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ELI Bulletin

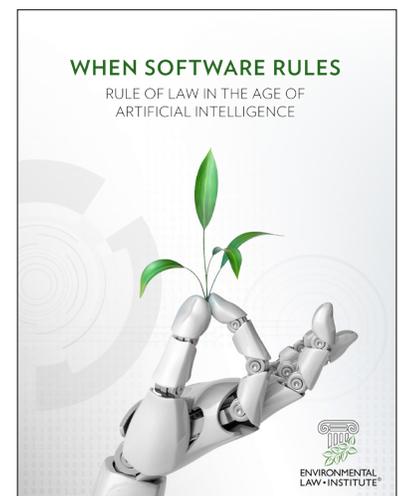
Making law work for people, places, and the planet

Thank you for supporting ELI. Here's a quick look at what we've been up to.

Driving Policy Improvements

Exploring the Next Environmental Frontier

As many observers have pointed out, we have entered the age of Artificial Intelligence (AI). As AI advances and environmental decisionmaking becomes internalized into AI algorithms, the legal, ethical, and public policy communities are in a unique position to ensure positive environmental outcomes. A new report by ELI, ***When Software Rules: Rule of Law in the Age of Artificial Intelligence***, provides a brief history of AI and discusses current concerns with AI systems. It offers to the government, businesses, and the public an overview of potential environmental applications of AI, as well as recommendations for environmental governance structures that will be essential to ensuring that environmental impacts are addressed.



Making Natural Resources a Source of Cooperation, Not Conflict



environmental
PEACEBUILDING

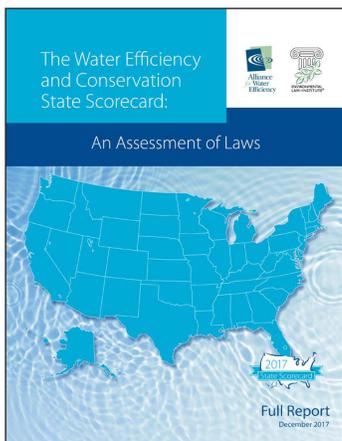
This past spring, ELI, U.N. Environment, and partner organizations launched a Massive Open Online Course (MOOC) on Environmental Security & Sustaining Peace, providing a review of the multiple roles that natural resources and the environment play in the onset, escalation, resolution of, and recovery from violent conflicts. The course also presents considerations and approaches that help to understand and address social conflicts around natural resources and the environment. Over 10,000 people from around the world—including presidential advisors, journalists, security advisors, and peacekeeping professionals—signed up for this free, eight-week course. And for those who want to stay involved in this issue, ELI, UN Environment, and partner institutions launched the Environmental Peacebuilding Association, on Earth Day 2018, as a multidisciplinary forum to address issues related to environment, conflict, and peace.

Tracking Regulatory Change in the Trump Era

Updated for 2018, ***Environmental Protection in the Trump Era*** is the latest collaboration between ELI and the American Bar Association's Civil Rights and Social Justice Section. With updates to ELI's previous review, the book covers critical changes to the environmental protection landscape under the Trump Administration since January 20, 2017. Free for download and written for a broad audience, the eBook provides a snapshot of major Trump Administration actions on climate change, clean air

and water, pipelines and offshore drilling, toxic properties and Superfund sites, regulatory changes, budget reductions, and environmental justice.

Showcasing States That Make the Grade



According to the **2017 Water Efficiency and Conservation State Scorecard**, released by ELI and the Alliance for Water Efficiency (AWE) this past spring, most states have a long way to go to shore up their legal frameworks and improve requirements that contribute to water conservation and efficiency, and long-term resiliency. In the newest Scorecard, states received two separate grades: one for efficiency and conservation and one for climate resiliency planning. Though one-half of the states have made progress since the 2012 State Scorecard, the national average for water efficiency and conservation is a “C.” The climate resiliency portion revealed that many states are unprepared for potential climate change impacts on water supplies—though the climate resiliency scores ranged significantly, the national average was a “C.” Where does your state rank?

Making the Most of the Watershed Approach

The Oil Pollution Act and CERCLA allow for both the recovery of damages to restore or replace natural resources to the conditions that would have existed prior to the spill or release, as well as to compensate for interim losses of ecological services. Natural resource trustees—states and tribes acting on behalf of the public—are tasked (along with federal trustees) with planning and implementing the restoration of these lost natural resources and services. In **Natural Resource Damages, Mitigation Banking, and the Watershed Approach**, ELI explains how trustees can integrate natural resource damage restoration with the Clean Water Act §404 compensatory mitigation program and realize benefits such as expediting and enhancing restoration and evaluating ecosystem services more efficiently.

Informing Judges Around the Globe

The World Water Forum, held every three years, gives the water community and key decisionmakers the opportunity to collaborate and make long-term progress on global water challenges. This eighth Forum, which took place in Brazil from March 18-22, for the first time brought judges and prosecutors together with policymakers from around the world to discuss the precarious state of freshwater resources and the importance of rule of law in achieving water resource objectives. One of the outcomes from this year’s Forum was the **Brasilia Declaration of Judges on Water Justice**, which sets forth 10 principles for promoting water justice through the application of water law and environmental rule of law. ELI President Scott Fulton and Alejandra Rabasa, Director of ELI’s Judicial Education Program, participated in an advisory and knowledge-transfer capacity. While there, they presented the March issue of **ELR’s News & Analysis**, which featured a series of articles written by leading judges from around the world on the importance of the role of the judiciary in achieving water justice and ecological sustainability.



Building Capacity in China

ELI continued its capacity-building work in China this past spring. In March, ELI, with assistance from the Pillsbury law firm, prepared a report, ***Managing Environmental Protection and Economic Considerations Under Select U.S. Environmental Laws and Permitting Systems***, for the Policy Research Center on Environment and Economy, Ministry of Environmental Protection of the People's Republic of China. The report explains how the United States has balanced economic considerations and environmental protection through the Clean Air Act, Clean Water Act, the Resource Conservation and Recovery Act, and the Endangered Species Act—arguably the four most significant environmental statutes applicable to private actions. And in April, ELI and the China Environmental Protection Foundation held capacity-building workshops at the Tianjin University Law School on environmental public interest litigation. Chinese NGOs, judges from the Supreme People's Court, and prosecutors from the Supreme People's Procuratorate all participated in these workshops.

Navigating the Road to Restoration

A number of different funding processes were put in place following the Deepwater Horizon oil spill to help restore and recover the Gulf of Mexico, each with their own objectives, time lines, governance structure, opportunities for the public to engage, and level of involvement by different federal, state, and other entities. Adding further complications is that these new initiatives were added to federal, state, and local programs that were in place prior to the spill. Recognizing the need for coordination and building upon our knowledge, reputation, and long history in the Gulf on helping facilitate restoration, ELI issued ***Coordination in the Natural Resource Damage Assessment Process: General Tools and Mechanisms***.



Visit <https://www.eli.org/research-reports> to download recent reports from ELI.

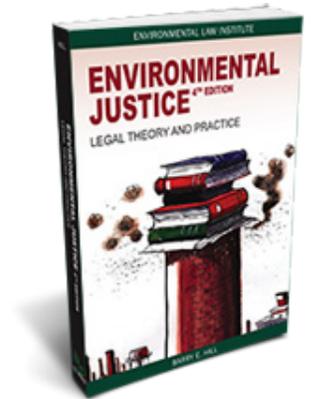
Informing Practitioners on Current Issues

Sharing New Ideas From Academia

On April 6, ELI and Vanderbilt University Law School co-sponsored the ***Environmental Law and Policy Annual Review***, an annual conference that highlights some of the best ideas from academia on legal and policy solutions to pressing environmental problems. At the conference, the authors present their ideas before an audience of business, government, think tank, and nonprofit thought leaders. Topics discussed at this year's conference included using financial assurance mandates to reduce industrial risks associated with climate change; incorporating visual content into administrative rulemaking to promote transparency, accountability, and public participation; and developing new legal tools for collective impact agreements that foster collaboration among multisectoral stakeholders to solve environmental and other social challenges. Condensed versions of the selected articles, along with commentaries from leading experts in the field, will appear in the August issue of *ELR's News & Analysis*.

Striving for Justice

On April 16, ELI and co-sponsors convened a panel of dynamic environmental justice leaders, including keynote speaker Rep. Raul Ruiz, co-author of the recently proposed Environmental Justice Act of 2017. Continuing pivotal discussions from a panel held last November, speakers explored climate justice, siting issues, ramifications of extreme weather events on marginalized communities, and ways in which practitioners can empower and support environmental justice communities through their own work. A networking reception followed to further spark conversation and discussion of key topics at the forefront of environmental justice. The latest book from ELI Press, *Environmental Justice: Legal Theory and Practice, 4th Edition*, was proudly on display.



Educating the Bar

ELI was in San Francisco this past March for our annual **Western Boot Camp**, hosted by Holland and Knight. This three-day immersion course, designed for both new and seasoned professionals, offered participants valuable insight into the substance and practice of environmental law. Our top-class faculty of highly respected practitioners brought environmental law, practice, and emerging issues to life through concrete examples, case illustrations, and practice tips. Be on the lookout for **Eastern Boot Camp** this fall!

For more information about past and future seminars, visit <https://www.eli.org/events-calendar>.

Recognizing Excellence

Celebrating Our Wetland Heroes

On May 9, ELI recognized the winners of the **29th Annual National Wetlands Awards**: The Gibbons Family; Roy R. “Robin” Lewis III; Maryann M. McGraw; Mark D. Sees; Latimore M. Smith; and Kerstin Wasson. These award winners have restored, researched, and protected thousands of acres of wetlands nationwide, and their examples have inspired others to act and make a difference to protect



and improve these vital natural resources. Since 1989, the National Wetlands Awards Program has honored over 200 champions of wetlands conservation. This year’s awardees were honored at the U.S. Botanic Gardens in Washington, D.C. The opening remarks were presented by Leah Krider, Chief Counsel at the Boeing Company, who presented a compelling story of the company’s successful efforts to establish a plant in Charleston, while protecting and enhancing key tracts of wetlands and open space, demonstrating a commitment to the environment and collaboration with local conservation groups.

Recently Featured in *The Environmental Forum*



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And be sure to check out the **Debate in Print** from the May/June issue, where leading experts examine DOI Secretary Zinke’s proposal to revamp DOI—and offer their own.

Recently Featured in ELR’s *News & Analysis*

Each month, the *Environmental Law Reporter’s News & Analysis* offers insightful features relevant to both legal practice and policy on today’s most pressing environmental topics. Recent articles include:

- ***Slow Threats and Environmental Policy***
- ***Small Critter, Big Problem: Protecting the Pearl River Map Turtle in Mississippi***
- ***Keeping the “Public” in Public Lands***

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Recently Featured in *Vibrant Environment*



Check out ELI’s blog series, *Vibrant Environment*. Recent entries include:

- ***Sustainable Business Models for Codigesting Food Waste***
- ***Strengthening Rental Housing Policies to Improve Public Health***
- ***Bonus Round: ELI Brainstorms New Ideas for Serious Games***

For more, visit <https://www.eli.org/vibrant-environment-blog>.

Interested in writing a blog for ELI?
Contact Rachel Jean-Baptiste at jean-baptiste@eli.org.