and Constitutionalism, in *Cambridge Handbook of Constitutional Theory* (Richard Bellamy and Jeff King eds., Cambridge University Press, forthcoming)

Claims across Outcomes and Population Ethics, in *The Oxford Handbook of Population Ethics* (Gustaf Arrhenius, Krister Bykvist, Tim Campbell and Elizabeth Finneron-Burns eds., Oxford University Press, forthcoming)

[Theory of Prioritarianism](#), in *Prioritarianism in Practice* (Matthew Adler and Ole Norheim eds., Cambridge University Press, forthcoming)

[Well-being Measurement](#), in *Prioritarianism in Practice* (Matthew Adler and Ole Norheim eds., Cambridge University Press, forthcoming) (co-authored with Koen Decancq)

[The Social Welfare Function: A New Tool for Regulatory Policy Analysis](#), in *Theories of Choice: The Social Science and the Law of Decision Making* 155 (Stefan Grundmann and Philipp Hacker eds., Oxford University Press, 2021)

[Fair Innings? The Utilitarian and Prioritarian Value of Risk Reduction over a Whole Lifetime](#), 75 *Journal of Health Economics* 102412 (2021) (co-authored with Maddalena Ferranna, James Hammitt, and Nicolas Treich)

[Quality Adjusted Life Years Based on Health and Consumption: A Summary Wellbeing Measure for Cross-Sectoral Economic Evaluation](#), 30 *Health Economics* 70 (2021) (co-authored with Richard Cookson, Ieva Skarda, Owen Cotton-Barrett, Miqdad Asaria, and Toby Ord)

[Nancy E. Lauer](#)

Lecturing Fellow and Staff Scientist, Duke Environmental Law and Policy Clinic

[A Framework for Inland Cities to Prevent Marine Debris: A Case Study from Durham, North Carolina](#), *Frontiers in Marine Science* 1-7 (2022) (with Michelle B. Nowlin)

Multiple Geochemical and Isotopic (Boron, Strontium, Carbon) Indicators for Reconstruction of the Origin and Evolution of Oilfield Water From Jiuquan Basin, Northwestern China, 130 *Applied Geochemistry* 1-13 (2021) (with others)

[Timothy Meyer](#)

Professor of Law, and Co-Director of the Duke Center for International and Comparative Law

[The National Security Consequences of the Major Questions Doctrine](#), 122 *MICHIGAN LAW REVIEW* -- (forthcoming 2023) (with Ganesh Sitaraman).

[The Political Economy of WTO Exceptions](#), 99 *WASHINGTON UNIVERSITY LAW REVIEW* 1299 (2022).

[Taxing, Regulating, and Trading Carbon: An Introduction to the Symposium](#), 116 *AMERICAN JOURNAL OF INTERNATIONAL LAW UNBOUND* 191 (2022).

[A Pragmatic Approach to Carbon Border Measures](#), 21 *WORLD TRADE REVIEW* 109 (2021) (with Todd N. Tucker) & *Trade and Climate, Law and Politics: A Response*, 21 *WORLD TRADE REVIEW* 127 (2021) (with Todd N. Tucker).

[Leveling the Playing Field: Industrial Policy and Export Contingent Subsidies in India-Export Measures](#), 20 *WORLD TRADE REVIEW* (2021) (with Swati Dhingra).

[Michelle Benedict Nowlin](#)

Clinical Professor of Law, and Co-Director of the Duke Environmental Law and Policy Clinic

[A Framework for Inland Cities to Prevent Marine Debris: A Case Study from Durham, North Carolina](#), *Frontiers in Marine Science* 1-7 (2022) (with Nancy E. Lauer)

[Recognize Fish as Food in Policy Discourse and Development Funding](#), 50 *Ambio* 981-989 (2021) (with others)

[Jedediah Purdy](#)

Professor of Law

[Two Cheers for Politics: Why Democracy Is Flawed, Frightening—and Our Best Hope](#) (Basic Books, 2022)

Nature, in *A Cultural History of Ideas in the Modern Age* (Bloomsbury, forthcoming 2022)

The Promise of American Life, 253 *The New Republic* 46-50 (2022) (reviewing Oliver Zunz, *The Man Who Understood Democracy: The Life of Alexis de Tocqueville*, 2022) (Appears online with the title: Tocqueville's Uneasy Vision of American Democracy)

The Constitutional Flaw That's Killing American Democracy, *The Atlantic* (August 28, 2022)

[Democrats Need Patriotism Now More Than Ever](#), *New York Times* (July 1, 2022) (A version of this article appears in print on July 3, 2022, Section SR, Page 12 of the New York edition with the headline: *The Left Must Reclaim Patriotism*)

[The Republican Party Is Succeeding Because We Are Not a True Democracy](#), *New York Times* (January 6, 2022) (A version of this article appears in print on Jan. 6, 2022, Section A, Page 23 of the New York edition with the headline: *We're Not a Real Democracy. That's Why Jan. 6 Happened*)

[Stephen E. Roady](#)

Senior Lecturing Fellow

[Will Unilateral Action Improve the Global Conservation Status of Marine Mammals? A First Analysis of the U.S. Marine Mammal Protection Act's Import Provisions Rule](#) 135 *Marine Policy*, article 104832, 1-10 (2022) (with others)

[Recognize Fish as Food in Policy Discourse and Development Funding](#), 50 *Ambio* 981-989 (2021) (with others)

[Jonathan B. Wiener](#)

William R. and Thomas L. Perkins Professor of Law, Professor of Environmental Policy and Public Policy, and Co-Director of the Duke Center on Risk

Co-Benefits, Countervailing Risks, and Cost-Benefit Analysis (with John D. Graham), in Dennis Paustenbach, ed., *Human and Ecological Risk Assessment: Theory and Practice* (John Wiley & Sons, 3d ed., forthcoming 2022) (related blog post, "[Gotta Catch 'em All](#)," Oct. 19, 2021).

[Climate Change and the Supreme Court](#) (colloquy with Susan Tierney and Lisa Heinzerling), *RFF Resources* (May 19, 2022).

[Comparing Environmental Risk Regulation in China and the United States](#) (with Jianhua XU and Huanhong LI), 42 *Risk Analysis* 730-756 (April 2022) (related [blog post](#), Dec. 20, 2021).

[Solar Radiation Modification: A Risk-Risk Analysis](#) (with Tyler Felgenhauer, Govindasamy Bala, Mark Borsuk, Matthew Brune, Ines Camilloni, and Jianhua Xu), paper for Carnegie Climate Governance Initiative (C2G) (March 14, 2022).

[Social Science Research to Inform Solar Geoengineering](#) (with Joseph E. Aldy, Tyler Felgenhauer, William A. Pizer, Massimo Tavoni, Mariia Belaia, Mark E. Borsuk, Arunabha Ghosh, Garth Heutel, Daniel Heyen, Joshua Horton, David Keith, Christine Merk, Juan Moreno-Cruz, Jesse L. Reynolds, Katharine Ricke, Wilfried Rickels, Soheil Shayegh, Wake Smith, Simone Tilmes, and Gernot Wagner), 374 *Science* 815-818 (Nov. 12, 2021), DOI: 10.1126/science.abj6517.

[Martian Migration: Policy Report on Science, Society and Sustainability](#) (report by students and faculty in Duke University Bass Connections project on Going to Mars) (Nov. 2021).

[Disregard and Due Regard](#), 29 *NYU Environmental Law Journal* 437-469 (2021).

[Institutional Roles and Goals for Retrospective Regulatory Analysis](#) (with Lori S. Bennear), 12 *Journal of Benefit-Cost Analysis* 466-493 (2021), DOI: <https://doi.org/10.1017/bca.2021.10> .

[Periodic Review of Agency Regulation](#) (with Lori S. Bennear) report for the Administrative Conference of the United States (ACUS) (June 7, 2021) (related [blog post](#), Nov. 9, 2021).

Agenda Setting at EPA (with John D. Graham), chapter 13 in A. James Barnes, John D. Graham & David Konisky, eds., *Fifty Years at the US Environmental Protection Agency* (Rowman & Littlefield, 2021).