Oregon State Bar
Sustainable Future Section

Spring 2012

The Long View

How Green Is Your Bar?

Results of a 50-State Survey

By Jennifer Berg

At the request of the ABA Section on Environment, Energy and Resources (SEER), I conducted a survey of all 50 state bar associations to determine whether the state's bar had a sustainability policy; whether a policy was under consideration, and if any educational events on topics related to climate change had been offered.

The results were somewhat disheartening: only five states had addressed sustainability and only ten had programming on the topic.

Methodology

Inquiries were made between February and April 2011. If the bar had an environmental, natural resource or similar section, I attempted to contact the chair of that section. If not, I attempted to contact the executive director or other administrator within the organization. I made three contact attempts and, if I still did not receive a response, I assumed the answer to my questions was no.

Results ... *continued on page 2*

Inside this issue:

Calendar

EcoNorthwest CLE | April 11, Noon—1:15 p.m. | Markowitz Herbold Glade & Mehlhaf

The Sustainable Future Section is sponsoring a CLE program on Economic Growth, Natural Capital and Sustainability featuring noted economists Ed Whitelaw and Bryce Ward from ECONorthwest. Focusing on the Pacific Northwest, this program will discuss the importance of economic growth, how natural capital contributes to economic growth, and what it means for an economy to grow sustainably. The program will be from noon to 1:15 PM on April 11, 2012 at Markowitz Herbold Glade & Mehlhaf, 1211 SW Fifth Avenue, 29th floor, in Portland. Registrations can be made with Lee Ann Mead at lmead@landye-bennett.com.

How Green is Your State? Results of a 50-State Survey

At the time of the survey, only five states had formal sustainability policies (Colorado has since adopted a policy, becoming the sixth state). These states are California, Massachusetts, Oregon, Pennsylvania and Texas. With the exception of **Oregon**, which will not be discussed here because there have been previous articles on this topic, the programs are similar to the ABA-EPA Law Office Climate Challenge and relate primarily to paper reduction and more efficient office equipment. While there are many similarities among all of the initiatives, some aspects of each are highlighted:

California This program, the "Eco-Challenge," was initiated by the environmental law section, and adopted in 2008 by the Board of Governors, with significant guidance from Dick Roy of the Center for Earth Leadership. Law firms that accept the Eco-Challenge commit to take as many steps from the policy guidelines as they can take on in good faith under their unique business circumstances. The guidelines include eliminating disposables, water and energy reductions, green procurement policies and education.

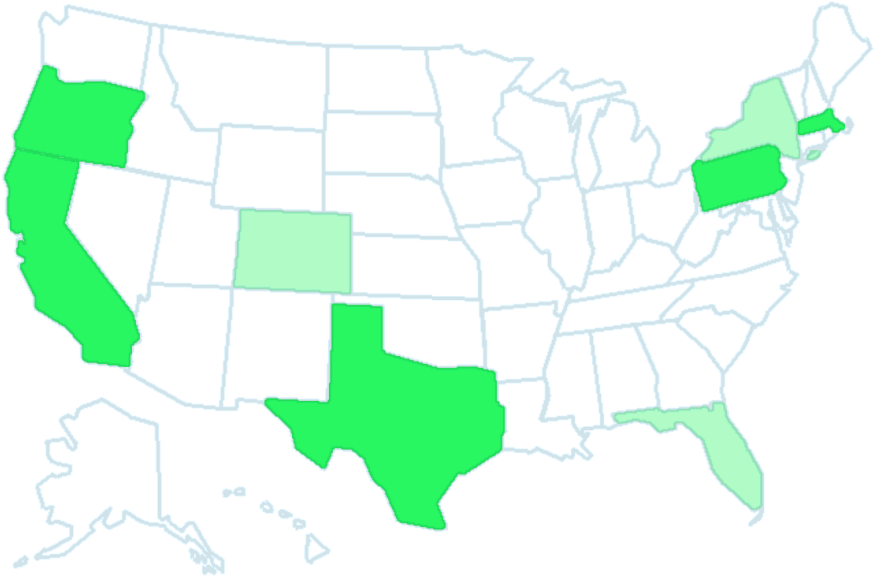
Massachusetts Law offices that accept the bar's Eco-Challenge promise to implement the bar's *Green Guideline*, which relates to energy and paper use; recycling; green purchasing; greenhouse gas reductions and other practices. The bar has an annual recognition program and has "green" programming and community events.

Pennsylvania In May 2010, the House of Delegates adopted the Pennsylvania Lawyers United for Sustainability (PLUS) Program, which provides Pennsylvania attorneys and law firms an opportunity to affirm publicly their commitment to environmental sustainability in their professional practices. The program is modeled after the programs established by the California, Oregon, Massachusetts and Philadelphia bars.

Texas This program in Texas challenges members to adopt the ABA-EPA program. More information is here:

http://www.texenrls.org/ENRLSSBOTGreenStarCertification.cfm

While no other states have formal sustainability initiatives, some have related programs. The Pollution Prevention Committee, established by the Environmental Law Section of the New York state bar, approved "Green Guidelines" that are to be followed for section-related events and activities. The Guidelines seek to lessen the external impacts of events, and suggest electronic dissemination of program materials and publications. The section also chooses venues that are part of the NY Department of Environmental Conservation's Green Hotel Certification Program; pre-event meetings are held with the vendors and hotels in a further effort to address the external impacts of the events.



In **Florida**, there are no initiatives within the bar; but many firms follow the program "Council for Sustainable Florida", which has a metrics and tracking component. This program addresses the environmental impacts of an office, primarily related to printing, paper, etc.

Challenges

Why don't more state bar organizations have sustainability programs? In order for a program to be initiated, it is critical that there is a committed "green champion" who will devote the time, energy and persistence to get the program off the ground. In some states, such as California and Massachusetts, the president of the bar was firmly committed to the creation of a program and helped spear head the effort. Through the course of my research, reaching out to people one-on-one was all some states needed to get the ball rolling. Indeed, the green champion in **Colorado** asked me for some guidance; less than a year later, she had successfully launched a sustainability program.

Another important consideration is who will be responsible for overseeing the program after it is launched. For many of the states that have been successful in adopting a green initiative, there has been no identified person responsible of publicizing and tracking the program, which has resulted in very poor participation. In order for a program to be successful, this is a critical factor.

The research has unfortunately confirmed that the wheels of justice are slow indeed.

Jennifer K. Berg is a licensed California attorney. She is the Sustainable Practice Leader at Northgate Environmental Management, an environmental engineering firm in Oakland, California.

Green With Envy?

Your Bar Should Be.

By Rod Wegener

This was the title of a program presented at the National Association of Bar Executives' (NABE) mid-year meeting on February 1st in New Orleans. NABE is the association of state and local bar association executive directors, senior managers, and program directors who meet twice a year in educational and networking conferences prior to the ABA annual and mid-year meetings.

The idea for this program surfaced at an executive committee meeting of the Oregon State Bar's Sustainable Future Section and developed into a program promoting the sustainable policies and practices of the section and bar.

Three panelists provided three prospects of how any bar association can integrate sustainable policies into its bar and for its members.

Sylvia Stevens, the OSB's Executive Director, explained how the concept of sustainability became incorporated into the bar's bylaws and practices by explaining the history and the 2009 report of the task force that led to the formation of the section, and adoption of the bylaw and other policies.

Michelle Slater, the current chair of the section, spoke about the section's mission, its Partners in Sustainability program and Sustainable Law Firm Leadership award, the primary objectives and activities of the section, and how other bar associations could develop their own sustainability section.

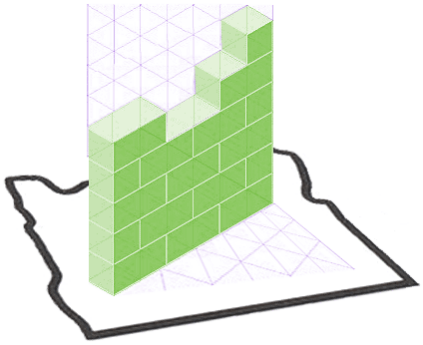
The third panelist, Jennifer Berg, is an attorney and Sustainable Practice Leader at an environmental engineering firm in Oakland, California. Jennifer spoke about the research she did with other bar associations on their sustainable practices and plans.

Finally, Rod Wegener, the section's liaison from the bar staff, who acted as moderator of the panel, addressed some of the sustainable and recycling practices and results at the bar center.

Although no formal evaluations are available for the program, the informal word from the conference Program Committee was the session was very informative and well-received by the audience.

Another comment was that Oregon was ahead of so many other bar associations on the topic and the information shared was new to the attendees. Understanding that, the panelists made available 109 pages of support material from their presentations to all attendees of the conference. Of course, these materials were available only in electronic format through NABE's website and no paper was distributed.

Rod Wegener is the Chief Financial Officer of the Oregon State Bar and the Bar's liaison to the Sustainable Future Section.



Oregon's New Reach Code:

Mainstreaming and Streamlining Energy Efficiency

By Aeron Teverbaugh

As far back as 1979, energy efficiency has been a key component of Oregon's Building Code.

The American Council for an Energy Efficient Economy currently ranks Oregon's energy provisions as among the strongest nationwide. (American Council for an Energy Efficient Economy: *The 2011 State Energy Efficiency Scorecard*, Research Report E115 (2011).

Before "energy efficiency" entered the popular dialogue, increasing efficiency meant improving HVAC systems and using thicker insulation. But with this low-hanging efficiency fruit largely picked, and in this new age of energy efficiency, consumers and builders are requiring more. Having high performance requirements is one thing, but streamlining–and mainstreaming–new energy innovation and standards requires a new approach. For Oregon, that is the **Reach Code.**

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Ice Age Lessons

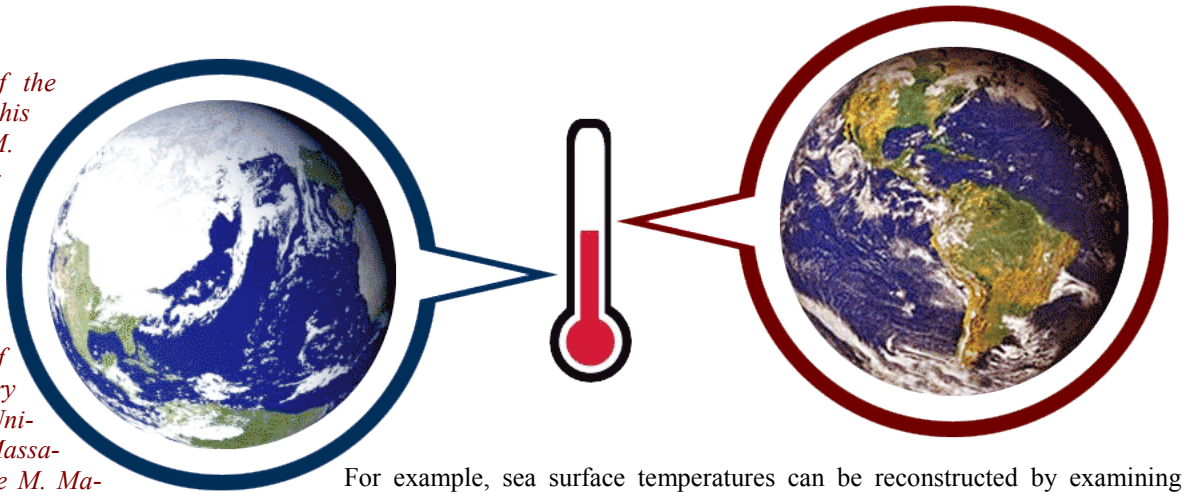
for Future Climate Change

By Andreas Schmittner

"We have particularly good information about the height of the last ice age — approximately 20,000 years ago"

Geologists have known for more than a hundred years that Earth's climate fluctuated dramatically in the past. Because Earth's orbit around the sun changes slowly, the Earth got colder and warmer, glaciers came and went, and sea level rose and fell (by 300 feet and more).

We have also learned that the amount of carbon dioxide (CO_2) in the atmosphere rose and fell in concert with climate, glaciers and sea level. Paleoceanographers and paleoclimatologists have reconstructed past changes in sea and air temperatures in innovative ways.



Additional authors of the report mentioned in this article are Nathan M. Urban, Woodrow Wilson School of Public and International Affairs, Princeton University, New Jersey, USA; Jeremy D. Shakun, Department of Earth and Planetary Sciences, Harvard University, Cambridge, Massachusetts, USA; Natalie M. Mahowald, Department of Earth and Atmospheric Sciences, Cornell University, Ithaca, New York, USA; Peter U. Clark, Department of Geosciences, Oregon State University, Corvallis, Oregon, USA; Patrick J. Bartlein, Department of Geography, University of Oregon, Eugene, Oregon, USA; Alan C. Mix, College of Oceanic and Atmospheric Sciences, Oregon State University, Corvallis, Oregon, USA; and Antoni Rosell-Melé, ICREA and Institute of Environmental Science and Technology, Universitat Autònoma de Barcelona, Bellaterra, Spain.

For example, sea surface temperatures can be reconstructed by examining fossil shells from microscopic organisms in sea floor sediments. Some species of plankton (called foraminifera), each of which builds different calcium carbonate shells that can be distinguished by their shapes, live in warmer waters, and other species live in colder waters. Finding cold-water species in deeper layers of a sediment core, dating from an earlier time, at a location where currently only warm-water species live implies that temperatures in the past in that area were colder. In addition to examining the shapes of plankton shells, we can also use over land pollen from lake sediments to reconstruct air temperatures changes.

Using these and other methods, researchers have constructed a rich database of temperature change over the past decades. In preparing the recently published report "**Climate Sensitivity Estimated from Temperature Reconstructions of the Last Glacial Maximum**," our goal was to use this data together with climate

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To view the entire report visit: http://mgg.coas.oregonstate.edu/~andreas/pdf/S/schmittner11sci_man.pdf

models to better understand the relationship between climate and CO_2. This relationship, referred to as equilibrium climate sensitivity and usually expressed as the global average surface air warming due to a doubling of CO_2 from pre-industrial levels (ECS2xC), is currently uncertain.

Several recently published papers have suggested a small but significant possibility of very high values of climate sensitivity (greater than 15°F). Such high values imply enormous impacts, such as sea level rise, droughts and others, that would be difficult to avoid. On the other hand, climate skeptics claim that the climate sensitivity must be very small (less than 2°F), implying that we don't need to worry about climate change.

We have particularly good information about the height of the last ice age (the last glacial maximum, or LGM, approximately 20,000 years ago).

From moraines and other geological evidence, we know the extent of the large ice sheets that covered North America and northern Europe at that time. We also know that, in many regions, different plants would grow and the air was dryer and dustier than now. Sea level was 360 feet lower than today, and ice cores show that CO_2 levels were one-third lower than before the industrial revolution. In preparing this report, we assembled existing, spatially extensive compilations of ocean and land temperatures into a single dataset and compared it with a suite of climate models.

The different climate models were constructed to have different climate sensitivities ranging from near zero to ECS2xC = 18°F. Simulations of the LGM have been performed with each model, including the effects of lower CO_2, other greenhouse gases, dust, and the presence of large ice sheets over North America and northern Europe. Models with very high climate sensitivities (greater than 11°F) result in a completely snow- and ice-covered Earth. This demonstrates that these models are overly sensitive and therefore unrealistic. Climate models with small climate sensitivities, on the other hand, show almost no cooling during the last ice age in contrast to the reconstructions. We find that climate sensitivities of between 1.8°F and 5.4°F are consistent with the reconstructions. Our best estimate of climate sensitivities is slightly lower than that from the most recent assessment report from the Intergovernmental Panel on Climate Change (IPCC).

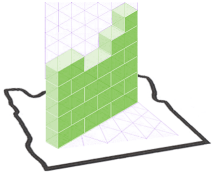
Our study, however, comes with a number of caveats. We used only one particular climate model. The model we used is simpler than those used by the IPCC and the varying results may be a result of the different models used. The model versions used in our study did not incorporate uncertainty from the effects of cloud changes on absorbed sunlight at the surface. Therefore, it is likely that the spread of viable climate sensitivity values in our study is overly narrow.

The paleoclimate data from the LGM teaches an important lesson: Even though climate was much different in many regions (e.g., sea level, ice sheets, dust, vegetation), ocean surface temperatures cooled by only 3.4°F. This suggests that small changes in global average temperature, which is dominated by the ocean, are associated with dramatic changes in certain regions, in particular over land at mid- to high latitudes. We estimate that the global average cooling of surface air temperatures during the LGM was only 5.4°F.

These results help to put into perspective future climate changes, which have been projected to be between 3.6°F and 7.2°F in the next century, depending on how much carbon humans will emit.

Andreas Schmittner is an associate professor at the College of Oceanic and Atmospheric Sciences at Oregon State University and was lead author of the report "Climate Sensitivity Estimated from Temperature Reconstructions of the Last Glacial Maximum."

The Reach Code, continued



Unique Position

In the 1960s and 1970s considerable national attention was focused on controlling housing and energy costs. The report *Building the American City* that was prepared in 1968 by the U.S. National Commission on Urban Problems summarized how states could address housing costs. The major focus of the report was on ensuring that there was an up-to-date, uniformly applied and enforced building code. When Oregon's legislature took up the issue it heard both the pros and cons of a statewide code. Because Oregon is a strong "home rule" state, there was a lot of discussion around loss of local control.

Opponents argued that the loss of local control over building codes would hamper innovation and defeat energy efficiency efforts. Proponents argued that it would make it easier to create new efficiency requirements and use new products because they would only have to be accepted once rather than proven worthwhile in each city or county.

Ultimately, the predictability, stability, and accompanying lower costs swayed the state toward a statewide uniform code structure. The drive for statewide energy conservation was one of the compelling factors for moving toward a statewide preemptive code.

In 2009, Governor Kulongoski and Oregon's Building Codes Division (BCD) proposed increasing Oregon's energy efficiency strategies while providing flexibility to builders. The

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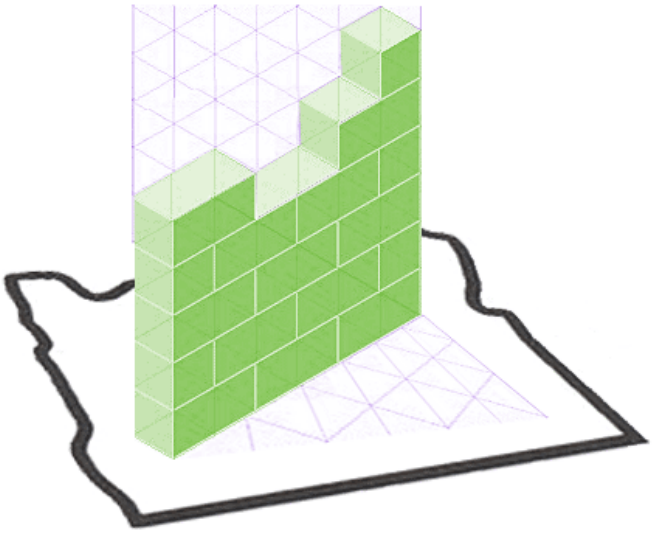
Consider This:

"First we need to decide what needs to be done. Then we do it. And then we ask if it is possible." *Lester Brown*

The Reach Code, continued



resulting Senate Bill 79 had four major components: a task-force investigating energy efficiency scores; an immediate 15-25% increase in the efficiency of commercial buildings and 10 -15% for residences; and the adoption of a new type of building code. The charging legislation stated that this new code will "be known as the Reach Code," indicating the aspirations for the code. "Reach" codes are gaining popularity as a way to introduce, and subsequently mainstream, state-of-the-art design and code provisions and streamlined permitting processes. Reach codes may also assist builders attempting to connect to a new customer base and align with incentive programs.

This background put Oregon in a unique position to streamline the regulation of high- performance construction practices statewide. The BCD is responsible for promulgating a statewide building code covering plumbing, electrical, energy efficiency, structural and mechanical systems, boilers, and elevators. The BCD adopts a national model code, and must minimize amendments necessary to meet the state's unique conditions. Minimizing amendments helps create uniform standards that cross state lines. Oregon's statewide code is both the minimum allowable and the maximum required standard. While builders may *choose* to exceed the statewide standard, they cannot be required to go beyond the code set at the state level. The predictability results in a construction community that shares a common frame of reference. But innovation requires more. It requires flexibility.

To enable innovation and take into account unique site-specific conditions, local jurisdictions may grant what amounts to a variance to code requirements for specific projects, provided the proposed requirement is equivalent to code. This site-specific alternate is at the discretion of the local building official. The builder carries the burden of proving that proposed techniques are equivalent (or better). Although this avenue is available, it can sometimes lead to lengthy and frustrating permitting processes for builders trying to exceed the minimum requirements of the code.

The BCD has authority to address questions that arise on methods, materials or designs under the code, at a statewide level. For example, in 2008 the BCD issued Statewide Alternate Methods (SAMs) to address questions about rainwater harvesting and grey water use. A SAM has the force of the code, but is at the option of the builder and must be accepted in all jurisdictions.

The Reach Code is a more comprehensive attempt to address high-performance methods, streamlining the process beyond these one-shot SAMs and narrow site-specific approvals.

Mainstreaming in the Process of Streamlining

The Reach Code is Oregon's first *optional* code. It is specifically designed to streamline the construction of high-performance buildings. It will also assist builders in the process of renovating homes and offices into high efficiency structures.

Even as certified structures gain market cache, some builders still shy away from high-performance projects due to a perception of increased regulatory burdens and time delays. By streamlining the approval process the BCD hopes to encourage innovation–both in energy efficiency and cost reduction.

During development of the Reach Code BCD turned to the most advanced model code available (though still in draft form) the International Green Construction Code (IgCC). The BCD also consulted architects, engineers, and code officials in order to merge provisions from the upcoming 2012 International Energy Conservation Code (IECC), IAPMO Green Plumbing and Mechanical Code, and other high-performance standards into the Oregon Reach Code. In combining these standards, the BCD sought to create a streamlined permitting process for high performance buildings in general.

The Reach Code became effective for commercial buildings in July 2011 and for residential buildings in October 2011. It will take some time to judge how effectively the Reach Code has streamlined projects, and how well streamlining will encourage mainstreaming.

But in general, we have come a long way from when energy conservation was "treated like a godson with leprosy." (Oregon House Committee Meetings [Senate Housing and Urban Affairs Committee]. Senator Ted Hallock, May 15, 1979 Sess.) At BCD, we are focused on creating an environment in which increasing energy efficiency is both simpler and cheaper to achieve.

Aeron Teverbaugh is a policy analyst for the Building Codes Division. She was the Division's lead analyst on SB 79 and the Reach Code Project.

Psychology as if the Whole World Mattered

By Thomas Joseph Doherty

My professional specialty is a branch of psychology that looks at our human relationship with and our thinking about nature. This nature-focused psychology – sometimes called "environmental psychology," "conservation psychology" or "ecopsychology," – informs how we interact with the earth.

By psychology, I mean the study of the human mind, emotions, behavior, identity, and mental health, as well as the applications of that study. This is a huge field. Yet almost every area of psychology can be re-visioned in an ecological way.

Psychology has always looked beyond our human skin. It would be difficult not to. For example, great nature writers have been concerned with mind, emotions, behavior, and identity and, by implication, mental health. In recent decades, particularly since the advent of the modern environmental movement, these concerns have been more directly taken up in psychological science and practice.

A long-standing subfield of psychology—environmental psychology—looks at basic scientific questions related to how people interact with built and natural spaces, an important question in, for example, the architectural field. Recently, a group of psychologists have advanced "conservation psychology," modeled after conservation biology, to examine how conservation professionals working to protect endangered species can bring psychological expertise to their work on advocacy and policy.

Another group drawn from both inside and outside psychology has advanced "ecopsychology," a more holistic variation on the theme. Ecopsychology concerns our direct, embodied experience as part of a greater natural system. This group addresses not only matters related to the mind, emotions, and behavior, but also delves deeply into the more value-laden questions of what is ethical, healthy or even "sane" in relation to the rest of the planetary community. Because this branch of psychology relies on an eco-centric perspective, this might be called "psychology as if the whole earth mattered."

I was drawn to ecopsychology after years doing wilderness therapy with young people, being a professional rafting guide in the Grand Canyon (my most comprehensive "environmental education" experience), becoming still more environmentally aware and active through work for Green Peace. I later received training as a clinical and health psychologist.

Living at this time of advanced ecological degradation, I know my work and study in these environmental psychologies will never be "done." Questions about our relationship with the natural world continue to unfold. In a personal sense, an ecological perspective now permeates my day-to-day psychology practice, and rather than only personal health, I discuss "personal sustainability."

Almost every personal, community or organizational problem involves a loss of balance and a feeling that the situation cannot or should not continue. So, whether one is working on forming healthy relationships, being more assertive, exercising more, spending more time outdoors, changing the way one commutes to work, or becoming more conscious of their eco-footprint, one begins to behave "as if the whole world mattered."

Ecopsychology and by extension eco-therapies (counseling approaches that leverage the health promoting aspects of nature contact or explore the emotional impacts of environmental problems) are relatively new, and untested. In their naïve forms, they are environmentalism with a psychological gloss, recycling well-meaning pop psychology ideas like the "ecological unconscious" or cherry picking psychological research (like the health of benefits of green spaces, of which are many) without acknowledging the risks or contraindications of using an eco-therapy, or the ideology underlying seeming selfless appeals to health or sanity.

But, we are also moving forward on what I have taken to calling "conventional" and "radical" ecopsychology. The former includes seeding ecological ideas within the mental health system (for example, through the Ecopsychology in Counseling Certificate program I helped to create at Lewis & Clark Graduate School), and the later embodying grass roots approaches that re-vision the very nature of psychology or mental health practice along more bioregional, indigenous, and permacultural lines.

In psychology, a grand theory for understanding the development of environmental advocacy or activism in individ-

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Photo by J. Michael Mattingly

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Editor's Note:
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Psychology As if the Whole World Mattered, *continued*

uals is called "values, beliefs, norms" theory. It is actually an integration of a number of different research findings. Think of it as a pathway: there are certain basic qualities that predispose people toward environmental action. For example, if one tends to be more altruistic and to think about the welfare of others, that person is also more likely to be concerned about nature—in the guise of other species, natural places or threats to global environmental health such as human-influenced (and by implication at least partly human-controllable) climate change. Even if one is not by internal nature altruistic, a sense of egoism and concern for one's own welfare may propel a person to care about outer nature.

Those who develop an ecological worldview, rather than one in which humans are exempt from the laws of nature, move further along the line towards action. Another key question is whether a person senses a threat, either to him or herself, important places or other species. A sense of adverse consequences for something that is valued moves that person further along the line. But, there are other key steps before action. One needs to possess self-efficacy, a belief that he or she has the ability to do something. That often leads to a sense of responsibility, an obligation to do something, to step up and take action. Even if a person possesses ecological values and beliefs, and perceives a threat, if that person does not have a sense of personal empowerment and possibility—he or she is likely to feel powerless and apathetic, and to stop somewhere along the pathway to action.

Other topics for further discussion include emotional intelligence, dignified coping and perseverance in the face of environmental threats, being savvy about messaging and behavior change, and what I mentioned earlier, "personal sustainability"—making sure your sustainability plan includes your own self and your own health, so that you can be effective and resilient for the long haul.

I hope this article has given you a flavor of ecopsychology, a topic with many dimensions. If you are interested in pursuing the topic further, I can be reached at thomas@selfsustain.com.

Thomas Doherty is a psychologist in Portland, Oregon who works with people and organizations to promote ecological identity and environmentally sustainable behaviors. Thomas trains counselors at the Lewis & Clark Graduate School, is Editor-in-Chief of the journal Ecopsychology, *and is a member of the American Psychological Associations' Task Force on the Interface between Psychology and Global Climate Change.*