

The Long View

Sustainability in Education

Is there a need for a general text on “sustainability law”?

By Amy Bushaw

Oregon’s lawyers, law professors and law schools have a rare opportunity to model educational programs related to sustainability law. Law school is where many students begin to shape their professional identities. Early exposure to the integration of principles of sustainability into the practice of law may have transformative power.

Ideally, law school provides law students with the foundation they need for a lifetime in the law. It introduces students to the theoretical building blocks of the law, exposes them to essential doctrines, and helps them develop the practical skills they will need to effectively and ethically represent their clients. At many law schools, however, the concepts, legal rules and practices that weave sustainability into the law are essentially ignored in conventional coursework.

Law schools and professors who are otherwise interested in integrating sustainability into the existing curriculum might highlight the lack of suitable teaching materials as one obstacle. Oregon’s lawyers, law professors and law schools could change that.

There are those who might question the very notion of “sustainability law”. Some lawyers have a long-standing interest in sustainability

issues; others have just recently developed a passion for the topic. For many, however, the interest was a purely personal one. Although they believed in environmental protection and sought to reduce their own use of natural resources, the connections between principles of sustainability and their own legal practices were far from clear.

This is changing. Over the last decade or so, an increasing proportion of lawyers have represented clients seeking to contribute to a more sustainable future. In the process of

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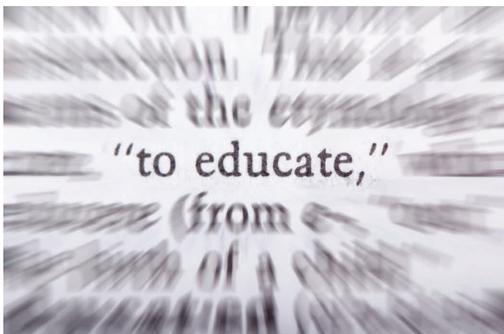
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so doing, some lawyers have wrestled with new legal issues; others have adapted traditional legal principles to new contexts. Although its outlines remain fluid, a distinct body of legal theories, doctrines and practices has emerged that can fairly bear the label “sustainability law.” Oregon lawyers have been at the forefront of conceptualizing and developing this body of law.

It is rare for a law school to recognize sustainability law as a field of study, separate, for example, from traditional environmental law, land use law, or international law courses. Again, however, Oregon law professors and law schools are leaders in providing law students opportunities to study sustainability law as an integrated yet distinct subject. All three Oregon law schools now offer courses, seminars or programs related to sustainability, broadly defined.

Concise and appropriate teaching materials, however, remain in short supply. None of the three major legal publishers currently offers a general text dedicated to sustainability law and policy. Several specialized texts allude to the notion of sustainability – texts on international law, land use law or environmental law, for instance, often introduce students to the concept of sustainability or sustainable development – but the treatments tend to be abbreviated and narrow in their focus. Few texts in business or tax law make more than passing mention of legal issues particular to sustainable business enterprises. Of course, law professors who teach specialized courses often compile their own teaching materials. Inherently, sustainability law is interdisciplinary. As a result, professors teaching in conventional doctrinal areas may find it time-consuming and difficult to develop appropriate teaching materials, particularly to the extent it is necessary to incorporate legal concepts from disciplines outside their own areas of expertise. Oregon’s law schools have the benefit of professors who have long been interested in sustainability and who are in a position to collaborate with like-minded colleagues with varied areas of technical expertise. Law professors teaching at the Oregon law schools can also draw the talents of local lawyers who are highly sophisticated in their understanding of sustainability issues and who have a wealth of relevant practice experience. Not all law professors enjoy the same luxuries.

Information on sustainability, broadly speaking, is omnipresent. Likewise, there is an increasingly large body of work that explains, advocates or critiques isolated technical issues related to sustainability and the law. Neither is particularly well adapted to law school study. Law students struggle to connect general principles of sustainability with the legal issues they study in their conventional coursework. They question how sustainability will be relevant to their future as practicing lawyers, especially if they anticipate practicing outside traditional environmental, land use or international law fields. The general literature on sustainability does little to help them make those connections. At the other end of the spectrum, technical materials on energy tax credits, securities disclosures of climate change risk, or regulatory control of ecosystems markets, for example, are largely inaccessible to students who have not yet studied the basics of tax law, securities law or environmental regulation. There is a need for brief, accessible and thought-provoking teaching materials on sustainability law to bridge the gap.

Ideally, teaching materials would introduce students to sustainability law at three levels: the jurisprudential level, the doctrinal level and the practical level. Students who have no exposure to sustainability princi-

ples generally would benefit from a general introduction, but excellent teaching materials would also highlight the central themes that unite the inherently interdisciplinary field of sustainability law. At the doctrinal level, excellent teaching materials would provide at least the broad outlines of the legal principles that are mostly likely to concern those clients who seek to forward a sustainable future. They would do so at a level that would be accessible to the non-specialist, but yet would expose students to essential legal principles. Teaching materials could also explore some of the skills and challenges endemic to a legal practice that focuses on sustainability. For instance, because sustainability almost always requires consideration of the needs of competing stakeholders, the teaching materials could emphasize collaboration skills. They could address, for instance, strategies for fostering public-private partnerships, or for conducting difficult conversations in high-stake environments.

Oregon’s lawyers, law professors and law schools have been among the first to recognize the important connections among sustainability and the law. Several have published highly useful and effective practice materials, theoretical articles and treatises related to legal aspects of sustainability. Perhaps the time is now ripe for those interested in advancing legal education in this area to develop and disseminate teaching materials on “sustainability law.” ■

Amy Bushaw is a professor at Lewis and Clark Law School and teaches the Sustainability Law and Business Seminar.



Principle 10: Beyond Rio + 20

By Dr. Lalaina R. Rakotoson and Diane Henkels

The United Nations Conference on Sustainable Development (“UNCSD”) took place in Rio de Janeiro, Brazil, on June 20-22, 2012 (“Rio + 20”), marking the 20th anniversary of the 1992 United Nations Conference on Environment and Development. Secretary General Ban Ki-Moon compared Rio + 20 to a “revolution of the free market for a world sustainability, calling to the Conference inspiring innovation to orient the world to more sustainable levels toward economic growth and development.” The President of the UN Commission for Sustainable Development, Shah Zukang, explained that the principle difference between Rio + 20 and past conferences “would be the accent placed on renewing political engagement and execution...and the strong and unprecedented engagement of large social groups, non-state actors, whose role is fundamental in constructing ‘the future that we want’.” Following Rio + 20, a report that serves as the basis for this article was made to the government of Madagascar. The report focuses on implementing

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Sustainability for the Holidays

By William Kabeiseman

The holidays can be a challenging time for practicing sustainability. Year-end demands on time, long-standing traditions and other concerns make it easy to fall back on unsustainable habits. However, the holiday environment also provides opportunities to make real sustainable choices that can benefit client relationships and the bottom line.

One holiday tradition is gift giving. Some attorneys in our firm provide gifts to clients or referral sources in recognition of their relationship. The gifts can take a variety of forms, including gift baskets, packages of fruit or other similar options.

One attorney, who is on the office's sustainability committee, noted that the gifts selected out of a catalogue were often from a company across the country, included unsustainably produced products and were shipped without much thought as to sustainability. The committee decided that there had to be a better approach.

The committee's first step was to review our client list to see if any of our existing clients produce a suitable year-end gift. We spoke to some of the firm's attorneys to see whether we might have clients who produce appropriate gifts and do so in a sustainable fashion. Our clients include a wide variety of people and companies and, as it turns out, some of our clients included bakers and wine makers who produce their goods sustainably.

Next, we considered the recipient clients and what they might like; some recipients might be wine connoisseurs and would really appreciate

a bottle of good wine. Others may have small offices that would enjoy a delivery of cookies. We used this opportunity to ensure that the gifts matched the client.

We also discussed purchasing gift certificates and charitable contributions. Both of those options also significantly cut down on transportation costs and could be locally sourced. Ultimately, we did not choose these options, largely because of our desire to purchase from our already existing clients. However, such gifts, especially charitable donations, could further a sustainable cause important to you or to the recipient.

By purchasing locally produced goods and delivering them locally, we could order baked holiday goods, such as cookies or other treats, and have them delivered while still fresh. For those further away, sustainability could be addressed by making sure the product was produced by an entity that followed good sustainable practices. In most cases, the gift turned out to be wine, which was provided by a firm client who was committed to sustainability.

We found that our purchases of holiday gift purchases had additional benefits beyond just supporting sustainability and the local economy. The costs of the gifts tended to be less than a gift basket, but were perceived as more thoughtful and targeted. The shipping costs were also generally less because most recipients were in the same area.

In the end, the only impediment to making the switch was the need to recognize an opportunity and ask for a different approach. The recipients of the gifts were impressed with the fresh baked goods or nice wine. In addition, the clients supplying the gifts were grateful for the additional orders and the recognition of their products. Our gifting program may not have the largest impact on sustainability, but it helps to build personal relationships with clients and fosters a conscientious attitude toward purchasing of products, both of which are important to move sustainability forward. ■

William Kabeiseman is Of Counsel with law firm Garvey Schubert Barer.

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Principle 10 of the 1992 Rio Declaration through the Access Initiative.

Principle 10:

Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

In other words, the access to information, public participation and access to justice, a.k.a. "environmental access rights", are critical for sustainable development and require transparent, participative, and responsible governance.

One feature of Rio + 20 was the important participation of civic organi-

zations in the proceedings. The Access Initiative is an important example. A global network of 250 such organizations in 50 countries, the Access Initiative seeks to implement Principle 10 by promoting access to information, public participation, and access to justice. The Access Initiative is dedicated to ensuring that citizens have the right and the ability to influence decisions about the natural resources that sustain their communities. The Access Initiative Network saw Rio + 20 as an opportunity for each member country to reaffirm its engagement and support for Principle 10 and to take new and novel measures to put to work this cornerstone of environmental governance. Each country was asked to identify the most important steps necessary to improve public participation in environmental decision-making processes in managing forests, pollution control, and decisions creating laws and regulations.

Led by the Access Initiative, each participating country submitted a list of "Three Demands" or "3Ds" along the lines of Principle 10 to their national governments. In general, the 3Ds concerned the following:

- Growing call among civil society organizations for a global convention process regarding Principle 10, in addition to regional conventions,

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- Repeated demands to improve systems of environmental data collection, and
- Improving aspects of public participation of various environmental protection laws including forestry legislation, environmental impact assessments, and natural resource contracts.

For Madagascar, the objective of the 3D campaign was to call on the Malagasy government authorities to consider the access rights identified by Principle 10. The Access Initiative of Madagascar specified these three demands:

1. Integrating the Rio Declaration into national law so that there is truly an environmental democracy in Madagascar with statutes requiring periodic reports between elected and other government leaders and citizens;
2. Reinforcing public participation and putting in place a legal structure to follow up on regulatory compliance including statutes guaranteeing representation of local communities in the decision making structures governing natural resource management; and
3. Repairing procedural injustice and strengthening the place of civil society organizations specializing in environmental issues, in the "COAP" as potential guardian of biodiversity heritage, with statutes granting civil organizations standing in court and creating environmental or "green" tribunals.

For the Africa region generally, the 3Ds focused on:

1. Creating and implementing a program to focus on the Bali guidelines, integrating access rights into different national and

regional legislation,

2. Concentrating more on the extractive industries, and
3. Engaging regional organizations, such as (Southern African Development Community (SADC), on Principle 10 in a regional convention.

After the Rio + 20 Summit, the Access Initiative refined its objectives, articulating the following goals:

1. Track the recent declaration of 10 countries from Latin America and the Caribbean called to a Regional Convention on Principle 10;
2. Promote a Global Convention on Principle 10 following the final document "The Future We Want";
3. Promote the democratization of the United Nations and other international processes.

Beyond Rio+20 it is hoped that the processes of engagement will continue, especially at the national level. Each government should respond to its engagements defined in the final document. ■

*The Development and Environmental Law Center in Madagascar (DELIC) is the lead organization for Madagascar's Access Initiative organizations. DELIC's Team Leader is Dr Lalaina R. Rakotoson, who has a Masters of Studies in Environmental Law from Vermont Law School, a Doctorate in International Legal Studies from Golden Gate University of San Francisco, and substantial experience working with environmental law issues and cases in Madagascar and beyond.

Special thanks to Diane Henkels, a close colleague of Dr. Rakotoson and a member of the SFS Executive Committee, for helping with the translation and editing of this article.

Consider This...

Is Human Activity a Substantial Cause of Global Climate Change?

PRO:

The greatest barrier to public recognition of human-made climate change is probably natural variability of local climate . . . Actions to stem emissions of the gases that cause global warming are unlikely to approach what is needed until the public recognizes that human-made climate change is underway and perceives that it will have unacceptable consequences . . ."

—James E. Hansen, PhD, Director of the Goddard Institute for Space Studies at NASA, et al. Aug. 6, 2012 study, "Perception of Climate Change," published in the Proceedings of the National Academy of Sciences.

CON:

"It is a simple fact that CO2 is plant food and the world around us evolved when levels of CO2 were five to ten times what they are today. Our green world is a consequence of atmospheric CO2. And, food for plants means food for people. The extra CO2 we are putting into the atmosphere not only invigorates the biosphere, but also enhances the yields of our food crops. This is a tremendous benefit to nature and us in my view . . ."

—John R. Christy, PhD, M.Div, Professor of Atmospheric Science and Director of the Earth System Science Center at the University of Alabama at Huntsville. Aug. 1, 2012 testimony before the US Senate Environment and Public Works Committee, available at www.epw.senate.gov.



RIO+20
United Nations Conference
on Sustainable Development

2012 Sustainable Law Office Leadership Award

By Ellen Grover

Stoel Rives is being honored for leadership in sustainable office practices. And for good reason. While its Portland office is located in one of the Meccas of sustainable living, the firm's culture is no tagalong. For over two decades, Stoel Rives has made sustainability practices and policies a cornerstone of firm culture.

This culture begins with all new employees receiving an orientation on the benefits of sustainability and an explanation of the firm's waste collection and composting system, as well as a tour of the firm's bike facility. For example, on each floor, employees are prompted to separate garbage among compost bins, recycling bins and—a necessary evil—landfill bins. Stoel Rives estimates that this effort removes 21 tons of material per year from landfills.

Further seeking to reduce waste, Stoel Rives has replaced disposable and plastic cups and service ware with durable ware. Also reducing waste are default settings for double-sided printing, saving an estimated 9 million sheets of paper annually. Reliance on electronic systems is also helping to reduce paper use, for example through electronic docketing systems, electronic court filings and conversion to a new document management system that will provide an efficient and easy way to save and organize emails and other documents, rather than printing them.

In the bike facility, bicycles can be securely stored and cyclists have access to a shower and locker room facility. The firm also actively encourages alternative transportation by offering a monthly incentive to every attorney or staff member who walks, runs or bikes to work. Public transit is encouraged through free TriMet passes offered to all personnel. The firm also purchases car sharing memberships for free or low cost use and owns two loaner bicycles available to all personnel at all times.

The firm has energy conservation policies that include, for example, computer default to energy saving mode when not in use, computer turn off policies, purchase of ENERGY STAR appliances and CFLs, and installation of motion-sensor lighting. Stoel Rives purchases renewable energy credits for an equivalent of 100% of the office electricity used in all of the firm's locations, and has initiated a carbon offset program for its attorney recruiting program and other specified firm travel.

These efforts are impressive, yet they are only one part of the picture. Stoel Rives believes that a continuation of culture requires ongoing leadership. The firm's sustainability team, the "Green Team", is institutionalized within the firm to advance sustainability policies and education. The Green Team includes attorneys and staff members, with a partner as leader, currently Tim McMahan.

Together, this Team hosts internal brown bag lunch and learn sessions focused on sustainability. "Go Green" pages on the firm's intranet site provide access to and updates on the firm's sustainability initiatives, Earth Day activities and green living resources. Extending its leadership outside of the office environment, Stoel Rives, in 2009, created a Per-

sonal and Professional Sustainability Challenge (P2 Challenge) which encourages personnel to pledge to live more sustainability and provides tools to identify how a person can reduce his or her impact on the earth. For Earth Day 2012, the firm hosted activities through not only its Portland offices, but other state offices, also, including a tree planting project in Gresham. But, the firm is especially proud of its first firm-wide Electronics Recycling Day, held early in 2012, where the firm arranged for the collection of office and home electronics to be recycled or reused, along with batteries, Styrofoam, and other hard-to-recycle items. That required locating recyclers willing to partner with the firm in multiple states.

Through these many programs and efforts Stoel Rives aims to demonstrate and educate that sustainable living needs to be considered in all aspects of our daily lives. It is certainly part of everyday life at the Stoel

Rives Portland office. Culture and leadership that meshes well with a Mecca. ■

Ellen Grover is a partner with Karnopp Petersen and concentrates her practice in the areas of land use, natural resources, Indian, and development law.



The Business Case for Sustainability: Six Reasons for a Company to Act

By Jared Kennedy

It has become increasingly common for sustainability practitioners to mention The Business Case when speaking of sustainability. So, what is the business case for sustainability? Why is it becoming more popular? How does one identify a sustainable business driver?

Most individuals and organizations have been introduced to the concepts of sustainability by what is commonly referred to as the ethical case. A collective conscience to conserve our natural heritage sprung up in the past fifty years, supported by well-known works such as Rachel Carson's *Silent Spring* and Donella Meadows' *The Limits to Growth*, exposing the extent to which human activity can create both short-term and long-term impacts on our living world. The ethical case for sustainability is a moral justification for making decisions based on the long-term ability of the planet to support those activities. The challenge of the ethical case perspective is that determining the operating parameters of a sustainable planet are the basis of an ongoing debate, which will not be resolved before we begin to reach the limits of what is functionally tolerable.

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The business case for sustainability has been developed by practical parties seeking to bridge the gap between the long-term, global perspective of the ethical case and the recognition that businesses operate on short-term cycles and much smaller scales. Businesses and sustainability practitioners are demonstrating that a business can see immediate benefits from making changes to its operations that result in doing less harm to the environment. Their goal is to find a win-win solution—one in which an organization that has accepted the premise that some action must be taken in the sustainability arena is able to balance short-term business needs with the introduction of a longer-term perspective. The Dow Jones Sustainability Index has adopted this approach, with the ultimate goal of creating long-term shareholder value in light of risks associated with resource depletion and an increasingly environmentally-conscious consumer.

Businesses that adopt sustainable practices may create immediate and long-term benefit, irrespective of the ethical rationale for adopting those practices. Generally, there are six reasons businesses make changes to address sustainability: cost savings; risk mitigation; asset value improvement; brand awareness; sustainability as a driver of innovation; and employee engagement. Some of these drivers have a direct impact on a business' ability to grow revenues and increase market share, others can deliver immediate profit growth through cost savings, and some can impact both. Below are examples of activities for each of the six justifications:

1. Cost Savings through Sustainability

Qualifying for incentives, generally in the form of federal, state and local grant dollars or tax credits, for installing water and energy saving devices and demonstrating quantitative efficiency improvements.

Taking advantage of rebates offered by utilities based on public mandates for utilities to save energy and water.

Efficiency improvements to infrastructure with a targeted return on investment to recoup upfront costs, again mostly targeting energy, water and waste reduction.

Other sustainability-related initiatives can also be a basis for cutting costs, and at times from surprising sources. For example, the implementation of a composting program saved \$80,000 per year in operating costs at the 38-story office building in San Francisco known as 425 Market Street.

2. Risk Mitigation

Anticipating government regulation. Governmental regulations are increasingly pro-environment, with the agencies responsible for enforcement taking a more aggressive stance on adverse impacts to the environment. The cost of continually modifying operations for compliance is often higher than making more comprehensive changes ahead of time.

Avoiding litigation risks, which historically have been primarily focused on environmental contamination. Many resource-intensive businesses need assistance identifying potential risks ahead of time to help to avoid litigation and clean-up costs later.

Preparing ahead for resource limitation. Anticipating and planning for water scarcity, increases to energy costs, or availability of rare earth

metals takes a long-term view of business viability.

The Securities and Exchange Commission now requires publicly traded companies to disclose environmental risks to investors in annual filings.

3. Asset Value Improvement

Physical improvements to infrastructure, such as upgrades to building equipment that result in reduced operating costs, will often increase the value of the physical asset, which can be very significant for businesses with illiquid assets such as real estate. For example, CoStar Group has been compiling real estate data demonstrating that green buildings carry a higher valuation and yield higher rents than their conventional counterparts.

Other green building characteristics, such as access to a day-lit workspace, good acoustics, and a healthy indoor environment, provide occupants with a better experience. Businesses are encountering increased demand for such spaces from their employees.

4. Brand Awareness

Being identified as a green or sustainable business is becoming a “must-have” in the corporate world. The Dow Jones Sustainability Index rates companies on their commitment to long-term environmental performance. Corporate social responsibility reporting has shifted from demonstrating community-based projects to identifying and quantifying internal environmental performance as well. And consumers increasingly choose green brands over their conventional peers, even at a cost premium for certain products.

5. Innovation Driver

Sustainability is becoming the design challenge of the 21st century. An executive team that engages in long-term thinking, including with respect to sustainability, may unlock hidden potential to revolutionize a product or industry. An oft-cited example in sustainable business is Ray Anderson, founder and former Chairman of Interface, Inc., who changed the carpet industry by creating a closed-loop process for making carpet tiles.

Biomimicry is a design approach that looks at mimicking how nature completes certain tasks to reduce waste or environmental degradation. This emerging field covers both tangible products and how businesses can organize more efficiently and operate more effectively.

6. Employee Engagement

Attracting and retaining the best employees requires more than paying a good salary and providing additional benefits. Research by human resources companies such as the Society for Human Resource Managers shows that the next generation of workers is increasingly seeking employment at companies that demonstrate a commitment to creating a healthy workplace and environmental stewardship.

There are many additional examples under each of these six business drivers that demonstrate the competitive advantage any business can gain from looking at their output and practices under the sustainability lens. Talking about sustainability at a business practice level is changing the way businesses engage with their customers and employees, resulting in higher quality products, better utilization of working capital, and healthier workplaces. ■

Jared Kennedy, formerly the Director of Operations for Brightworks Sustainability Advisors, helps businesses incorporate sustainability into their business plans.

In My Opinion: Can Existing Environmental Laws Meet the Challenges of Sustainability?

By Amanda Rigbi

In April 2012, at the Sustainability and the Law Symposium, sponsored by Washington Lawyers for Sustainability, Professor William Rodgers gave a presentation examining whether our current laws meet the challenges of sustainability. The symposium was focused on finding pragmatic solutions to complex problems within the context of sustainability and law. Professor Rodgers is the Stimson Buillitt Professor of Environmental Law at the University of Washington and is recognized as a founder of environmental law. This article was inspired by his presentation.

After forty years with our environmental laws, we are not meeting the challenge of fostering a healthy and ecologically vibrant Earth. Legal definitions of sustainability, the dominant economic paradigm focused on growth, and the unwillingness to implement the drastic changes needed to halt environmental destruction are all contributing to the collapse of the Earth's environmental services and resources. It is not enough to have laws on the books that purport to protect the environment. We must train the current and next generation of attorney's to push back against interests that strive to dilute our environment laws. Through the courts we have the best opportunity to effect the change necessary to avert the impending environmental disaster.

In 1987, in what is now generally recognized as the definition, the Bruntland Commission defined sustainability as "[d]evelopment that meets the needs of the present without compromising the ability of future generations to meet their own needs."¹ Conceptually, sustainable development responds to the conflict between environmental health and economic growth by "adding environmental protection to the goals of traditional development."²

In the context of U.S. environmental laws, sustainable development has different meanings and interpretations. For example, the Multiple Use Sustained Yield Act (MUSY) requires that use of renewable resources be at a level that ensures no "impairment of the productivity of the

land."³ Similarly, the Alaska National Interest Lands Conservation Act (ANILCA) provides that Alaska native resources must be protected with no unnecessary destruction.⁴

Though these definitions may provide comfort to those that wish to preserve our natural resources, we must ask ourselves: what does sustainability really mean in the face of the dominant economic paradigm focused on growth at all costs? Population growth and the insistence that economic growth is the panacea for the world's problems are on a collision course with the earth's dwindling natural resources. As early as 1992, 1,600 scientists, including 102 Nobel laureates, from around the world issued a report that found that human activities inflicted irreversible harm on the natural world and warned that "human beings and natural world are on a collision course."⁵ More recently, the Millennium Ecosystem Assessment Synthesis Report found that population growth and economic activity had the most impact on the ecosystem services, consumption of which was above sustainable levels.⁶

Our current conception of sustainability is not meeting the needs of our dwindling resources. When Wal-Mart is viewed as exemplar of sustainability simply because it sells "sustainably harvested" fish or organic produce, our understanding of sustainability has been so weakened as to become almost meaningless. As William Ophuls states:

*"Making the deck chairs recyclable, feeding the boilers with biofuels, installing hybrid winches and windlasses, and every other effort to "green" the Titanic will ultimately fail. In the end, the ship is doomed by the laws of thermodynamics and by implacable biological and geological limits that are already beginning to bite."*⁷

Continuing down this path may lead to the collapse of our fisheries, irreversible effects of climate change, and a change in the Earth as we know it.

Collapse is, as described by Jared Diamond, where "societies have undermined themselves by damaging their environments...deforestation and habitat destruction, soil problems...water management problems, overhunting, overfishing, effects of introduced species on native species, human population growth."⁸ Indeed, we have already seen the

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Richard Fairclo, Attorney

Mark J. Lang, Attorney at Law

New Partners

OSB Partners in Sustainability Program

The Sustainable Future Section would like to recognize the following Partners in the Oregon State Bar Partners in Sustainability Program. These Oregon law offices have shown commitment to operating sustainably and provide valuable leadership to others as law offices throughout the State move toward office practices that conserve resources and reduce waste. These law offices have joined the Program in the last quarter. The Section is looking forward to seeing many more law offices certify and become Partners in Sustainability.

Information about the Program is available at www.osbsustainablefuture.org.

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effects of the collapse of certain fisheries. The 1970s collapse of the anchovy fishery is still being felt in California today, where the productivity levels have not reached where they were in the early 20th century.^{ix} This gives us a taste of the long-term effects of species collapse, which will be multiplied across species if we continue down our current path.

Traditional, neo-classical economists claim that consumer buying habits are the answer to preventing environmental destruction. In this view, “all economic decisions are driven by the demands of consumers, who then become responsible for the entire direction of the economy. All stages of economic activity are aimed simply at final consumption, which drives the entire process.”^x This dominant economic paradigm, which promotes growth above everything else, is in direct conflict with the need to preserve the environment and our natural resources.

In fact, reversing the degradation of 15 of 24 ecosystem services requires drastic changes in law, policy, and action. These actions must

recognize the supremacy of the protecting our natural resources and place the needs of the environment above the needs of corporate interests and consumerism. Litigation is a key tool to ensure that environmental laws meet the challenges of sustainability. As we have seen in the last 40 years of our environmental laws, the laws are not enough by themselves. As Aristotle said, “The best laws, though sanctioned by every citizen of the state, will be of no avail unless the young are trained by habit and education in the spirit of the constitution.”^{xi}

Amanda Rigbi has over 10 years of experience in environmental law and policy, working in government agencies, non-profit organizations and the private sector. She recently earned her J.D. from the University of Washington School of Law where she was the Editor in Chief of the Washington Journal of Environmental Law & Policy and published an article on marine hydrokinetic projects entitled Rough Seas for Renewable Energy: Addressing Regulatory Overlap for Hydrokinetic Projects on the Outer Continental Shelf. Amanda has a M.A. in Environmental Policy from American University and a B.A. from Macalester College.

Notes:

ⁱ World Commission on Environment & Development (Brundtland Commission), Our Common Future 43 (1987).

ⁱⁱ John C. Dernbach, “Synthesis” in Stumbling Toward Sustainability 1 (Environmental Law Institute, Wash., D.C.) 1004 pp., 43 contributors).

ⁱⁱⁱ Multiple-Use Sustained-Yield Act of 1960, 74 Stat. 215, as amended, 16 U.S.C. § 528 et seq.

^{iv} Section 810 of ANILCA, 16 U.S.C. § 3120.

^v World Scientists’ Warning to Humanity (1992).

^{vi} The Millennium Ecosystem Assessment Synthesis Report (2005).

^{vii} William Ophuls, Plato’s Revenge: Politics in the Age of Ecology xi, 13 (2011 MIT Press, Cambridge, Mass.).

^{viii} Jared Diamond, Collapse: How Societies Choose to Fail or Succeed 6 (2005 Viking Penguin)

^{ix} Collapse Group Report, ch. 22, 2007 Costanza at 447, 450.

^x 2010 Ecological Rift at 383.

^{xi} Politic, V, 9, 1310 a 12-17.

Photo by J. Michael Mattingly

The Long View

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Editor’s Note: Thank you for reading *The Long View*.
Your feedback and suggestions are welcome.

E-mail your comments to: michelleslaterlaw@gmail.com

OSB President’s Sustainability Award

The Sustainable Future Section congratulates
Diane Henkels as this year’s recipient of the
OSB President’s Sustainability Award.

Watch for a feature article in the next issue of
The Long View.

Check out our Web site: www.osbsustainablefuture.org