

The Long View



In This Issue:

1 Genetically Engineered Salmon
Who Benefits and Who Bears the Risk?
- Aurora Paulson

3 Program Announcement
Forest Field Trip
June 28!

4 Consider This

5 Field Trip
Registration Form

6 2014 Law Office Leadership Award:
Paperless Office Applications due July 31

7 Partners in Sustainability— Revised Criteria
Renew by June 30!

8 Around Town
Innovations to Advance Sustainability

Genetically Engineered Salmon

By Aurora Paulson

This year the Food and Drug Administration (FDA) is expected to take the unprecedented step of approving a genetically engineered (GE) animal—the GE salmon—for human consumption. However, scientists, public interest organizations, and the public are seriously concerned about environmental impacts from the GE salmon, and alarm is growing over broader sustainability issues raised by genetically engineering animals for food.

The GE Salmon

AquaBounty Technologies has genetically engineered a salmon to reach market weight more quickly than natural salmon. To accomplish this, AquaBounty injects Atlantic salmon eggs with a genetic “antifreeze” promoter from an ocean pout (an eel-like animal) and a growth hormone gene from Chinook salmon. The ocean pout promoter acts like a switch, causing GE salmon to continuously produce an insulin-like growth factor hormone and thus grow year-round, instead of only during the spring and summer, like natural salmon. Similarly, the Chinook salmon gene causes GE salmon to grow more quickly early in life. Thus, according to Aquabounty, GE salmon reach adult size in sixteen to eighteen months, rather than two and a half years.

AquaBounty states that it will develop the GE salmon eggs from all-female salmon on Prince Edward Island in Canada, treating the eggs so at least 95 percent are infer-

tile. Next, the company will fly the GE eggs to an inland facility in Panama, where it will raise, harvest, and process the salmon before shipping them back to the U.S. for sale. Regulatory approval would pave the way for other GE salmon facilities, as well as the production of other types of GE fish.

The U.S. Regulatory Status

AquaBounty first applied for commercial approval of the GE salmon more than a decade ago, but considerable scientific, political, and public opposition slowed that application. Further, the U.S. lacked any administrative process for evaluating GE animals until 2008, when FDA wedged GE animals into its regulatory ambit by characterizing them as “animal drugs.”

In December 2012, pursuant to the National Environmental Policy Act (NEPA), FDA released a draft environmental assessment (EA) and preliminary finding of no significant impact (FONSI), proposing not to do a full environmental impact statement (EIS). The agency has not yet announced whether it would require labeling for GE salmon, but it currently maintains that GE foods are substantially

(Continued on page 2)

equivalent to natural ones, and thus do not need special labels.

FDA is expected to issue a final EA and FONSI in 2014, allowing AquaBounty to market its GE salmon in the U.S. However, public interest organizations have argued that FDA must undertake a full EIS before deciding whether to approve the GE salmon, pointing to inadequacies in the agency's current evaluation. For example, FDA, which focuses on food safety, lacks expertise in environmental assessments, and prominent government scientists have criticized FDA's evaluation of the GE salmon for being overly simplistic and failing to adequately capture environmental risks.

In the meantime, nearly 2 million people have contacted FDA to oppose approval, and many high profile U.S. restaurants and grocers—including Trader Joe's and Whole Foods—have pledged not to sell the GE salmon.

Regulatory Status Abroad

Because AquaBounty plans to develop GE salmon eggs in Canada and then grow the salmon in Panama, bringing the GE salmon to market entails compliance with environmental laws in those countries. However, as in the U.S., citizens in Canada and Panama have questioned the legality of AquaBounty's GE salmon production.

Canada has a law that, like NEPA, requires the government to analyze environmental impacts. In November 2013, Canada approved AquaBounty's application for commercial GE salmon production at the Prince Edward Island facility. However, two months later, in January 2014, Canadian public interest groups filed a lawsuit alleging that the government had failed to obtain necessary information and analyze important risks, and also had declined to disclose data to the public, as required.

In Panama, a local environmental group, supported by an international coalition, filed a November 2013 administrative petition with that country's government asserting that AquaBounty's experimental GE salmon production facility is missing multiple legally required permits and inspections, including a wastewater discharge permit. If not remedied, those violations will lead to litigation in Panama.

Specific Environmental Concerns

In general, farming carnivorous fish such as salmon increases pressure on wild fish stocks because farmed carnivorous fish consume smaller, wild-caught fish as feed, at a negative protein ratio (i.e., on average, fish farms need two and a half or three pounds of forage fish to grow one pound of salmon). Further, fish farms often degrade local ecosystems by producing concentrated waste and introducing drugs and chemicals such as antibiotics, pesticides, and hormones. Finally, farmed fish—including millions of farmed salmon—routinely escape, potentially imperiling native species by interbreeding and spreading disease, which is endemic on overcrowded fish farms.

The GE salmon, in particular, might jeopardize wild salmon, including species protected under the Endangered Species Act. Studies indicate that the GE salmon's overproduction of the insulin-like growth factor could lead to behavioral changes, such as increased aggressiveness and altered breeding and migration patterns. Although those traits ultimately might make GE salmon less viable in the wild, they would not necessarily decrease breeding success. Thus, scientists warn that GE salmon could introduce maladaptive genes into wild salmon populations, making those populations more vulnerable to environmental stressors.

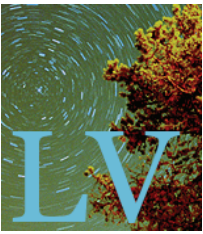
As FDA recognizes, many of AquaBounty's GE salmon (up to 5 percent) will be fertile, meaning that they could breed with wild salmon upon escape. Given that millions of farmed salmon have accidentally been released into the wild over the past decade, escapes of the GE salmon are essentially inevitable. Once GE salmon escape, the damage to the environment—a living, self-propagating transgenic pollution—is irreversible.

Broader Sustainability Issues

AquaBounty asserts that GE salmon and other GE fish will help feed the growing world population. However, people in third-world countries cannot afford to eat top fish predators like salmon, and instead must compete for the prey fish that are harvested as feed for farmed fish. Allowing production of GE salmon would exacerbate this transfer of protein from undeveloped to developed nations.

More fundamentally, hunger exists not because the world does not produce enough food for everyone (it does, according to the United Nations World Food Programme), but because the poor lack access to food. Sustainable approaches to addressing world hunger include stemming massive food waste—globally, one-third of the food produced for human consumption is lost or wasted—and changing aspects of global food distribution networks. In contrast, biotechnological quick-fix options like the GE salmon, which primarily benefit corporations and entail consequent risks of irreversible environmental harm, are not sustainable solutions for global hunger.

(Continued on page 4)



COLLABORATIVE FORESTRY FIELD TRIP

A Program Sponsored by the Oregon State Bar Sustainable Future Section

Saturday, June 28, 2014, 8:00 AM to 5:30 PM

The Siuslaw National Forest in the Oregon Coast Range once saw some of the bitterest battles over old-growth logging in the Pacific Northwest. The early 1990s listing of marbled murrelets, northern spotted owls, and coho salmon under the Endangered Species Act brought logging temporarily to a halt and led to the 1994 Northwest Forest Plan. Since then, the Siuslaw National Forest has shifted its management focus towards ecological restoration of forested habitat and salmon streams. Its successful collaboration with numerous stakeholders to advance restoration has made it a model for the entire region. No timber sales on the Siuslaw National Forest have been litigated in the past 15 years.

On this field trip for CLE credit, representatives from conservation advocacy group Oregon Wild, attorneys from the Western Environmental Law Center and the American Forest Resources Center, Siuslaw National Forest staff, and a logging contractor will speak about federal laws and policies in place on the Siuslaw National Forest, such as the Endangered Species Act, National Environmental Policy Act, Clean Water Act, and Northwest Forest Plan, and how they are applied on the ground. Stewardship contracting authority, collaboration, and watershed restoration activities on the Siuslaw National Forest also will be discussed. Unlogged mature forests, unthinned young plantations, recently thinned forest stands, and habitat restoration projects will be visited on the tour.

Speakers:

- Susan Jane Brown, Attorney & Wildlands Program Director. Western Environmental Law Center
- Scott Horngren, Attorney, American Forest Resources Council
- Doug Heiken, Conservation & Restoration Coordinator, Oregon Wild
- Chandra LeGue, Western Oregon Field Coordinator, Oregon Wild
- Representatives of the US Forest Service, Suislaw National Forest
- A representative of a logging contractor that participates in Suislaw National Forest timber sales

Program Details:

Transportation. The field trip will commence with a bus pickup at 8:00 AM at the Oregon State Bar building at 16037 SW Upper Boones Ferry Road in Tigard on Saturday, June 28, 2014. Free parking is available in the lot adjacent to the Oregon State Bar building.

Meals and Clothing. Attendees should bring lunch, snacks, and non-alcoholic beverages for the trip and appropriate clothing (including raingear) and shoes for trail walking. The total walking distance on the tour will not exceed one mile.

CLE Credit. The Sustainable Future Section anticipates that the field trip will qualify for four hours of CLE credit based on the estimated length of the presentations by the speakers; actual CLE credit will be dependent on the actual length of the presentations. Presentations will be given on the bus trip to the Suislaw National Forest (with a stop in Corvallis to pick up the Oregon Wild representatives). In the Suislaw National Forest, additional presentations will be given at each of the sites. An application for CLE credit will be submitted in advance of the trip.

Limitation. The field trip is open to registrants on a first come-first serve basis. The minimum number of registrants is 25, and the maximum number is 43. Registration is open only to members of the Sustainable Future Section (or adult family members or partners of Section members). The field trip is not open to children under age 18. A lawyer who is not a member of the Sustainable Future Section may register for the field trip by paying an additional \$20 to become a Section member.

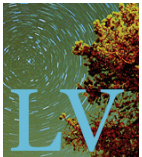
Cost. The cost of the field trip is \$35.

(Continued on page 4)

Genetically Engineered Salmon *(continued from page 2)*

In weighing the merits of a GE food, we must ask who receives the benefit from that food, and who bears the risk. As a rule, those who expect to gain little or nothing will reject a risky endeavor, and especially one that entails substantial risks, however speculative. Instead, the potential benefit must be significant enough to justify the risk. ■

About the Author: Aurora Paulsen is a legal fellow at the Center for Food Safety (CFS), a nonprofit public interest organization that engages in policy and legal work to promote and ensure safe and sustainable food production. The opinions in this article are those of the author, and do not necessarily represent the opinions of CFS.



LV FIELD TRIP *(continued)*

Registration. To register for the trip, submit the completed registration form on page 5 (which includes a liability release) accompanied by a check payable to the Oregon State Bar in the amount of the \$35 registration fee (plus, if applicable, an additional \$20 for Section membership). Registration will not be effective unless accompanied by payment in full. The registration fee will be refunded if the minimum number of registrations is not attained by June 18, 2014. Refunds will not be made for any other reason, including cancellations or nonattendance. Completed registration forms and the check should be mailed to Jim Kennedy, 1281 SW Davenport Street, Portland, Oregon 97201.

(Continued on page 5)

Editor's Note:

Thank you for reading *The Long View*.
Feedback and suggestions are welcome.

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osbsustainablefuture@gmail.com
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Photo by J. Michael Mattingly

Oregon State Bar
Sustainable Future Section

The Long View

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“Before this we thought we knew this was happening, but now we have overwhelming evidence that it is happening and it is real.”

~ Dr Saleemul Huq, Senior Fellow in the Climate Change Group at the International Institute for Environment and Development and one of the co-authors of the most recent IPCC report on climate change.

REGISTRATION AND RELEASE

Registration Form for Collaborative Forestry Field Trip—June 28, 2014

(Mail to: Jim Kennedy, 1281 SW Davenport Street, Portland, Oregon 97201)

Name of Registrant: _____

Address: _____

Telephone Number: _____

Email Address: _____

Accompanying this registration is a check payable to the Oregon State Bar in the following amount, which is nonrefundable except for failure to achieve the minimum number of registrants for the field trip (please check one box below):

I am a member of the Sustainable Future Section and have enclosed payment of \$35.

I am age 18 or older and a family member/partner of _____, a member of the Sustainable Future Section, and have enclosed payment of \$35.

I wish to become a member of the Sustainable Future Section and have enclosed payment of \$55.

In consideration of my participation in the Oregon State Bar Sustainable Future Section field trip to the Siuslaw National Forest in the Oregon Coast Range on June 28, 2014, I hereby agree and acknowledge that:

The risks from the activities involved in this field trip are significant. These risks include, but are not limited to, loss of or damage to personal property (including personal vehicles and their contents parked or shuttled while on the trip), injury or death due to falls, injury, or death due to becoming lost or separated from the group, injury or death while riding in a bus or shuttle vehicle, collision with a vehicle, rock, log or tree, immersion in water and hypothermia, errors in food or water storage or preparation, accident or illness in remote places without medical facilities or personnel, encounters with animals, insects, and wildlife and exposure to temperature extremes or inclement weather.

I KNOWINGLY AND FREELY ASSUME ALL SUCH RISKS, BOTH KNOWN AND UNKNOWN, EVEN IF ARISING FROM THE NEGLIGENCE OF THE OREGON STATE BAR, ITS BOARD OF GOVERNORS, EMPLOYEES, AGENTS, AND VOLUNTEERS (COLLECTIVELY THE "OSB PARTIES"), TO THE FULLEST EXTENT PERMITTED BY LAW. I ASSUME FULL RESPONSIBILITY FOR MY PARTICIPATION IN THIS TRIP.

Furthermore, should emergency rescue, medical services, or evacuation become necessary, the expenses are my responsibility and not that of the OSB Parties.

I, FOR MYSELF AND ON BEHALF OF MY SPOUSE, CHILDREN, PARENTS, OR OTHER FAMILY MEMBERS, HEIRS, ASSIGNS, PERSONAL REPRESENTATIVES AND ESTATE HEREBY RELEASE, INDEMNIFY, AND HOLD HARMLESS THE OSB PARTIES WITH RESPECT TO ANY AND ALL INJURY, DISABILITY, DEATH, OR LOSS OR DAMAGE TO PERSON OR PROPERTY, WHETHER ARISING FROM THE NEGLIGENCE OF THE OSB PARTIES OR OTHERWISE, TO THE FULLEST EXTENT PERMITTED BY LAW.

I understand that this release is separate from and in addition to the release I may give to any other party. I have signed it voluntarily and with full understanding of its contents.

Name (please print)

Signature

Date

If you would like to request accommodations for a Section meeting or event, please contact the Bar's ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event as described at <http://www.osbar.org/ada/adanotice.html>.

2014 Law Office Leadership Award

Paperless Office

This year the Sustainable Future Section will award the 2014 Sustainable Law Office Leadership Award to the law office(s) that has taken the most significant strides in becoming paperless.

In the past, the Award has highlighted broad-based sustainable office practices, as well as recently adopted innovative practices. This year, the Award will recognize office-sponsored paperless initiatives.

In your application, please describe all paperless practices adopted by the office including, but not limited to, the following:

- ◆ Paperless current client files
- ◆ Paperless historic client files
- ◆ Paperless firm invitations or announcements
- ◆ Electronic invoicing to clients and electronic payment of such invoices
- ◆ Electronic invoicing from vendors to firm and electronic payment of such invoices
- ◆ Electronic accounting records
- ◆ Electronic payroll practices
- ◆ Electronic internal firm communications (staff memos, financial reports, etc.)
- ◆ Unique practice area paperless practices
- ◆ Miscellaneous paperless practices

For each paperless practice your office has adopted, please also explain the extent to which the practice has been adopted by attorneys and staff throughout the office.

In the application, please:

- ⇒ Highlight any practices that you consider unique or innovative;
- ⇒ Describe the most significant obstacles your office faced in implementing paperless practices and how you overcame them; and
- ⇒ Describe the technology your office has adopted to help implement paperless practices (for example, issuing tablets and laptop computers to attorneys, installing scanners, etc.), and highlight the technology that has been most useful in implementing paperless practices.

The Section will consider giving more than one Leadership Award based on its review of the content of the submitted applications.

Please submit the materials (solely by email if possible) by **July 31, 2014** with a short cover letter to:

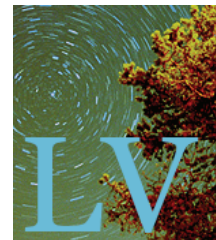
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Portland, OR 97205



Around Town...

Innovations to Advance Sustainability

In 2013, the Section presented its third annual Sustainable Law Office Leadership Award to Markowitz Herbold Glade & Mehlhaf PC to recognize the most innovative recent practice of a law firm in advancing sustainability. In this article, we describe the innovative practices of the other law firms who applied for the 2013 Award.

Tonkon Torp

Tonkon Torp LLP has been a leader in advancing sustainable business practices in Oregon for over a decade. Although the firm was an early adopter of a wide variety of sustainable practices, Tonkon Torp's 2013 Law Office Leadership Award application showed that even firms with well established sustainability initiatives can continue to progress. In 2012 and 2013, Tonkon Torp focused on decreasing its energy and natural resource use by, for example, installing LED monitors and Energy Star compliant appliances, opening 18% of new client matters in paperless format, and subsidizing Trimet passes to reach a 42% use level by Portland-based attorneys and staff. Tonkon Torp also made efforts to increase staff engagement in sustainability efforts. The firm's attorneys and staff participated in a number of activities, including an in-house Northwest Earth Institute six-session discussion course titled "Hungry for Change: Food Ethics and Sustainability", the Reuse Conex conference, and meetings of the Reuse Alliance Oregon Chapter. The Sustainable Future Section thanks Tonkon Torp for continuing to push the boundaries of its sustainability efforts and serving as a long-time leader in Oregon law firm sustainability.

Ater Wynne

Ater Wynne LLP, the recipient of the Sustainable Future Section's inaugural Law Office Leadership Award in 2010, submitted another impressive application for the 2013 Award. As one of the first firms to create a practice group specifically for the purpose of advising clients on sustainability issues, sustainability is a foundational concept at Ater Wynne. The firm's leadership in sustainability has also been recognized by groups outside of the Oregon State Bar, including the City of Portland and Oregon Business Magazine. The magazine listed Ater Wynne as the top law firm among the Best Green Companies to Work for in Oregon in 2013. In 2012 and 2013, the firm continued its sustainable office practices by using 100% post consumer recycled paper and setting the default on all printers to duplex, training employees on composting for all food, paper dishware and plastic utensils, and removing garbage cans from all employee workstations. The firm has reduced waste so much that there are currently only two centrally located garbage cans in the entire office. Thank you to Ater Wynne for your leadership and continued support of the Law Office Leadership Award.

Kell Alterman & Runstein

The Sustainable Future Section was pleased to receive an application for the 2013 Law Office Leadership Award from first-time applicant Kell, Alterman & Runstein LLP. It is apparent from Kell Alterman's application that this firm of 18 lawyers has carefully considered the various areas in which a law firm can become a leader in law office sustainability. Kell Alterman has implemented sustainability initiatives in transportation by subscribing to Zipcar and Car2Go, in energy reduction by installing light switches with motion sensors and auto shutoff functions, and in resource reduction by donating and recycling outdated electronics. The firm also considers the well being of the local economy and its attorneys and staff in ensuring that it is a sustainable workplace. Attorneys and staff are offered flexible work schedules to avoid time and fuel intensive commutes, event catering is provided by local businesses that share Kell Alterman's sustainability values, and the firm hosts events in the firm's rooftop garden to encourage a shared appreciation for the outdoor environment. Thank you, Kell, Alterman & Runstein for your leadership in law office sustainability.

Partners In Sustainability—Revised Criteria

The Sustainable Future Section is pleased to announce that the application for the Partners in Sustainability Program, which includes revised criteria for 2014, is now available.

The Section first launched the Program in early 2012 in response to the Report of the Oregon State Bar Task Force on Sustainability, which recommended the development of an OSB Partners in Sustainability Program to recognize law offices that adopt sustainable practices.

Criteria for the program prescribe specific practices in the areas of paper management, energy and water reduction, waste and toxics reduction, office education, sustainable purchasing, and transportation energy reduction. In some categories, the criteria differs based upon whether the office is small (1-5 attorneys), medium (6-24 attorneys), or large (25 or more attorneys). To be eligible to become a Partner in Sustainability, a firm must adopt a sustainability policy containing specified elements, appoint a sustainability coordinator, and implement an education program focused on sustainability matters.

Since 2012, 24 Oregon law offices have become Partners by submitting an application that includes self-certification of compliance with the Program criteria. Partner certification is valid for the calendar year in which the Section accepts an application and the following calendar year. Therefore, all Partners that were certified in 2012 will need to re-certify in 2014 in order to continue to be recognized as a Partner.

In its report, the OSB Task Force on Sustainability noted that to remain current with advancing practices in sustainability, the Partners Program criteria should be updated on an ongoing basis. In keeping with this recommendation, the Section has supplemented the criteria for 2014 to include the following new requirements:

- ◆ Office policy must call for giving preference to the purchase of Energy Star appliances when the office purchases new or replacement appliances.
- ◆ If applicable based on firm size, office announcements, invitations, and holiday greetings must either be sent electronically or have 100% post-consumer recycled content and be 100% recyclable.
- ◆ Coffee, sugar, creamer, salt and pepper and condiments must be purchased in bulk rather than in single-serving packets.
- ◆ Food scraps must be composted if the building in which the office is located provides compost collection service. If the building in which the office is located does not provide compost collection service, the office must have held discussions with the building owner's representative regarding the feasibility of implementing such service.

Sustainable Future Section



In addition, the Section has made the following revisions to existing criteria:

- ◆ Copy/printer paper, writing paper products, paper towels, and toilet paper must have 100% post-consumer recycled content. Previously, 50% post-consumer recycled content was required.
- ◆ Desk-side recycling boxes must be at each workstation, but offices may now also keep trash cans at workstations.
- ◆ It is now mandatory for all offices to provide incentives for non-car commuters in the form of subsidies and/or items like showers, changing rooms, lockers and/or secure and dry bike storage.

The Section believes that these changes reflect a commitment to moving sustainable practices forward as they become increasingly accessible for all law offices. Therefore, both previously-certified Partners and new applicants should carefully review their office policies and practices to ensure compliance with the revised criteria.

An office that self-certifies compliance with the criteria will be recognized as an Oregon State Bar Partner in Sustainability on the Section's website and will be granted a license to display the Partners Program logo on the office's website and in its communications and promotional materials for so long as the office remains a Partner. In addition, offices whose applications are accepted by June 30, 2014 will be identified as Partners in Sustainability in a Section advertisement during the latter half of 2014 and in other Section communications in 2014.

The criteria to qualify as a Partner in Sustainability and application form are located [here](#). Please direct any questions about the Partners Program to osbsustainablefuture@gmail.com. ■