

## VJEL'S FIRST TEN YEARS: A REFLECTION ON THE GROWTH OF A PREMIER ENVIRONMENTAL LAW JOURNAL

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*Marc B. Mihaly\**

With this volume, the Vermont Journal of Environmental Law (VJEL) completes a decade of publication. For ten years the Journal has reported on every facet of American and international environmental law and given a forum to the enormous intellectual range the field of environmental law has produced. VJEL started life as one of the nation's first exclusively online environmental law journals, disseminating case reports, reporting developments in environmental law, and publishing articles. The effort grew to include print editions that reported on conferences presented at Vermont Law School's (VLS) internationally recognized Environmental Law Center. Today the journal presents to the world in both on-line format and in three print editions per year, one in symposium or subject-matter specific form and two as traditional law review article and note anthologies.

When the first editors initiated the journal, this trajectory appeared far from inevitable. In the mid-1990s, the environmental movement seemed mature, and the field was crowded with print law journals. But, just as many had mistakenly assumed the computer arena had reached a plateau of maturity before the internet emerged, so many of us failed to comprehend the transformation the climate crisis would work both within the environmental movement and in how the world perceived the environmental question. The evolution of VJEL tracks this sea of change in the last decade, a time that has seen simultaneous evolution and revolution in the field; remarkable growth in the maturity and sophistication of our traditional field is now conjoined with a fundamental reexamination of every environmental issue in light of the overarching need to reduce greenhouse gas emissions and stabilize the climate.

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VJEL has tracked these changes, in part, simply because its service as a scholarly repository inevitably bound the journal to reflect the cutting edge of environmental law. But in VJEL's case, the evolution also reflects the special role of environmental law at Vermont Law School (VLS) and the function of VJEL in that effort.

VLS graduated its first class in 1976, and as a young school looking for ways to distinguish itself, made the determination to focus on the new and burgeoning field of environmental law. I know just how new it was because at the very moment that the first Dean of VLS, Tom Debevoise, and the VLS faculty made the decision to concentrate on the environmental endeavor, I was the editor-in-chief of the struggling *Ecology Law Quarterly* at Berkeley (then in its third and what at the time appeared to be its final year) looking with diminishing success for foundation funding to sustain itself. While American writers, philosophers, and politicians had for over a century imagined, conceived, and developed the environmental field, the law of the environment seemed new and of an uncertain future—a future so uncertain that the Berkeley dean, while wishing us well at the *Quarterly*, informed me that the law school would not provide financial assistance because he felt that environmental law lacked sufficient substance to support a journal.

Today, over three decades later, the environmental faculty at VLS exceeds the size of the entire group of students working with me on the *Quarterly*. VLS offers more than fifty environmental law courses, and a third of our students pursue an Environmental LLM or a Masters in Environmental Law and Policy in addition to their JD. The VLS Environmental Law Center hosts major symposia and conferences each year, especially during the vibrant summer session when some 200 students study at VLS with visiting faculty and environmental practitioners. While a growing number of law schools have developed significant environmental curricula, none has the depth and the breadth of the program at VLS.

VJEL serves as the journal of record for the VLS environmental program—its scholarly home and the recorder of its proceedings. In addition to presenting a robust range of environmental scholarship, VJEL offers early on-line versions of the speeches of environmental scholars and officials, and of the conferences and colloquia presented at the school. Each year the journal co-sponsors a conference or colloquium highlighting an important subject and then publishes a set of articles reflecting the multi-disciplinary perspectives of the presenters.

Over the last decade, the VLS environmental program has evolved to address the changing landscape of environmental law, and in its role as journal to the Environmental Law Center, VJEL has produced special

issues that reflect those changes. We examine some of these key developments here.

*Land Use:* Land use issues present an enduring part of the environmental curriculum at VLS. The school's Land Use Institute addresses the "new Ruralism," examining approaches to the preservation and enhancement of the vitality of America's rural landscape. The Institute's faculty and students perform commissioned research on approaches to promoting compact growth that preserves rural towns and small cities, and to replacing the current energy-intensive agricultural model with a more sustainable approach.

A key issue for rural America involves the conflict between big box retail development and the preservation of the small scale core of villages, towns, and small cities. In 2005, VJEL and the Land Use Institute co-sponsored a two day symposium on "Small Town America in an Era of Big Box Development," and, in Volume Six, presented a special issue on the question.

*Energy:* Four years ago, VLS created its Institute for Energy and the Environment to address the profound effects that energy use has on the environment through research, teaching, and engaged scholarship. VLS now offers a complete energy curriculum with seven energy courses and has placed numerous students in energy positions at FERC, EPA, energy producers, and state public utility commissions. The Institute has built a solid reputation for high quality research and practical solutions to the complex challenge of harmonizing energy, economic, and environmental policies.

In 2006, VJEL and the Energy Institute co-hosted a symposium on energy and the environment, and shortly thereafter VJEL produced the special issue, *Energy and the Environment: Transmitting Ideas for Change*. Again in 2008, in the first issue of this Volume 10, VJEL addressed the key question of the future of carbon taxes, both in the United States and in other countries.

*China:* The VLS environmental faculty recognized early that China's explosive economic growth, fueled in large part by electricity from coal, would present significant health and environmental challenges for China and for the global environment; and thus, constructive engagement with China would prove central to addressing environmental solutions. Bilateral relations between China and the United States will evolve to rival our relationship with Europe, both in terms of quantity and complexity.

Thousands of American students will not only study China and pursue careers linked to China, but they will specialize in environmental issues related to the China experience, and environmental law as it relates to bilateral and international issues connected to China.

Accordingly, more than five years ago, VLS created the Partnership for Environmental Law in China. The school formed and populated a faculty and student exchange program with Sun Yat-Sen University School of Law, the leading law school in South China. That effort has now expanded to include multiple faculty and student exchanges, and joint scholarship with the China University of Politics of Law, Tsinghua Law School, and Peking University in Beijing. The China Partnership also provides courses, in-depth training, and degree programs for officials from China's Ministry of Environment, the China Energy Regulatory Commission, and the National Development and Reform Commission, both in China and in Vermont.

In the spring of 2007, VJEL and the China Partnership co-hosted and then published the proceedings of a ground-breaking collaboration among Chinese and American environmental law professors and lawyers, *China in Transition: Environmental Challenges in the Far East*.

*Climate Change and the Rights of Future Generations:* Climate presents the unifying and transforming theme of the 21st century. Every environmental concern now relates to climate, and in turn, climate has made the environment an issue of universal concern. In a sense, the environment no longer exists as a separate field, but has become part of every field; environmental law moves outward into almost every legal arena.

Environmental lawyers will play key roles in designing and implementing policies and programs to speed the transition to a low-carbon economy. Through the Environmental and Natural Resources Law Clinic, VLS provides its students with the opportunity to hone the analytical and advocacy skills they will need to lead the effort to solve the climate crisis. This is a daunting task, one that will likely consume the working lives of an entire generation. But it must begin now and it will require a commitment of human and physical resources equal to the effort made by the "greatest generation" in its fight against Nazism.

The school makes a longer-term but essential contribution to that capacity through the training of students with the determination, knowledge, and multiple skills necessary to undertake leadership roles in the climate effort. We believe that a low carbon civilization will by of necessity possess laws, institutions, and a polity distinct from that of the present. We must use all available tools, such as the current Clean Air Act,

with full recognition that a whole new set of tools must be crafted and deployed to address the carbon crisis.

Three years ago, we formed the Climate Legacy Initiative to examine long-term changes to our laws and approaches to ensure the rights of future generations to a safe environment. We gathered scholars in the field, and in 2008 VJEL and the Climate Legacy Initiative hosted a symposium and gathered a special issue in Volume 9, *Confronting Global Climate Change: Using the Law to Protect Future Generations*.

I expect the next ten years of environmental law to manifest more intensity and universal reach as our knowledge evolves and as the earth itself implacably confronts us with the ever-increasing urgency of the need to accommodate the built environment to the natural environment. The VLS environmental program will change to meet those challenges, and with it the authors, ideas, and symposia recorded in the Vermont Journal of Environmental Law will evolve as well. Our congratulations to the present and the past nine years of editors for a job well done, and hopes for an equally vibrant second decade.