

DUKE ENVIRONMENTAL LAW

Fall 2005

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Environmental summit launches Nicholas Institute at Duke

THIS PAST WEEK Duke hosted one of the most significant environmental events in the University's history. The three-day Environmental Summit, from September 20-22, brought together national and international environmental leaders for the formal launch of the Nicholas Institute for Environmental Policy Solutions. Made possible through a \$70 million gift to Duke from Pete and Ginny Nicholas, the Institute was created to marshal the broad resources of the University in order to improve our understanding of the great environmental challenges we face.

As its name suggests, the Nicholas Institute for Environmental Policy Solutions is focused on applying research to and developing solutions for real world problems. Bringing to the table the broad resources of the Duke University community – including those of the Nicholas School, Fuqua School of Business, Duke Law School, and the Medical Center – and the expertise

of partners in industry, government, and environmental organizations, it is the only science and policy institute of its kind, with a resident faculty that can work to identify important environmental problems and recommend effective policy based on unbiased data and careful analysis of the issues. Said Institute Director Tim Profeta '97, "By the

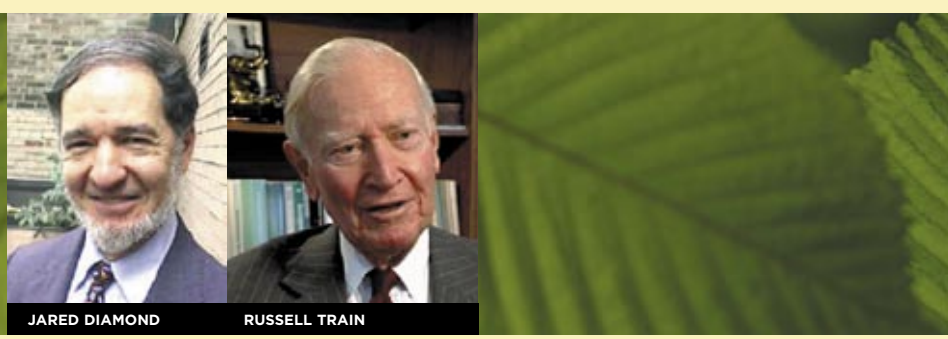
end of the decade, I want the Nicholas Institute to be on the 'first-call-made list' by a wide range of groups interested in environmental issues. It should be a resource for businesses seeking to craft strategies to

address environmental problems, policy-makers seeking to draft effective solutions, advocates seeking credible insight into environmental challenges, and reporters and the public seeking objective analysis."

In keeping with the Institute's focus on solutions, conference speakers and attendees explored the nature of today's most pressing environmental issues and challenged one another with strategies to



NICHOLAS INSTITUTE
FOR ENVIRONMENTAL POLICY SOLUTIONS
DUKE UNIVERSITY



“At a time of planet-wide environmental transformation, the Nicholas Institute will not lament the problems but will hone in on solutions.” Bill Reilly

Nicholas Institute
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overcome barriers to effective action. More than 30 speakers represented a range of leading thinkers, organizers, and decision-makers. Keynote addresses were delivered by Jared Diamond, Pulitzer Prize-winning author and Professor of Geography at UCLA, William K. Reilly, former head of the U.S. Environmental Protection Agency (EPA) and chair of the Nicholas Institute Board of Advisors, and Russell Train, chairman emeritus of the World Wildlife Fund and former administrator of the EPA. Taped remarks were presented by former President George H.W. Bush and Senator Joseph Lieberman.

In addition to the plenary sessions, The results of a new national poll commissioned by the Nicholas Institute examined how voters' views on the environment affect, or don't affect, their decisions at the ballot box. Concurrent panels focused on specific environmental issues, identifying pressing problems and debating possible solutions. The first three panels featured discussions on energy, habitat, and forestry, and environmental health. The second round of panels addressed issues relating to water, climate, and oceans. The individual panel speakers offered as impressive a breadth of experience as the keynote speakers, ranging from Fred Krupp, president of Environmental Defense, Gus Speth, former director of the United Nations Development Program and currently dean at Yale's environment school, and Sandra Postel M.E.M. '80 and noted water authority, to Jack Ward Thomas, former chief of the U.S. Forest Service, Thomas Lovejoy, noted biodiversity

expert and president of the Heinz Center, and James Rogers, president and CEO of Cinergy Corporation, among others.

Among other inaugural activities, Tuesday night's reception featured Richard Osborne of Duke Power, who discussed the recent \$2.5 million Climate Change Partnership with Duke. A gala dinner Wednesday night was held at Cameron Indoor Stadium, and Thursday saw smaller planning sessions for the Institute and a Nicholas School art exhibit entitled "Framing the Environment."

The goal of the Summit was two-fold. One was to showcase the Nicholas Institute's unique set of resources and initiatives to the public as well as existing and potential partners in corporate, government, and foundational sectors. The second was to learn from the environmental leaders the problems on which the Institute should focus and consider the types of solutions it should pursue. This remarkable conference provided a unique opportunity for brainstorming and networking among influential members of national and international organizations, leading thinkers, and preeminent science and policy experts. Bill Reilly spoke for many when he stressed, "At a time of planet-wide environmental transformation, the Nicholas Institute will not lament the problems but will hone in on solutions. And I look forward to helping it find them."

For more information on the Summit or the Nicholas Institute for Environmental Policy Solutions, visit <http://www.nicholas.duke.edu/institute/> ♣



LAW SCHOOL NEWS



JOHN ADAMS '62 AWARDED DUKE HONORARY DEGREE

John H. Adams L'62, was awarded an honorary degree from Duke University during commencement exercises on May 15, 2005. Adams co-founded the Natural Resources Defense Council and served as its president for 35 years, leading its development into one of the nation's preeminent environmental advocacy groups. He also has contributed his energy and leadership to many other environmental groups, including the Open Space Initiative, of which he is chairman. Adams has also taught the environmental clinic at New York University's School of Law for 26 years. Among his many honors, he is the winner of National Audubon's 100 Champions of Conservation award, Duke's Distinguished Alumni Award and Duke Law School's Charles S. Murphy Award, which is presented annually to an alumnus whose career has emphasized public service and education.

DELPF FALL CONFERENCE TO FOCUS ON OCEANS

Two high-level commissions recently issued reports on the state of the oceans. The U.S. Commission on Ocean Policy and the Pew Ocean Commission highlighted the need for managing the marine environment on an ecosystem basis. In order to resolve issues of overlapping political jurisdiction that frustrate holistic ecosystem management, they both recommended the implementation of a regional ocean governance system. Management across jurisdictional boundaries, however, presents significant legal and political challenges. Seeking to enlighten and further this debate, the 2005 symposium of the *Duke Environmental Law and Policy Forum (DELPF)* will bring together leading scholars in ocean and coastal law and policy to discuss the legal, political, socio-economic, and scientific challenges and opportunities for development of a regional ocean governance system in the United States.

The agenda includes presentations, panel discussions, and audience participation. The final roundtable will focus on determining a clearly defined trajectory for the development of marine ecosystem-based management in the U.S. The conference will dovetail with activities at the Nicholas Institute for Environmental Policy Solutions, which will synthesize the discussion into a statement for presentation to Congress in early 2006.

The event will take place at Duke Law School on Friday, October 21, 2005. Attendance is free and open to the public. Participants' papers and transcripts of talks will be published in *DELPF*, Volume XVI, Issue 2 in the spring 2006.



for more information:
www.law.duke.edu/delpf



ENVIRONMENTAL ALUMNI LUNCH IN WASHINGTON, D.C.

This past May, environmental alumni in the nation's capital gathered for lunch with Professor Jim Salzman. Hosted by Gary Mason L'87, the alumni enjoyed the opportunity to catch up with one another and engage in creative brainstorming over the structure and development possibilities for a new environmental clinic. Said Professor Salzman, "For a school of its size, Duke has a remarkable number of graduates who practice in environmental law – indeed who have helped shape the field itself. We are very interested in creating an environmental clinic at Duke and the opportunity at this early stage to bounce ideas around with such experienced and interested alumni was invaluable."



Faculty Environmental Publications, 2004-2005

Joost Pauwelyn

The Sutherland Report: A Missed Opportunity For Genuine Debate on Trade, Globalization and Reforming the WTO, 8 JOURNAL OF INTERNATIONAL ECONOMIC LAW 329-346 (2005)

Environmental Risk, Precaution and Scientific Rationality in the Context of WTO/NAFTA Trade Rules, 24 RISK ANALYSIS 461-469 (2004) (with D. Crawford Brown and Kelly Smith).

The Puzzle of WTO Safeguards and Regional Trade Agreements, 7 JOURNAL OF INTERNATIONAL ECONOMIC LAW 109-142 (2004).

Recent Books on Trade and Environment: GATT Phantoms Still Haunt the WTO, 15 EUROPEAN JOURNAL OF INTERNATIONAL LAW 575-592 (2004)

Jedediah Purdy

A World of Passions: How to Think About Globalization Now, 11 INDIANA JOURNAL OF GLOBAL LEGAL STUDIES 1-49 (2004)

Barak Richman

A Transaction Cost Economizing Approach to Regulation: Understanding the NIMBY Problem, 22 YALE JOURNAL ON REGULATION (forthcoming Winter 2005) (with Christopher Boerner)

James Salzman

Creating Markets for Ecosystem Services: Notes From the Field, 80 NYU LAW REVIEW 870 (2005).

Decentralized Administrative Law in the Organization for Economic Cooperation and Development, 68 LAW & CONTEMPORARY PROBLEMS 191 (2005)

No Net Loss: Instrument Choice in Wetlands Protection, in TWENTY FIVE YEARS OF MARKET INSTRUMENTS FOR ENVIRONMENTAL PROTECTION (J. Freeman & C. Kolstad eds., Oxford University Press, forthcoming 2005) (with J.B. Ruhl)

The Perils of Payments for Ecosystem Services, 8 INTERNATIONAL JOURNAL OF INNOVATION & SUSTAINABLE DEVELOPMENT (forthcoming 2005)

Science in the Public Process of Ecosystem Management: Lessons from Hawaii, Southeast Asia, Africa and the US Mainland, 76 JOURNAL OF ENVIRONMENTAL MANAGEMENT 197-209 (2005) (with John Gutrich et al.)

NATURAL RESOURCES LAW AND POLICY (Foundation Press 2004) (with J. Rasband and M. Squillace)

Christopher Schroeder

THE PROGRESSIVE AGENDA FOR HEALTH, SAFETY AND THE ENVIRONMENT (Carolina Academic Press, 2005) (editor with Rena Steinzor)

2004 Supplement to ENVIRONMENTAL REGULATION: LAW, SCIENCE AND POLICY (4th ed. 2003) (with Robert V. Percival)

The Story of American Trucking: The Blockbuster That Misfired, in Lazarus and Houck, ENVIRONMENTAL LAW STORIES (2005)

Federalism's Values in Programs to Protect the Environment, U. FLORIDA L. REV. (forthcoming 2005)

ENVIRONMENTAL REGULATION: LAW, SCIENCE AND POLICY (5TH ed. 2005) (with R. Percival et al.)

Laura Underkuffler

Tahoe's Requiem: The Death of the Scalian View of Property and Justice, CONSTITUTIONAL COMMENTARY (forthcoming 2005)

Jonathan Wiener

Convergence, Divergence, and Complexity in US and European Risk Regulation, in GREEN GIANTS: ENVIRONMENTAL POLICIES OF THE UNITED STATES AND THE EUROPEAN UNION 73-109 (Norman Vig & Michael Faure eds., 2004).

Editorial, Disconnects in Evaluating the Relative Effectiveness of Conservation Strategies, 18 CONSERVATION BIOLOGY 1-3 (June 2004) (with others).

Hormesis, Hotspots and Emissions Trading, 12 BIOLOGICAL EFFECTS OF LOW LEVEL EXPOSURES (BELLE) 20-31 (March 2004), reprinted in 23 *Human and Experimental Toxicology* 289-301 (June 2004).

Making Markets for Global Forests Conservation, in PAINTING THE WHITE HOUSE GREEN: ENVIRONMENTAL ECONOMICS IN THE WHITE HOUSE 119-140 (Jason Shogren & Randall Lutter eds., 2004)

The Regulation of Technology and the Technology of Regulation, 26 TECHNOLOGY IN SOCIETY 483-500 (2004).

Student Profile



“THE JUXTAPOSITION OF THE PRISTINE WATERS AND THE DILAPIDATED TOWN SETTLEMENT WAS STARTLING AT FIRST. I WAS SHOCKED WHEN I FIRST LEARNED THAT MOST OF THE ISLANDS’ INHABITANTS HAD NEVER SET FOOT IN THE WATER AND DID NOT KNOW HOW TO SWIM.”

Kate Gehret J.D./MEM '08

AN AVID SCUBA DIVER, Kate Gehret wants to focus her studies on coral reef conservation and tropical marine parks management. Working as an intern for the North Carolina Coastal Federation in Bogue Banks this past summer, Gehret researched the state coastal storm water rules and helped to develop a legal strategy to address some of the more blatant pollution problems in new housing developments on the coast.

“It was really satisfying to work on a concrete solution to an environmental problem,” she says. “We identified a loophole in the rules that was permitting developers to essentially create point sources of pollution off of their properties and into adjacent shellfish waters, seriously degrading the water quality and negatively affecting the shellfish industry. After researching relevant rules, statutes, and cases, we developed an effective legal strategy to deal with the problem. I often feel like I spend my time studying complex environmental problems and the inherent difficulties of managing anything effectively, so addressing and hopefully solving even one problem like this was a great experience.”

Combining law and environmental management was not always part of Gehret’s plan. At Princeton University, she majored in ecology and evolutionary biology with a certificate in environmental studies. What settled her on an environmental career was her experience in a marine

parks management course at the School for Field Studies on the island of South Caicos the summer following her sophomore year. Approximately nine square kilometers in size, the island was home to the field school, three bars, and dwindling spiny lobster and conch fisheries. Gehret studied the management strategies of a newly formed marine park surrounding the island and the effects on the local residents, many of whom relied on fishing to make ends meet. Outside of the classroom, Gehret and the other students were lucky enough to spend time with the locals.

“The juxtaposition of the pristine waters and the dilapidated town settlement was startling at first,” says Gehret. “I was shocked when I first learned that most of the islands’ inhabitants had never set foot in the water and did not know how to swim. Their actions were having such a huge impact on the surrounding ecosystem, and they had no way of observing these effects firsthand.” In an attempt to revive the spiny lobster and conch populations, the government had developed a marine protected area, in effect barring the fishermen from making a regular income, she explains. With the continued demand from nearby islands, illegal poaching had increased dramatically, and the locals were now removing whatever they could from the reef, sometimes using harmful chemicals to stun the fish, making them easier to catch. Through conversations with many of the locals, Gehret understood that their knowledge of the local environment gave them the potential to instigate positive environmental change. “Instead of labeling the

fishermen as enemies of the environment, the government should have incorporated the fishermen’s experiences and their ability to share information with other community members into the management plan. It was very frustrating to come to that realization.”

After graduation, Gehret worked as a paralegal for a Boston law firm for two years. Once satisfied that the study of law was something from which she would benefit, Gehret began to research dual-degree programs across the country. “Duke’s program in law and environmental management immediately stood out,” she recalls. The option to study at Duke’s Marine Lab in Beaufort, North Carolina, was the icing on the cake. “To study an organism in the classroom one morning, and then go out in the field and observe it in its natural surroundings that afternoon was such a rare opportunity that I knew I had to take advantage.

“My first year of law school made me a much stronger critical reader and honed my writing and speaking skills. This year I’m able to take courses spanning a broad range of environmental issues, allowing me to refocus my interests in conservation and policy. For the remainder of the program I will be enrolled in both schools, and the connection I am attempting to make between the two disciplines will only grow stronger.” Although she is studying primarily at the Nicholas School this year, Gehret remains involved at the Law School. She is co-chair of the Environmental Law Society and a staff editor on the *Duke Environmental Law and Policy Forum*. ♡



Professor Salzman and students support development of ecosystem service markets

WHEN WE BITE INTO A JUICY apple, we may think of soil and water, but not of the natural pollinators that fertilize the apple blossom so the fruit can set. When we drink a cool glass of water from the tap, we may think of the local reservoir, but the real source of the water quality lies many miles upstream in the wooded watershed that filters and cleans the water as it flows downhill. Largely taken for granted, natural systems provide a variety of such “ecosystem services,” services that underpin our well being by purifying air and water, detoxifying and decomposing waste, renewing soil fertility, regulating climate, mitigating droughts and floods, controlling pests, and pollinating plants.

Professor Jim Salzman has been working on the creation of ecosystem markets since 1997. “Environmental markets have really come of age,” he observes. “In the last decade we’ve seen the growth of multi-million dollar markets both for pollutants such as sulfur dioxide and, in Europe, for carbon dioxide. While more recent, we’re starting to see payment for ecosystem services provided by wetlands, forests, and even endangered species, as well. And these are just the formal markets. Throughout the world, countries like Costa Rica, Mexico, Australia, Colombia, Ecuador, and South Africa have been setting up systems of payment for the services provided by ecosystems. You know markets for services are a hot topic when *The Economist* dedicates an April cover story to the subject.

“The use of markets and market-like mechanisms to conserve and pay for ecosystem services is no small movement,” Salzman continues. “It is a large and growing global trend that has become of essential interest to small local communities, government regulators, businesses, and financiers around the globe. But it is important to recognize that markets—and environmental markets in particular—do not run on will alone. They require sound policy, strong science, and most of all, timely and transparent information. For markets to work, people need to know they exist, and participants need to see, with clar-

ity and ease, who is buying, who is selling, and at what price. There also needs to be a clear understanding of the policy changes that drive these markets, as well as the science that underpins them.”

Making it real

An organization known as “The Katoomba Group” has stepped in to fill this information gap. Salzman, who serves on its three-person Board, calls it unique.

“The Katoomba Group has an intentionally broad-based membership including forest product companies, businesses, bankers, grassroots activists, and journalists, and has brought together experts from Australia, Mexico, Colombia, Sweden, Canada, U.K., Brazil, Indonesia, China,

environmental commodities, government regulators, businesses affected by environmental regulation, banks and financiers, scientists, environmental and community development organizations, as well as low-income producers interested in tapping into these markets. All these players need to be involved for environmental markets to reach their full potential. We will also be providing policy analyses on how these markets operate on the ground and their impact on the ecosystems themselves and on low-income producers and community groups in developing countries.

“Lloyds of London is known to everyone today as an insurance giant, but it’s worth remembering that it started as a popular coffee house where merchants came together to exchange information about shipping news. We want to provide the same central source



“THERE NEEDS TO BE A CLEAR UNDERSTANDING OF THE POLICY CHANGES THAT DRIVE THESE MARKETS, AS WELL AS THE SCIENCE THAT UNDERPINS THEM.”

You can check out the website at: www.ecosystemmarketplace.com

Japan, Uganda, the U.S., and other countries.” The Katoomba Group has just launched a Web site, the “Ecosystem Marketplace,” with an ambitious goal.

“We aim to become the one-stop-shop for basic and timely information on emerging markets and payment schemes for ecosystem services around the world. Anyone who wants to participate in a market needs basic information: prices, transactions, how the services are measured, packaged and sold, where the buyers and sellers are, etc. We will provide this information, available with a mouse click, to traders in

of information and networking to buyers and sellers today, facilitating transactions, catalyzing new thinking, and spurring the development of new ecosystem markets.”

The Ecosystem Marketplace was officially launched in November at the World Conservation Union (IUCN) Global Congress in Bangkok, with separate launch events recently in London and upcoming in New York City. Duke’s Nicholas School of the Environment and Earth Sciences has supported the launch of the Ecosystem Marketplace through research support to students studying the operation of ecosystem markets. ♪



THE ENVIRONMENT AT DUKE



VANESSA HAMER

GREENING THE SUPPLY CHAIN

In July 2004, Duke's Office of Procurement Services adopted a new policy that established *Environmentally Preferable Purchasing Guidelines*. To implement the guidelines, Vanessa Hamer '05 was recently hired to identify environmentally preferable products and companies in order to "green" Duke's supply chain. The requirement that purchasers must buy remanufactured ink and toner cartridges, for example, not only reduces environmental impacts, but is expected to save the University \$290,000 annually.

DUKE HIRES SUSTAINABILITY EDUCATION & COMMUNICATION COORDINATOR

Last May, Duke's senior administrators signed an environmental policy statement committing the University to a range of environmentally responsible practices. As part of this University-wide sustainability initiative, Jennifer Smith was recently hired to build a new program to raise awareness and environmental literacy on campus. With 12 years of experience providing environmental education and training, Smith comes to Duke from Fort Bragg

where she was a sustainability trainer for the "Sustainable Fort Bragg" program. In her position there she performed outreach aimed at creating culture change on the military base. Smith says, her goal was to make "desired changes as easy as possible, developing clear, visible directions and informing select people. Our environmental policy slogan is actually making its way across [the military base] on the backs of latrine stalls!"



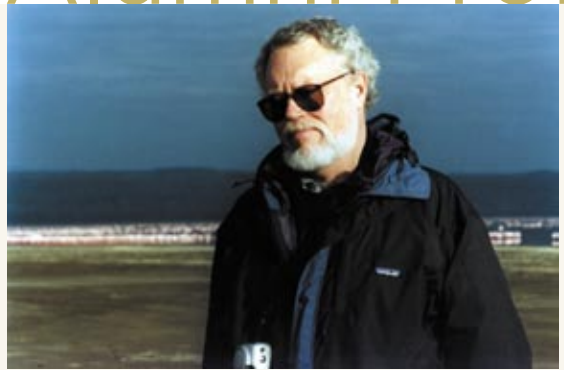
NICHOLAS SCHOOL GOES CARBON-NEUTRAL

The Nicholas School of the Environment and Earth Sciences recently purchased \$19,718 of renewable energy certificates to offset the estimated amount of electricity the school used at its Durham and Beaufort facilities last year. "Buying these certificates is a way of putting our money where our mouth is," said William H. Schlesinger, James B. Duke professor of biogeochemistry and dean of the Nicholas School.

The School bought the certificates from Gray County Wind Farm near Montezuma, Kansas. This facility replaces regular electricity from coal and gas-fired generators with renewable wind energy. "It ensures that the energy our school takes from the national power grid to run classrooms, labs, and offices is being replaced with an equivalent amount of clean, renewable energy. The certificates represent the desirable environmental outcomes, such as reduced carbon dioxide emissions, that are achieved when energy is produced using renewable energy sources instead of fossil fuels," Dean Schlesinger explained. Buying the certificates also helps subsidize the cost of operating wind farms and other sources of renewable energy. Given such benefits, the dean, staff, and majority of students at the Nicholas School all supported using money from the School's discretionary fund for the purchase. Considering the current price of oil, the decision to purchase renewable energy certificates is a timely one.



Alumni Profile



Durwood Zaelke '72

ROMINA PICOLOTTI, a former student of Durwood Zaelke's and the founder of the Center for Human Rights & Environment in Argentina puts it simply: "Professor Zaelke literally changed my way of seeing life. He is a visionary with an enormous juridical capacity and vivid imagination which, combined with a profound social sensitivity, make him an extraordinary person. Without his support the NGO I founded would have never been possible." A half dozen other NGOs founded by former Zaelke students can be found from Mexico to Brazil, and from Portugal to Israel.

Zaelke spent the first half of his career focusing on domestic environmental law with the Environmental Law Institute in Washington, DC, the Justice Department under President Carter, where he worked with Jim Moorman '62, and the Sierra Club Legal Defense Fund (SCLDF).

"I was fortunate to be able to participate in some of the defining environmental events of the era," Zaelke said. These included leading the investigation of the infamous Love Canal hazardous waste case in New York for the Justice Department. At Justice, he designed the federal government's first hazardous waste enforcement strategy and established a new section on energy conservation litigation, which today would be called climate change litigation, and co-founded the Policy, Legislation & Special Litigation Section. Zaelke also was

the lead investigator for the Three Mile Island nuclear accident.

In the spring of 1980, he headed north to Alaska. Zaelke said he went to Alaska "basically on a bet." He was hired by SCLDF on the condition that he start winning cases, or shut the office down in six months; SCLDF had litigated Alaska cases for a decade from their San Francisco office without much success, and they were not sure an

office in Alaska made sense. Zaelke proved it did, winning the first 33 times he and his rag-tag team of law students and one recent law grad went to court. The office remains open today, and continues to win cases.

Towards the end of his decade with SCLDF, Zaelke was asked by Greenpeace to investigate litigation against Japan for killing whales. When he found out that he could not bring the case in the International Court of Justice—because NGOs were excluded from the international system—he decided to change the system. With two talented British barristers he had hired to help investigate the whaling case and with his wife, Barbara Shaw, Zaelke founded the Center for International Environmental Law (CIEL) in 1989. The whaling case was one of Zaelke's first head-on encounters with the deficiencies of international law.

"When I first heard of the case, I believed that if there was law to apply, and facts we could prove that showed a violation, then I could solve the problem," Zaelke said. "Little did I know that international law was but a vestige of the muscular law I was used to. In this pathological international legal system, NGOs seemed not to have any rights nor any opportunity to participate in the anemic international legal system such as it existed at the time. The system seemed wrong. And it seemed like a good time to change it, by starting an international public interest law movement modeled after the public interest environ-

mental law movement in the U.S."

Around this time, Zaelke also began teaching international environmental law and policy. Since 1989, Zaelke has taught at Yale, Duke, Johns Hopkins, University of California Santa Barbara, and American University's Washington College of Law, where he founded the Program on International & Comparative Environmental Law. Zaelke's leading textbook, *International Environmental Law & Policy*, was co-authored with Professor David Hunter, who also was an attorney at CIEL, and Professor Jim Salzman of Duke.

Zaelke was appointed four years ago as the director of the International Network for Environmental Compliance & Enforcement (INECE), a network of 4,000 environmental enforcement practitioners in more than 150 countries. "INECE lets me work at the most practical level—making law work from the bottom up. As the world globalizes and lawyers are practicing across many jurisdictions all over the world, it's critical to understand different cultures and the way they perceive the rule of law. The roughly 200 states of the world include many failed states, many weak states, some struggling states, and surprisingly few strong states. If you're pursuing sustainable development—or any business enterprise—you have to know the vast differences in the rule of law."

Zaelke recently joined the law firm of Zelle, Hofmann, Voelbel, Mason & Gette, where he was reunited with one of his Duke Law classmates, Dan Mason '72. Zaelke opened the firm's Washington, D.C. office in 2003.

Zaelke enjoys practicing environmental law "because it lets you ask interesting and often profound questions about society and the role of law, including questions about the right way to live a good life. It has taken me to the far corners of the earth, and introduced me to amazing people, from leaders of indigenous tribes to the leaders of industry." ♪

Alumni Profile



Catherine Malinin Dunn

J.D./M.E.M. '96

CATHERINE MALININ DUNN traces her environmental consciousness to a childhood summer evening in her hometown of Key Biscayne, Florida. While playing tennis with her family on artificially lit courts near the beach, she noticed something creeping under the surrounding fencing.

"At first it looked like the land was moving. Then we realized it was sea turtles – dozens of baby loggerheads – crawling toward the light," Dunn recalls. The guiding light, though, was not the moon leading towards the sea, but light pollution from beachfront developments, she continues. "We watched in horror as a passing car ran over several of the baby turtles. My mother ran out into the street to stop traffic while we gathered up the baby loggerheads and placed them in a duffle bag. This was well before the days of organized turtle watches, and we had no idea what to do. The local aquarium gladly accepted some of the baby loggerheads to be raised in tanks until they were bigger, but suggested we release the rest of the turtles ourselves. We took the young turtles down to the beach and swam out into the ocean with them as far as we dared. It was a magical sight watching those turtles paddle out to sea. I sometimes wonder if they made it to adulthood and returned to the same

"I LOVED THE POLICY WORK THAT I DID AT EPA, BUT I WANTED THE OPPORTUNITY TO GET DOWN IN THE TRENCHES AND DO HANDS-ON ENFORCEMENT WORK. I GUESS IN A WAY I MOVED FROM THE CARROT TO THE STICK – I THINK WE NEED BOTH."

beach to lay the next generation of eggs."

Today, Dunn works as a trial attorney in the Environmental Enforcement Section at the U.S. Department of Justice. She graduated with a degree in English literature from Swarthmore College in 1987 and spent the next five years working for environmental advocacy organizations as a grassroots organizer. In 1992, she enrolled in the joint J.D. / M.E.M. program at Duke. At that time, there were only a handful of joint-degree students and, as Dunn describes it, "We were the oddballs both places. At the Law School, we had a reputation as tree-huggers and at the School of the Environment we were known as the corporate lawyers." But the program offered Dunn exactly what she was looking for – an interdisciplinary approach to law and environmental science and policy. While at Duke, she served as editor-in-chief of the *Duke Environmental Law and Policy Forum* and, along with Timothy Profeta '97, organized the first annual Cummings Colloquium in Environmental Law. "We had a great time shaping the program. Our topic that first year was 'Beyond the Balance of Nature,' and our speakers explored equilibrium and dis-equilibrium theory." In addition, Dunn initiated a program in environmental professionalism at the Nicholas School, addressing the need to provide masters students not only with the theoretical tools they need to succeed in environmental management but also the practical ones. She also clerked for the Southern Environmental Law Center.

After graduating Duke *magna cum laude* in 1996, Dunn completed the two-year honors program at the Department of Transportation, focusing primarily

on land-use issues, defending a number of challenges to federal action under the National Environmental Policy Act and working on projects to minimize the danger of importing alien species. In 1998, she joined the EPA, developing tools to promote voluntary compliance with environmental laws. Among a range of tasks, she spearheaded the Agency's revision of its audit policy and represented the United States' enforcement interests before the North American Commission for Environmental Cooperation, the three-country body established under NAFTA.

In 2001, Dunn moved to Justice, where she represents the U.S. in civil enforcement actions. "I loved the policy work that I did at EPA, but I wanted the opportunity to get down in the trenches and do hands-on enforcement work," she said. "I guess in a way I moved from the carrot to the stick—I think we need both."

According to Dunn, litigating at Justice differs from litigating in private practice. "We may not have the same perks and resources available to lawyers in the private bar, but we have top-notch attorneys and support staff. It's an honor and a privilege to represent the American people, and we are rewarded every day by the satisfaction of knowing that we are enforcing our nation's environmental laws and achieving great results. In my free time, I like to go birding and hiking in the great outdoors, and I love knowing that I am doing my part to protect our fragile environment."

Dunn resides in Silver Spring, Maryland. She and her husband, John F '96 are the proud parents of 3 ½-year-old Natalia, whom they adopted from Russia in 2003. ♡