

JONATHAN H. ADLER

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LAW SCHOOL FACULTY POSITIONS

CASE WESTERN RESERVE UNIVERSITY, Cleveland, OH

Professor of Law (with tenure), July 2006 – Present

Associate Professor of Law, May 2004 – 2006

Assistant Professor of Law, July 2001 – 2004

Courses taught:

Environmental Law

Environmental Research Seminar

Current Controversies in Environmental Law Seminar

International Environmental Law

Constitutional Law I

Issues in Election Law

Co-Director, Center for Business Law & Regulation, July 2006 – Present

Associate Director, Center for Business Law & Regulation, July 2003 – 2006

GEORGE MASON UNIVERSITY SCHOOL OF LAW, Arlington, Virginia

Visiting Associate Professor of Law, Fall 2005

Courses taught:

Administrative Law

Environmental Law

PUBLICATIONS

Law Review Articles

When Is Two a Crowd: The Impact of Federal Action on State Environmental Regulation, 31 HARVARD ENVIRONMENTAL LAW REVIEW (forthcoming)

The Green Costs of Kelo: Economic Development Takings and Environmental Protection (with Ilya Somin), WASHINGTON UNIVERSITY LAW REVIEW (forthcoming).

Back to the Future of Conservation: Changing Perceptions of Property Rights & Environmental Protection, 1 NYU JOURNAL OF LAW & LIBERTY 987 (2005) (invited).

Jurisdictional Mismatch in Environmental Federalism, 14 NYU ENVIRONMENTAL LAW JOURNAL 130 (2005) (symposium, invited).

Is Morrison Dead? Assessing a Supreme Drug (Law) Overdose, 9 LEWIS & CLARK LAW REVIEW 751 (2005) (symposium, invited).

Judicial Federalism and the Future of Federal Environmental Regulation, 90 IOWA LAW REVIEW 377 (2005).

Conservation through Collusion: Antitrust as an Obstacle to Marine Resource Conservation, 61 WASHINGTON AND LEE LAW REVIEW 3 (2004).

Fables of the Cuyahoga: Reconstructing a History of Environmental Protection, 14 FORDHAM ENVIRONMENTAL LAW JOURNAL 89 (2002) (symposium, invited).

Legal Obstacles to Private Ordering in Marine Fisheries, 8 ROGER WILLIAMS UNIVERSITY LAW REVIEW 9 (2002) (symposium, invited).

Let 50 Flowers Bloom: Transforming the States into Laboratories of Environmental Policy, 31 ENVIRONMENTAL LAW REPORTER 11284 (2001).

The Ducks Stop Here? The Environmental Challenge to Federalism, 9 SUPREME COURT ECONOMIC REVIEW 205 (2001).
(Selected as a finalist for inclusion in JOURNAL OF LAND USE AND ENVIRONMENTAL LAW, as one of the ten best articles on land use or environmental law in 2001.)

Free and Green: A New Approach to Environmental Protection, 24 HARVARD JOURNAL OF LAW & PUBLIC POLICY 653 (2001).
(Selected as a finalist for inclusion in JOURNAL OF LAND USE AND ENVIRONMENTAL LAW, as one of the ten best articles on land use or environmental law in 2001.)

Stand or Deliver: Citizen Suits, Standing, and Environmental Protection, 12 DUKE ENVIRONMENTAL LAW & POLICY FORUM 39 (2001) (symposium, invited).

The Cartagena Protocol and Biological Diversity: Biosafe or Bio-Sorry? 12 GEORGETOWN INTERNATIONAL ENVIRONMENTAL LAW REVIEW 761 (2000) (symposium, invited).

More Sorry than Safe: Assessing the Precautionary Principle and the Proposed International Biosafety Protocol, 35 TEXAS INTERNATIONAL LAW JOURNAL 173 (2000).

Wetlands, Waterfowl, and the Menace of Mr. Wilson: Commerce Clause Jurisprudence and the Limits of Federal Wetlands Regulation, 29 ENVIRONMENTAL LAW 1 (1999).

The Green Aspects of Printz: The Revival of Federalism at Its Implications for Environmental Law, 6 GEORGE MASON LAW REVIEW 573 (1998).

Books

ECOLOGY, LIBERTY & PROPERTY: A FREE MARKET ENVIRONMENTAL READER, Editor (2000).

THE COSTS OF KYOTO: CLIMATE CHANGE POLICY AND ITS IMPLICATIONS, Editor (1997).

ENVIRONMENTALISM AT THE CROSSROADS: GREEN ACTIVISM IN AMERICA (1995).

Book Contributions

Environment, in THE ENCYCLOPEDIA OF LIBERTARIANISM (T. Palmer ed., forthcoming).

Marsh Madness, in INCENTIVES AND CONSERVATION: THE NEXT GENERATION OF ENVIRONMENTALISM (D. Benjamin ed., 2004).

Antitrust Barriers to Cooperative Fishery Management, in THE EVOLUTION OF PROPERTY RIGHTS IN FISHERIES (D. Leal ed., 2004).

Letting Fifty Flowers Bloom: Using Federalism to Spur Environmental Innovation, in THE JURISDYNAMICS OF ENVIRONMENTAL PROTECTION: CHANGE AND THE PRAGMATIC VOICE IN ENVIRONMENTAL LAW (J. Chen ed., 2004).

Do Conservation Conventions Conserve? in SUSTAINABLE DEVELOPMENT: PROMOTING PROGRESS OR PERPETUATING POVERTY? (J. Morris, ed. 2002).

The Precautionary Principle's Challenge to Progress, in GLOBAL WARMING AND OTHER ECO-MYTHS (R. Bailey, ed. 2002).

Clean Politics, Dirty Profits, in POLITICAL ENVIRONMENTALISM: GOING BEHIND THE GREEN CURTAIN (T. Anderson, ed., 2000).

Benchmarks (w/ Peter Cazamias), in THE TRUE STATE OF THE PLANET (R. Bailey, ed., 1995).

Clean Fuels, Dirty Air, in ENVIRONMENTAL POLITICS: PUBLIC COSTS, PRIVATE REWARDS (M. Greve and F. Smith, eds., 1992).

Monographs

Let Fifty Flowers Bloom: Transforming the State into Laboratories Environmental Policy (Federalism Project/American Enterprise Institute, 2001)

Greenhouse Policy without Regrets, Lead Author (Competitive Enterprise Institute, 2000)

Environmental Performance at the Bench: The EPA's Record in Federal Court POLICY STUDY No. 269 (Reason Public Policy Institute, 2000)

Free Market Environmental Bibliography, 4th Edition, Editor (Competitive Enterprise Institute, 1996)

Property Rights, Regulatory Takings, and Environmental Protection (Competitive Enterprise Institute, 1996)

Time to Reopen the Clean Air Act: Clearing Away the Regulatory Smog (w/ K.H. Jones), POLICY ANALYSIS NO. 233 (Cato Institute, 1995)

Property Rights Reader, Editor (Competitive Enterprise Institute, 1995)

Taken to the Cleaners: A Case Study of the Overregulation of American Small Business POLICY ANALYSIS NO. 233 (Cato Institute, 1993)

Additional Articles/Reviews

Review of D. Schoenbrod, *Saving the Environment from Washington*, INDEPENDENT REVIEW, Vol. 10, No. 4 (Summer 2006).

Looking Ahead to the 2005-06 Term, CATO SUPREME COURT REVIEW 2004-05 (2005).

How to Protect Environmental Protections? 25 ENVIRONMENTAL LAW REPORTER 10413 (2005) (roundtable transcript).

A Vast-Right Wing Conspiracy: It's Neither Vast nor a Conspiracy. Discuss, LEGAL AFFAIRS (May-June 2005).

Frank Meyer: The Fusionist as Federalist, PUBLIUS Vo. 34 No. 4 (Fall 2004) (symposium, invited).

Conservation Cartels: How Competition Policy Conflicts with Environmental Protection, REGULATION Vol. 27, No. 4 (2004).

The Fable of Federal Environmental Regulation, 55 CASE WESTERN RESERVE LAW REVIEW 93 (2004) (symposium, invited).

Remarks on Regulating Genetically Modified Foods: Is Mandatory Labeling the Right Answer?, 10 RICH. JOURNAL OF LAW & TECHNOLOGY (2004) (symposium).

Introduction: The Virtues and Vices of Skeptical Environmentalism (with Andrew Morriss), 53 CASE WESTERN LAW REVIEW 249 (2002) (symposium).

The Role of the Judiciary in Preserving Federalism, 1 GEORGETOWN JOURNAL OF LAW & PUBLIC POLICY, Symposium Issue 49 (2002).

(Review) *Free Market Environmentalism Revised Edition*, 22 CATO JOURNAL 182 (2002).

Judicial Federalism Not Anti-Environment, ENVIRONMENTAL FORUM, vol. 19, No. 4 (2002).

Waste & the Dormant Commerce Clause – A Reply (response to Richard Epstein), 3 GREEN BAG 2D 353 (2000).

Faux Market Environmentalism, REGULATION, Vol. 23, No. 1 (2000).

Swamp Rules: The End of Federal Wetlands Regulation? REGULATION, Vol. 22, No. 2 (1999).

There's No Justice in EPA's Environmental Justice Policy, 6 CORPORATE ENVIRONMENTAL STRATEGY 183 (1999).

A New Environmental Federalism, FORUM FOR APPLIED RESEARCH AND PUBLIC POLICY (Winter 1998).

Bean Counting for a Better Earth: Environmental Enforcement at the EPA, REGULATION, Vol. 21, No. 2 (1998).

Rent-Seeking Behind the Green Curtain, REGULATION, Vol. 19, No. 4 (1996).

Over 100 articles, reviews, and op-eds on environmental and regulatory policy have appeared in various magazines and newspapers, including the following:

Magazines/Journals

The American Spectator

Chief Executive

Consumer's Research

Diversity & Division

Doublethink

The Environmental Forum

Foundation Watch

The Freeman

The Good Society

Insight

Issues in Science and Technology

The Lamp

Legal Times

Liberty

Mining Voice

National Review

The Next Progressive

Policy Review

The Public Interest

Reason

Terra Nova

The Weekly Standard

Newspapers

Arizona Republic

Christian Science Monitor

Cleveland Plain Dealer

Detroit News

Hartford Courant

Indianapolis Star

Investor's Business Daily

Journal of Commerce

Los Angeles Times

Orange County Register

Oregonian

Philadelphia Inquirer

Phoenix Gazette

Richmond Times-Dispatch

San Diego Union-Tribune

St. Louis Post-Dispatch

Wall Street Journal

Wall Street Journal Europe

Washington Post

Washington Times

AWARDS AND HONORS

2004 Paul M. Bator Award in Recognition of Excellence in Legal Scholarship, Outstanding Commitment to Teaching and Law Students, and the Significant Public Impact of His Work, Federalist Society for Law & Public Policy Studies.

2001 Distinguished Young Alumnus Award, George Mason University School of Law.

In 2001, two articles were selected as finalists for inclusion in JOURNAL OF LAND USE AND ENVIRONMENTAL LAW for being among the ten best articles on land use or environmental law published in the prior year: *The Ducks Stop Here? The Environmental Challenge to Federalism*, 9 SUPREME COURT ECONOMIC REVIEW 205 (2001), and *Free and Green: A New Approach to Environmental Protection*, 24 HARVARD JOURNAL OF LAW & PUBLIC POLICY 653 (2001).

CONGRESSIONAL TESTIMONY

The Scope of “Waters of the United States” after *Rapanos v. United States*, Subcommittee on Fisheries, Wildlife and Water, U.S. Senate, August 1, 2006.

Gas Price Act of 2005, Committee on Environment and Public Works, U.S. Senate, October 18, 2005.

National Fish & Wildlife Foundation Establishment Act Amendments of 1997, Subcommittee on Fisheries, Conservation, Wildlife, and Oceans, U.S. House of Representatives, September 25, 1997.

The Right to Own Property, Committee on the Judiciary, U.S. Senate, October 18, 1995.

Private Property Rights and Environmental Laws, Committee on Environment and Public Works, U.S. Senate, July 12, 1995.

Flow Control and Interstate Transportation of Solid Waste, Subcommittee on Superfund, Waste Control, and Risk Assessment, U.S. Senate, March 1, 1995.

Private Property Rights, Subcommittee on the Constitution, U.S. House of Representatives, February 10, 1995.

CONFERENCES & SYMPOSIA

Conference Co-Chair (with Dean Reuter), “Eminent Domain, Urban Renewal & The Constitution,” cosponsored by the Center for Business Law & Regulation and the Property Rights and Environmental Law Practice Group of the Federalist Society for Law & Public Policy Studies, Cleveland, Ohio, February 4, 2005.

Director, Colloquium on Civil Liberties in Wartime, Liberty Fund, Miami, Florida, January 13-16, 2005.

Co-editor (with Andrew Morriss), “The Virtues and Vices of Skeptical Environmentalism,” paper-only symposium on Bjorn Lomborg’s *The Skeptical Environmentalist*, 53 CASE WESTERN RESERVE LAW REVIEW (2002).

Director, “The Costs of Kyoto: Climate Change Policy and Its Implications,” Competitive Enterprise Institute, Washington, D.C., July 15, 1997.

SELECT LECTURES & PRESENTATIONS

“Institutional Mismatch in Environmental Federalism,” *New York University Environmental Law Journal* 2005 Colloquium on State Roles in U.S. Environmental Law and Policy, New York, N.Y. March 25, 2005.

“Why States Regulate: The Impact of Federal Action on State Environmental Regulatory Choices,” Faculty Workshop, George Mason University School of Law, Arlington, Virginia, January 19, 2005

“Speech: Protected and Unprotected,” Collegiate Network 25th Anniversary Student Editors Conference, Washington, D.C., December 4, 2004

Discussant, “The Election Is Over . . . Now What?” Third Annual Louis Stokes Leadership Symposium on Social Issues and the Community, Case Western Reserve University, Cleveland, Ohio, November 30, 2004.

“Conservation through Collusion: Antitrust as an Obstacle to Marine Resource Conservation,” Annual Meeting, Southern Economic Association, New Orleans, Louisiana, November 21, 2004.

“Wetland Federalism: Why States Regulate,” Faculty Workshop, Florida State University School of Law, Tallahassee, Florida, October 19, 2004.

“The Fables of Federal Regulation: Revisiting the Causes and Consequences of Environmental Centralization,” Mont Pelerin Society Annual Meeting, Salt Lake City, Utah, August 16, 2004.

“The Common Law and Environmental Protection,” Kinship Conservation Institute, Bozeman Montana, June 7, 2004.

“Frank Meyer, Fusionism, and Federalism,” *Publius* Symposium on Conservatives and Federalism, Washington, D.C., May 21, 2004

- “Conservation without Regulation: Property Rights, Markets & Environmental Protection,” Federalist Society Student Chapter, University of Wisconsin School of Law, Madison, Wisconsin, April 14, 2004.
- “Judicial Federalism and the Future of Federal Environmental Regulation,” Faculty Workshop, University of Pittsburgh School of Law, Pittsburgh, Pennsylvania, February 26, 2004.
- “The Fable of Federal Environmental Protection,” Case Western Reserve University School of Law, Cleveland, Ohio, February 11, 2004.
- “The Constitutional Limits of Federal Environmental Protection,” Federalist Society National Lawyers’ Convention, Washington, D.C., November 14, 2003.
- “The Bush Administration’s Environmental Record,” Harvard Environmental Law Conference, Harvard Law School, Cambridge, Massachusetts, November 6, 2003.
- “Terrorism and the Environmental Right-to-Know,” Terrorism, Energy Security, and Civil Liberties - A Seminar for Federal Judges, Foundation for Research on Economics and the Environment, Bozeman, Montana, August 5-10, 2003.
- “The Erosion of Environmental Protection?” American Constitution Society National Convention, Washington, D.C., August 1, 2003.
- “Constitutional Limitations on Mandatory Labeling of Biotech Foods,” Journal of Law & Technology Symposium, University of Richmond School of Law, Richmond, Virginia, March 14, 2003.
- “Let 50 Flowers Bloom: Transforming States into Laboratories of Environmental Policy,” Congressional staff seminar, Cato Institute, Washington, D.C., December 13, 2002.
- “The Precautionary Principle: More Sorry, Less Safe,” Congressional staff seminar, Political Economy Research Center, Washington, D.C., September 13, 2002.
- “A Free Market Environment or a Regulated One?” (debate with Professor David Driesen), Federalist Society Student Chapter/Environmental Law Society, Syracuse University Law School, February 21, 2002.
- “Conservation through Collusion: Antitrust Barriers to Cooperative Fishery Management,” Faculty Workshop, University of San Diego School of Law, March 1, 2002.
- “Conservation without Regulation,” Federalist Society Student Chapter, Columbus School of Law, Catholic University of America, November 5, 2001.
- “Let Fifty Flowers Bloom: Transforming the States into Laboratories of Environmental Policy,” American Enterprise Institute, Washington, D.C., September 20, 2001.

“Environmental Federalism,” Environmental Economics and Policy Analysis - A Seminar for Law Professors, Foundation for Research on Economics and the Environment, Bozeman, Montana, July 12-14, 2001.

“International Environmental Regulation and the Precautionary Principle,” Roundtable on International Trade, International Council on Metals and the Environment, July 17-18, 2001.

Additional fora include the following:

Air & Waste Management Association
American Council on Germany
American Iron & Steel Institute
America’s Future Foundation
Cement Kiln Recycling Coalition
Cleveland-Marshall School of Law
Close-Up Foundation
Forest Landowners Association
Foundation for Research on Economics & the Environment
George Washington University Federalist Society Student Chapter
Georgetown University Law Center
Heartland Institute
Heritage Foundation
Industrial College of the Armed Forces
Institute for Humane Studies
Leadership Institute
Lewis & Clark College
National Association of Manufacturers

North American Association for Environmental Education
Political Economy Research Center
Progress & Freedom Foundation
Rhodes College
Society of Environmental Journalists
University of Chicago Federalist Society Student Chapter
University of Michigan Federalist Society Student Chapter
University of Texas Federalist Society Student Chapter
University of Virginia Federalist Society Student Chapter
U.S. Conference of Mayors
Williams College
Yale Political Union, Yale University
Yale School of Forestry & Environmental Studies

ADDITIONAL EMPLOYMENT EXPERIENCE

MERCATUS CENTER, Arlington, VA
Visiting Senior Scholar, August 2005 – July 2006.

POLITICAL ECONOMY RESEARCH CENTER, Bozeman, MT
Julian Simon Summer Research Fellow, Summer 2004
Broadbent Summer Research Fellow, Summer 1998

U.S. COURT OF APPEALS, DISTRICT OF COLUMBIA CIRCUIT, Washington, DC
Clerk for The Honorable David B. Sentelle, Circuit Judge, August 2000 – July 2001

KIRKLAND & ELLIS, Washington, DC
Summer Associate, Summer 2000
Law Clerk, Fall 1999 – April 2000
Summer Associate, Summer 1999

COMPETITIVE ENTERPRISE INSTITUTE, Washington, DC

Senior Fellow in Environmental Policy, September 1999 – May 2000
Director of Environmental Studies, July 1995 – May 1999
Associate Director of Environmental Studies, January 1994 – July 1995
Environmental Policy Analyst, June 1991 – January 1994

CATHOLIC UNIVERSITY, Washington, DC
Visiting Lecturer, Spring 1999
Course: Environmental Politics and Policy seminar

SERVICE

CASE WESTERN RESERVE UNIVERSITY SCHOOL OF LAW

Committees and Service:

RAW Program Evaluation Committee (2001-2003)
Upper-Level Writing Requirement Committee (2002-2003)
Library & Technology Committee (2002-Present) (Chair, 2002-03)
Building Committee (2003-Present)
Rankings Evaluation Committee (2003-04)
Judicial Clerkship Committee (2004-Present)
Promotion & Tenure Committee (2006-Present)
Case Faculty Speakers Program (2002-Present)

AMERICA'S FUTURE FOUNDATION, Washington, DC
Member, Board of Directors, July 2001 – Present

BAR ADMISSIONS

Virginia – October 2000

PROFESSIONAL ACTIVITIES

CENTER FOR CONSTITUTIONAL JURISPRUDENCE, Claremont Institute, Claremont, CA
Member, Academic Advisory Board, 2004 – Present.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS LEGAL FOUNDATION
Member, Advisory Board, August 2002 – Present.

NATIONAL REVIEW ONLINE
Contributing Editor, July 2002 – Present.

CATO SUPREME COURT REVIEW, Cato Institute, Washington, DC
Member, Academic Advisory Board, February 2002 – Present.

INSTITUTE FOR HUMANE STUDIES

Felix Morley Journalism Competition Review Committee, 2001- Present.

THE FEDERALIST SOCIETY, Washington, DC

Executive Committee, Environmental Law and Property Rights Practice Group,

July 2002 -- Present

Vice Chair, Environmental Law and Property Rights Practice Group, 1998 – May 2000

WASHINGTON TIMES

Book Columnist, October 1994 – June 2000

INTELLECTUAL AMMUNITION

Columnist, March 1994 – April 2000

EDUCATION

GEORGE MASON UNIVERSITY SCHOOL OF LAW, Arlington, Virginia

Juris Doctor, May 2000

Graduated *Summa cum laude*; Class Valedictorian

George Mason Law Review, Articles Editor 1998-1999

Dean's Scholar (legal writing instructor) 1999-2000

Richard S. Murphy Prize (awarded for academic achievement in core courses), 1999

Adrian S. Fisher Award for best student law review article, 1997-98

First Place, First-Year Moot Court Competition, 1997

Senator Leroy S. Bendheim Scholarship, 1996-97.

YALE UNIVERSITY, New Haven, Connecticut

Bachelor of Arts, History, May 1991

Graduated *Magna cum laude*

Distinction in Major

National Merit Scholar.