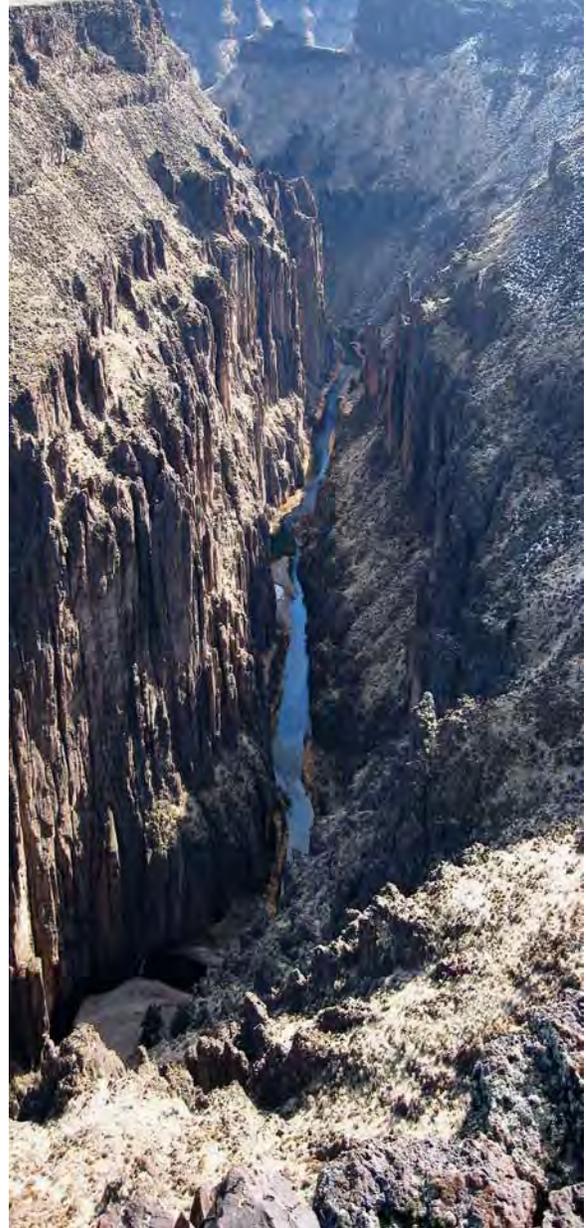


University of Idaho College of Law
Natural Resources and Environmental Law Newsletter

In this inaugural newsletter we introduce our readers to the major expansion in capacity in the area of [natural resources and environmental law](#) at the University of Idaho College of Law over the past five years. By taking advantage of synergies with other Colleges at the University, we have developed programs that allow students to emphasize natural resource and environmental law in their course of study toward a J.D., and provide three opportunities to obtain concurrent M.S. or Ph.D. degrees in areas of science and social science in the natural resources and environmental fields. This expansion has resulted in a vibrant community of students and faculty committed to furthering their knowledge and skills in solving the difficult natural resource and environmental problems facing us in the coming years. Together with the strong emphasis on public service and pro bono activity at the College of law, visitors to the College of Law will find a community committed to use of their knowledge and skills to contribute to sustainable and equitable stewardship of the environment.



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Our Programs

The Pacific and Inland Northwest is rich in natural resources, and issues involving natural resources have figured prominently in the region's legal history. The University of Idaho's location – combined with its nationally recognized natural resource academic and research programs – make this an ideal place to study how we interact with land, resources and the natural environment. At the College of Law, students will find several options for developing their interests and expertise in natural resources and environmental law.

In 2008, the College of Law introduced a new emphasis in [Natural Resources and Environmental Law](#), providing a coherent program of study for students desiring to develop an expertise in the legal regimes that address land, water, the natural environment, and human interactions with those systems. Students complete at least nineteen hours of designated course work in the area, and a major writing assignment. In developing their own written work, students participate in a special writing seminar in which they present their own work and critique and edit the work of other students. This writing project allows a more in depth focus on a topic, as well as increased interactions with colleagues and the faculty that jointly lead the seminar.

The College of Law also provides the opportunity to combine the J.D. degree with M.S. or Ph.D. degree in related fields. The location of the law school on the campus of a major university known for its research and outreach in natural resource and environmental fields has made possible the development of concurrent degree options in [Water Resources](#) and [Environmental Science](#), with a degree option in Bioregional Planning and Community Design in the planning stage. These programs expose students to the interface among law, science, policy, engineering, social science and planning, and allow students to take courses and do research outside the law school while concurrently pursuing a J.D. Concurrency builds in efficiencies that allow students to complete a J.D./M.S. in four years and a J.D./Ph.D. in six years. Currently we have 10 students seeking concurrent degrees in Water Resources and 3 graduates. Five students have graduated with a J.D./M.S. in Environmental Science.

Students in the Waters of the West Program or who have declared a Natural Resource Law Emphasis now have the opportunity to participate in a 10-week summer externship program. Students work full-time for eight weeks at placements in Boise, Idaho, with the United States Attorney, the Idaho Attorney General, the Idaho Department of Environmental Quality, the Idaho Department of Water Resources, or private and nonprofit law firms working on conservation and/or environmental law projects. Students attend a weekly seminar taught by practitioners working in the environmental law field from the placement organizations. Students earn up to five classroom course credits and/or pro bono hours by participating in this summer program. 2011 will be the third summer this program has been available to College of Law Students.

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Our Faculty

Barbara Cosens



[Barbara Cosens](#) represents the College of Law in

development of the UI interdisciplinary Waters of the West Program, which includes options for concurrent JD/MS and JD/Ph.D. degrees in water resources. She teaches water law, water policy, and law and science. Her research interests include: resilience and water governance; the intersection of law and science; Native American water rights; and transboundary dispute resolution. Her field area is the Columbia River Basin and she represents UI as a member of the Universities Consortium on Columbia River Governance. She received her LL.M. from Northwestern School of Law at Lewis and Clark College, in Natural Resource and Environmental Law (2003), her J.D. from the University of California, Hastings College of the Law (1990), her M.S. in Geology from the University of Washington (1982), and her B.S. in Geology from the University of California at Davis (1977). Her research recently won her an invitation to be a plenary speaker at an international conference on Law for Social-Ecological Resilience put on by the Stockholm Resilience Center and the Faculty of Law at Stockholm University.

Recent Scholarship:

- Transboundary River Governance in the Face of Uncertainty: Resilience Theory and the Columbia River Treaty, 30 UNIVERSITY OF UTAH JOURNAL OF LAND RESOURCES, AND ENVIRONMENTAL LAW 229 (2010).
- Cosens, B., L. deSilva, J. Long, M. McKinney, R. Paisley, A. Sowards, E. Weber, A. Wolf eds. TRANSBOUNDARY RIVER GOVERNANCE IN THE FACE OF UNCERTAINTY: The Columbia River Treaty (in review process, Oregon State University Press).
- Cosens, B. and J. Royster eds. The Future of Reserved Water Rights . . . THE WINTERS CENTENNIAL: Will Its Commitment to Justice Endure? (publication pending, University of New Mexico Press. Chapter: The Legacy of Winters v. United States and the Winters Doctrine, One Hundred Year Later
- Resolving Conflict in Non-Ideal, Complex systems: Solutions for the Law-Science Breakdown in Environmental and Natural Resource Law, 48 NATURAL RESOURCES JOURNAL, 257, (2008)

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Angelique EagleWoman



[Angelique EagleWoman](#) (Wambdi A. WasteWin) represents the College

in the Native Law Program as well as serving as a member of the Natural Resources and Environmental Law cohort. She teaches native law, native natural resources law, and courses related to economic development on tribal lands. Her research interests include: tribal sovereignty and jurisdiction issues; treaty hunting and fishing rights for Tribal Nations and their citizens; transboundary issues for Indigenous peoples; tribal economic development and use of natural resources; and improving the quality of life for Indigenous peoples. She received her L.L.M. in American Indian and Indigenous Law at the University of Tulsa (2004), her J.D. from the University of North Dakota School of Law (1998), and her B.A. in Political Science from Stanford University (1993). Professor EagleWoman is currently finishing an article on re-structuring the relationships between Tribal Nations and the United States. Several international frameworks are discussed as potential processes for a return to bilateralism in these governmental relationships.

Recent Scholarship:

- Tribal Nations and Tribal Economics: The Historical and Contemporary Impacts of Intergenerational Material Poverty and Cultural Wealth Within the United States, 49 WASHBURN L. J. 805 (2010).
- Tribal Hunting and Fishing Lifeways & Tribal-State Relations in Idaho, 46 IDAHO L. REV. 81 (2009).
- The Eagle and the Condor of the Western Hemisphere: Application of International Indigenous Principles to Halt the United States Border Wall, 45 IDAHO L. REV. 555 (2009).
- Tribal Nation Economics: Rebuilding Commercial Prosperity In Spite of U.S. Trade Restraints – Recommendations for Economic Revitalization in Indian Country, 44 TULSA L. REV. 383 (2008).

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Dale Goble



[Dale](#) is the Margaret Wilson Schimke Distinguished Professor of Law at the University of Idaho. He earned a B.A. in philosophy from Columbia College and a J.D. from the University of Oregon. Following law school, he taught at Oregon for a year before joining the Solicitor's Office at the Department of the Interior in Washington, D.C. Following a year as an Honor's Program Attorney, he worked in the Lands and Minerals Division.

His research and scholarship focus natural resource law and policy, and has become increasingly multi-disciplinary over the past decade. In addition to the usual numerous articles, he is the co-author of *Wildlife Law: A Primer* (Island Press, 2009), *Wildlife Law: Cases and Materials* (Foundation Press, 2d ed. 2010), and *Federal Wildlife Statutes: Texts and Contexts* (Foundation Press, 2002).

Recent Scholarship:

- Beyond Reserves and Corridors: Policy Solutions to Facilitate the Movement of Plants and Animals in a Changing Climate, *BIOSCIENCE* forthcoming (with John Kostyack, Joshua J. Lawler, Julian D. Olden, & J. Michael Scott)
- Recovery, in *ENDANGERED SPECIES ACT: LAW, POLICY, AND PERSPECTIVES* 70-103 (Donald C. Baur & Wm. Robert Irvin eds., 2d. ed., American Bar Association Publishing, 2010)
- Conservation-Reliant Species and the Future of Conservation, 3 *CONSERVATION LETTERS* 91-97 (2010) [with J. Michael Scott, Aaron M. Haines, John A. Wiens, and Maile C. Neel]
- A Fish Tale: A Small Fish, the ESA, and Our Shared Future, 40 *ENVIRONMENTAL LAW* 339-362 (2010)
- The Endangered Species Act: What We Talk about When We Talk about Recovery, 49 *NATURAL RESOURCES JOURNAL* 1-44 (2009)

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Jerrold Long



[Jerrold Long](#) teaches property, land use and environmental law. He also represents the College of Law as an affiliate faculty member of the University's interdisciplinary Water Resources and Bioregional Planning and Community Design programs. Professor Long's research interests include the evolution of resource-protective legal regimes, the integration of community purpose within those same legal regimes, and the intersection of planning, design and local land-use controls. He received a Ph.D. from the University of Wisconsin—Madison, a J.D. from the University of Colorado, and a B.S. from Utah State University.

Recent Scholarship:

- Private Lands, Conflict, and Institutional Evolution in the Post-Public-Lands West, (forthcoming in the PACE ENVIRONMENTAL LAW REVIEW, Spring 2011).
- Realizing the Abstraction: Using Today's Law to Reach Tomorrow's Sustainability, 46 IDAHO L. REV. 341-377 (2010).
- Sustainability Starts Locally: Untying the Hands of Local Governments to Create Sustainable Communities, 10 WYO. L. REV. 1-34 (2010).
- From Warranted to Valuable Belief: Local Government, Climate Change, and Giving Up the Pickup to Save Bangladesh, 49 NAT. RESOURCES J. 743-800 (2009).

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Richard Seamon



[Richard Seamon](#) teaches constitutional and administrative law. His research interests relate to issues of public law, including administrative law, constitutional law, and the federal courts (focusing on the U.S. Supreme Court). His research is informed by having spent nearly 10 years doing full-time legal practice in Washington, D.C. He received his J.D. from Duke Law School, and an M.A. and B.A. from Johns Hopkins University. Rich Seamon is currently working on two book projects: a textbook on administrative law and a sourcebook on the U.S. Supreme Court.

Recent scholarship:

- ADMINISTRATIVE LAW: EXAMPLES AND EXPLANATIONS (Aspen Law & Bus. 3d ed. 2009) (with William F. Funk)
- Domestic Surveillance for International Terrorists: Presidential Power and Fourth Amendment Limits, 35 HASTINGS CONSTITUTIONAL LAW QUARTERLY 449 (2008)
- Policy Formulation Versus Policy Implementation Under the Magnuson-Stevens Act: Insight From the North Pacific Crab Rationalization, 34 BOSTON COLLEGE ENVTL AFFAIRS L. REV. 239 (2007) (with S. Matulich, M. Roth, and R. Eppink).

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Anastasia Telesetsky



[Anastasia Telesetsky](#) teaches international environmental law, public international law, and international trade and investment law. Her research interests include the legal role non-state actors can play in addressing transboundary environmental problems. Professor Telesetsky received an LL.M. from the University of British Columbia, a J.D. from the University of California—Berkeley, an M.A. from the University of California—Santa Barbara, and a B.A. from Vanderbilt University.

Recent Scholarship:

- Insurance as a Mitigation Mechanism: Managing International Greenhouse Gas Emissions through Nationwide Mandatory Climate Change Catastrophe Insurance 27 PACE ENVIRONMENTAL LAW REVIEW 691-733 (2010).
- A New Investment Deal in Asia and Africa: Land Leases to Foreign Investors, forthcoming in a book of essays from the International Investment Treaty Law and Arbitration Conference held at University of Sydney in February 2010 (Kate Miles and Chester Brown eds.)
- International Co-regulation and the Role of Transnational Corporations as Non-State Actors in Implementing International Environmental Law, forthcoming in INTERNATIONAL LAW IN THE NEW ERA OF GLOBALIZATION.

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Environmental Law Society

Fall 2010 was another busy semester for the Environmental Law Society (ELS). From local trail work to raft trips to our keynote presentation on the Gulf Oil Spill, ELS offered a diverse array of programs to the Idaho Law community. With over sixty student members, the ELS is one of the leading student organizations at the College of Law.



That leadership was on display throughout the fall semester. We enjoyed clear skies, thrilling rapids, and a welcome escape from the books during our second annual rafting trip on the Salmon River. Students, faculty, family, and friends were treated to the majestic scenery of a Wild and Scenic Idaho gem. As an opportunity to meet new friends and reconnect with old ones, the ELS raft trip has become an annual highlight for the law school community.



Speaking of highlights, ELS also hosted a presentation focused on the Deepwater Horizon Disaster and its administrative law connection to Idaho. The event featured spirited discussion between Laird Lucas, Executive Director of Boise's Advocates for the West, and Idaho Law's own administrative law expert, Professor Richard Seamon. They explored NEPA categorical exclusions in the context of the oil spill and also explained how the practice is used in Idaho. Their presentation emphasized the potential for significant environmental harm when these exclusions are overused. With a topic pulled straight from the headlines, esteemed speakers, and free food courtesy of ELS, it's easy to see why the event was so well attended.

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In addition to serving the law school community, ELS is also committed to volunteer work across the Palouse. This semester we teamed with the Moscow Area Mountain Biking Association (MAMBA) to help build and maintain bike trails on Moscow Mountain. And, in keeping with Idaho Law's emphasis on pro bono service, ELS provided opportunities for students to research environmental law topics for Friends of the Clearwater. Clearly, Fall 2010 was an incredibly active semester for ELS and we look forward to providing more environmentally focused programming in the spring.



Building on our activities of Fall 2010, the ELS will be partnering up to host two presentations this spring semester. The first will have the ELS helping to host an Environmental Security Talk with Professor Anastasia Telesetsky in February of 2011. The second partnership presentation is with the Native American Law Student Association where the two groups will be bringing in speakers from across the state to discuss perspectives on water rights in Idaho, including aspects of use in Native American natural resources.

In March, some members of ELS attended the Public Interest Environmental Law Conference in Eugene, Oregon. The conference is the largest of its kind in the nation, and students attended workshops and panels on topics ranging from Forest Protection and Ecological Restoration to Corporate Responsibility, International Environmental Law, and Urban Growth. The conference promises to be a great event for student's learning as well as a way for the University of Idaho College of Law to get information out about its new Waters of the West program and its Natural Resources and Environmental Law emphasis.

On top of all of these exciting activities, ELS will be hosting a fun run fundraiser on Earth Day in April in collaboration with the University of Idaho's Sustainability Center, as well as scheduling an attorney talk with Dana Johnson, a University of Idaho College of Law graduate and local Moscow attorney practicing in environmental law. The group will be continuing its relationship with Friends of the Clearwater by working on pro bono research projects for the group, and helping to build mountain bike trails on Moscow Mountain with MAMBA.

We encourage attorneys practicing natural resource, environmental, or water law to consider coming to Moscow to share your professional experiences. If you have questions, comments, suggestions for events, or would like to be added to the ELS listserve, please email ELS President, Mark Cecchini Beaver at cecc6798@vandals.uidaho.edu.

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Our Students' Perspectives

Dylan Hedden-Nicely



“The primary reason I came home to Idaho after completing my degree in geology was so I could participate in the Waters of the West (WoW) Program. After I completed my undergraduate work at the University of British Columbia I felt like I still had much more to learn. I knew that I wanted to pursue the law, but I also had so much more to learn about the physical world. The University of Idaho WoW program provided me with the perfect opportunity to pursue both. It has not disappointed. What the WoW program has given me is a more holistic understanding of how to tackle the hydrological problems that we are running up against. No one discipline can solve our problems, what the WoW program has taught me is how to communicate across disciplines to more efficiently and effectively solve the problems that are on the horizon.”

Emmi Blades



“I have spent the last thirteen summers backpacking through inspiring mountain ranges, wilderness areas, and parks with my dad, two brothers, husband, and dogs. These experiences and exposure motivated me to enter the field of Environmental Science at the University of Idaho where I earned my M.S. degree in 2007. I spent the following year preparing for law school and working for the Palouse-Clearwater Environmental Institute (PCEI) as an AmeriCorps Watershed Restoration Technician. I remain active with PCEI and am currently Vice President of its Board of Directors. The Natural Resource and Environmental Law (NREL) program was a natural fit for me at the College of Law. I was particularly drawn to the program because my graduate work taught me the importance of connecting law and science and being a NREL student allowed me to continue my scientific education while receiving law credit. The NREL program also put me in touch with professors at the law school who specialize in natural resources. These professors provided incredible support while I was Co-President of the Environmental Law Society during my second year, and continue to do so as I work with the Idaho Law Review in my last semester to publish two editions on water law and organize a Symposium Conference this April.”

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Student Talks

Student Dylan Hedden-Nicely

3L and Water Resources Engineering and Science track concurrent degree student Dylan Hedden-Nicely recently gave a talk at a conference in San Francisco. The conference was on: Towards sustainable groundwater in agriculture - An international conference linking science and policy, June 15-17, 2010. Dylan's talk was on: New Developments in Conjunctive Management in Idaho: Why our Expanding Understanding of Science Should Expand How we Address the Doctrine Against Waste in Idaho Water Rights Transfers. During fall semester, Dylan shared both his talk and his experiences with Professor Cosens' Water Law II class.

"For me, participating in the conference was a pivotal moment in my academic career. For the first time I was given an opportunity to present an idea from start to finish and then subject myself to a group of people that know so much more about the issues than myself. It was an incredibly scary, but infinitely rewarding experience. I enjoyed sitting in on all of the presentations and I learned quite a bit about a wide range of water issues. The main thing I learned while there was how important it is to tackle these complex hydrological issues from an interdisciplinary perspective. It was so nice to see all the theory I have learned in the classroom applied to practical problems all over the world."

-Dylan Hedden-Nicely

3L and NREL student Greg Haller



In November, Greg co-facilitated a national meeting on Indian water rights with the U.S. Institute for Environmental Conflict Resolution. The meeting was held November 18, 2010 at the Indian Pueblo Cultural Center in Albuquerque, NM. The goals of the meeting were to discuss: the current and future state of Indian water rights resolution; Barriers and opportunities for resolving Indian water rights issues; Developing a foundation and framework for a collaborative, intergovernmental and nongovernmental water rights working group; and Direction for the group's work, including an inclusive approach to developing tools and strategies (both technical and political) to facilitate water rights resolution. Participants included tribal, federal and state leaders as well as attorneys with experience in Indian water rights settlements. In addition to facilitating the meeting, Greg gave a presentation on the Indian Water Rights Settlement Database. Students in Professor Barbara Cosens Water Policy Seminar Class collected documents associated with each settlement. Completion of the project is waiting on funding.

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Holland & Hart Writing Prize

Thanks to the generous support of Holland & Hart LLP in Boise, the NREL program is able to recognize and reward students for their extraordinary efforts in legal and policy analysis. Each year, Holland & Hart awards the Holland & Hart Natural Resources and Environmental Law Writing Prize to the student completing the most accomplished research paper on a topic in natural resources or environmental law and policy. The attorneys at Holland & Hart judge the papers based on how well they address both the law and science (physical, biological, social, political, or otherwise) that is relevant to the issue examined.

In 2009, Jacqueline Papez won the prize with her paper titled *Native (Hydro)Power: Alternative Avenues for Achieving Native Control of Natural Resources on Tribal Lands, With Focus on Hydropower Dams*. Jacqueline's paper also received the second place award in the 2009 Chief Justice John B. Doolin Writing Competition and the paper was published in a proceeding volume: *Sovereignty Symposium 2009: Land, Wind and Water* (22nd Sovereignty Symposium, Oklahoma City, OK).



Carmen Thomas-Morse won the 2010 prize with *Listing Under the Endangered Species Act: How Low Can You Go?* The Idaho Law Review will publish Carmen's paper in an upcoming volume.



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Our Symposia

Students and faculty in our NREL program have been very active recently, developing conferences and symposia that connect our legal and policy work with specific resource issues and regulated communities.

Law Review Symposia: 2010 and 2011 NREL Focus

In both 2010 and 2011, the Idaho Law Review – led by NREL students and advised by NREL faculty – developed symposia addressing specific natural resources and environmental law problems. In April 2010, the Law Review hosted lawyers, scholars and government officials for a discussion on the future of energy in the western United States. The symposium – Energy Independence: Challenges Facing the West in Adopting Alternative and Renewable Energy Resources – yielded a wide array of cutting-edge scholarship published in the Idaho Law Review (Vol. 46, Issue 2).

On April 15, 2011, the Idaho Law Review will again use its annual symposium to address an important natural resources problem—the management of our scarce water resources. This gathering – [One Source](#): Evolution of the Policies Surrounding Ground and Surface Water Management in the West – will again attract lawyers, scholars, judges and resource managers from across the West to engage in a community discussion of how we might best develop the water policies that will help yield a sustainable West. Interest in the topic is sufficient that both the Symposium edition and the Fall 2011 editions of the [Idaho Law Review](#) will be devoted to this.

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NREL Symposia 2009

The first University of Idaho College of Law Natural Resources and Environmental Symposium held in 2009 focused on the issues of transboundary water governance in the face of uncertainty, and was held in collaboration with University of Idaho Waters of the West, Oregon State University, Thomas S. Foley Institute at Washington State University, University of Montana, and the University of British Columbia. [Transboundary River Governance in the Face of Uncertainty: The Columbia River Treaty](#), 2014 April 2-4, 2009

To ground discussion in reality, the natural laboratory of the Columbia Basin, shared by the United States and Canada and the process of 2014/2024 treaty review, served as the focal point for discussion. Approximately thirty researchers representing multiple disciplines and familiar with a variety of international water basins gathered in the Pacific Northwest to share their knowledge and collectively applied it to the Columbia Basin. Papers submitted for the symposium will be published by Oregon State University Press in a forthcoming book.

The Universities Consortium on Columbia River Governance was formed following the symposium to develop a research program to inform, guide and shape decision making, and even influence policy in decisions concerning the Columbia River Treaty. The Consortium held a second symposium at OSU in November 2010, where the concept of using neutral forums provided by the Consortium to facilitate a cross-border dialog on shared interests. Planning for a 2011 symposium in Canada is underway.

The Consortium consists of:

- Barbara Cosens, University of Idaho College of Law and Waters of the West Program
- Aaron Wolf and Lynette de Silva, Oregon State University
- Craig Thomas and Lara Whitely Binder, University of Washington
- Matthew McKinney and Sarah Bates, University of Montana
- Richard Paisley, University of British Columbia
- Nigel Bankes, University of Calgary

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NREL Symposia 2011

University of Idaho College of Law Roundtable on International Environmental Governance: [Crossing Governance Gaps to Protect the Environment](#)

Thursday April 28-Saturday April 30, 2011 Coeur d'Alene, Idaho

Conservationist John Muir once wrote, "When one tugs at a single thing in nature, he finds it attached to the rest of the world." In a world of climate change, shrinking water tables, and ongoing extinctions, it becomes even more apparent that all pressing environmental issues are interconnected. Since there are no longer purely local environmental problems, we need international and transnational solutions.

The University of Idaho College of Law's Natural Resource and Environmental Law Program is proud to be the sponsor of an interdisciplinary roundtable on international environmental governance. This event will bring 10 leading scholars and international policymakers with expertise in international environmental law, political science, environmental science, environmental economics, and international relations together with University of Idaho faculty and alumni for an in-depth dialogue over three pressing themes that mark gaps in international environmental governance. We are proud to be hosting leading thinkers in this field including Oran Young from University of California Santa Barbara, Daniel Bodansky from Arizona State University, Peter Haas from University of Massachusetts at Amherst, Kenneth Abbott from Arizona State University, and Ben Cashore from Yale University. We are also fortunate to have former University of Idaho faculty member Rebecca Bratspies from the City University of New York participating in the roundtable.

For more information:

[Natural Resources and Environmental Law Programs](#)

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