KALYANI ROBBINS

Associate Professor of Law
University of Akron School of Law
kalyani@uakron.edu

EDUCATION

Lewis & Clark Law School
LL.M., *cum laude*, Environmental and Natural Resources Law, 2008

Stanford Law School
JD, 1999, Articles Editor for the Stanford Law Review

Northwestern University School of Law
1996-1997 (1L year), Dean's List, Invited to Law Review membership

University of California at Berkeley
BA, Rhetoric, 1995, Honor Students Society, ACLU Berkeley Students Caucus founding member

ACADEMIC APPOINTMENTS

University of Akron School of Law, Akron, OH
Associate Professor of Law, 2011-present
Assistant Professor of Law, 2008-2011
Subjects taught: Environmental Law, Criminal Law, Natural Resources Law, and related seminars
Research areas: Biodiversity & Ecosystem Management; Environmental Policy; Climate Change; Renewable Energy; Eco-Federalism; and the Intersection of Law, Science, and the Environment
Law School Committees:

- 2009-present: Faculty Appointments; Faculty Research and Development/Faculty Grants
- 2008-2009: Admissions; Enrichment

Other Service:

- Treasurer, AALS Natural Resources Section, 2013-14
- Executive Committee Member, AALS Environmental Law Section, 2012-14
- Executive Committee Member, AALS Natural Resources Section, 2012-13
- Chair, Endangered Species Committee, within the ABA Section of Environment, Energy, and Resources (SEER), 2011-2012; Co-Chair 2012-13
- Elected Law School Representative to the AALS House of Representatives, 2009-2013
- Faculty Advisor, Environmental Law Society, 2008-present
- Faculty Advisor, Gay/Straight Law Alliance, 2011-present
- University of Akron Wetland Field Station Committee Member, 2012-present
- Vice Chair for Quick Teleconferences, ABA Endangered Species Committee, 2010-2011
- Selection committee member, ABA SEER Summer Diversity Fellowship, 2011 & 2012
- Law School Representative on University Committee for the Conference on Undergraduate and Graduate Student Research (CUGSR), Chair of Speaker Subcommittee, 2010-2011

University of San Francisco School of Law
Visiting Professor, summers of 2011 & 2012

- Taught Environmental Law in 2012 & Natural Resources Law in 2013

PUBLICATIONS

Books:

THE LAW OF BIODIVERSITY AND ECOSYSTEM MANAGEMENT (Foundation Press University Casebook Series, Third Edition, 2013) (with John Copeland Nagle and J.B. Ruhl)

THE LAWS OF NATURE: REFLECTIONS ON THE EVOLUTION OF ECOSYSTEM MANAGEMENT LAW AND POLICY (University of Akron Press, Kalyani Robbins ed., 2013) (edited collection with contributions by Robert W. Adler, Jamison E. Colburn, Robert B. Keiter, Judith A. Layzer, Martin Nie, Daniel J. Rohlf, J.B. Ruhl, Lynn Scarlett, and co-authoring pairs Susan G. Clark & David N. Cherney; Sara O'Brien & Sara Vickerman; and Deborah McGrath & Travis Greenwalt)

Chapters:

An Ecosystem Management Primer: History, Perceptions, and Modern Definition, in THE LAWS OF NATURE: REFLECTIONS ON THE EVOLUTION OF ECOSYSTEM MANAGEMENT LAW AND POLICY (University of Akron Press, Kalyani Robbins ed., forthcoming 2012)

Constitutional Law: 2011 Annual Report, in ENVIRONMENT, ENERGY, AND RESOURCES LAW: THE YEAR IN REVIEW (ABA Section of Environment, Energy & Resources, 2012, co-author)

Constitutional Law: 2012 Annual Report, in ENVIRONMENT, ENERGY, AND RESOURCES LAW: THE YEAR IN REVIEW (ABA Section of Environment, Energy & Resources, 2013, co-author)

Works in Progress with Existing Publication Arrangements:

Responsible, Renewable, and Redesigned: How the Renewable Energy Movement can make Peace with the Endangered Species Act, G.W. J. Env. & Energy Law (forthcoming 2013, symposium edition, to be presented on April 11, 2013 at J.B. and Maurice C. Shapiro Conference at GW, manuscript due at end of May 2013)

Cooperating with Wildlife: The Past, Present, and Future of Wildlife Federalism, 43 Environmental Law Reporter __ (forthcoming 2013, special edition based on January 2013 AALS Annual Meeting program, *40 Years of Environmental Law and Natural Resources Law – A Prospective Look*, manuscript due mid-March 2013)

Awakening the Slumbering Giant: How Horizontal Drilling Technology Brought the Endangered Species Act to Bear on Hydraulic Fracturing, 63 Case Western Reserve L. Rev. __ (forthcoming 2013, symposium edition, presented on November 16, 2012, manuscript due mid-February 2013)

Symposium: The Next Generation of Environmental & Natural Resources Law: What Has Changed in 40 Years and What Needs to Change as a Result - Introduction, 46 Akron L. Rev. __ (forthcoming 2013, based on symposium in September 2012, manuscript due at end of January 2013)

Articles:

Towards Engaged Scholarship, 33 Pace L. Rev. __ (forthcoming 2013, co-author, generated by symposium in May 2012, completed and in final editing process)

Paved With Good Intentions: The Fate of Strict Liability under the Migratory Bird Treaty Act, 42 Envtl. L. 579 (2012) (symposium edition, presented in October 2011)

Recovery of an Endangered Provision: Untangling and Reviving Critical Habitat under the Endangered Species Act, 58 Buffalo L. Rev. 1095 (2010)

Strength in Numbers: Setting Quantitative Criteria for Listing Species under the Endangered Species Act, 27 UCLA J. Envtl L. & Pol. 1 (2009)

- Cited in *Western Watersheds Project v. U.S. Fish and Wildlife Service*, 2012 WL 369168 (D. Idaho 2012)

Missing the Link: The Importance of Keeping Ecosystems Intact and What the Endangered Species Act Suggests We Do About It, 37 Envtl. L. 573 (2007)

Framers' Intent and Military Power: Has Supreme Court Deference to the Military Gone Too Far?, 78 Or. L. Rev. 767 (1999)

No-Drop Prosecution of Domestic Violence: Just Good Policy, or Equal Protection Mandate?, 52 Stan. L. Rev. 205 (1999)

- Reprinted in Douglas E. Beloof, VICTIMS IN CRIMINAL PROCEDURE
- Cited in *McClure v. Rehg*, 2007 WL 3352389 (E.D. Mo. 2007)
- Cited in amicus curiae Supreme Court briefing for *Iowa v. Tovar*, 541 U.S. 77 (2004)

Implications of the Tax Reform Proposals for Fraud – or – How to Shift to a Consumption Tax Without Helping the Cheaters, published simultaneously by consent at 83 Tax Notes 1371 (1999); and Taxes, June 1999, at 41

SCHOLARSHIP AGENDA

Works in Progress:

- ***The Biodiversity Paradigm Shift: Adapting the Endangered Species Act to Climate Change***.

  The Endangered Species Act (ESA) was designed to protect species that had been rendered more vulnerable to extinction as a result of human activity. As such, its implementation has traditionally focused on keeping human beings away from such species and giving the species (and their ecosystems) space to heal on their own. Climate change is altering the landscape everywhere on the globe, rendering the hands-off approach no longer sufficient. Active interventions will become more necessary as we get further into the changing climate. Taking decisive action in response to climate change will also require a fundamental shift in our approach to nature, in which we leave behind the static preservationist view and accept that change is happening so that we can manage that change. Making the move from passive management (the hands-off approach, focused on prohibiting certain actions) to proactive management techniques will require some triage, which is impossible without this psychological shift. Climate change is resulting in widespread disturbances to ecological functioning, regardless of whether human beings have set foot in a given area, and we can no longer apply a static approach to a dynamic world. Rather than cling to a goal of reducing human interaction with nature, we must focus on the goal of increasing species resilience to change – these goals have overlapped in the past, but this is lessening with each warming year.

This paper will review the impacts of climate change on biodiversity and the sort of management approaches that will become more appropriate in the Anthropocene, an era characterized by rapid non-linear change and multi-scale tipping points. Dealing with climate change requires effort both to mitigate (reduce anthropogenic greenhouse gasses) and adapt, so I will then discuss the relationship between the ESA and both mitigation (which is not an ideal area for ESA application) and adaptation (where the most work is needed). While there are several provisions in the ESA that will prove useful to supporting the new strategies for species and ecosystem management, utilizing them properly will require a shift in implementation priorities and greater acceptance of the demise of what once was. Moreover, because the existing potential for applying ESA measures to support more active management techniques is both inadequate and voluntary, it will be worthwhile to build these new modalities into the statute itself in order to prepare for the no-analog future. I propose several changes to the ESA – amendments designed to bring what is rapidly becoming a rusty old statute into the new world we must manage today.

- ***Responsible, Renewable, and Redesigned: How the Renewable Energy Movement can make Peace with the Endangered Species Act***

  One of the most promising routes to a sustainable energy future, as well as climate change mitigation, is the development of renewable energy sources such as wind, solar energy, and hydropower. Indeed, scientists have proposed plans to move completely (100 percent!) to these energy sources within a couple of decades. Mark Z. Jacobson and M.A. Delucchi, scientists from Stanford and U.C. Davis, have outlined a plan to achieve this goal, thereby "eliminating all fossil fuels". Hydroelectric power already provides almost one-fifth of the world's electricity, and wind and solar development is rapidly picking up as well. However, before we leave our worries behind and celebrate, we must resolve one potentially difficult issue for renewable energy, especially these three favored brands. They conflict with another important goal, that of protecting biodiversity.

  Wind, solar, and hydro energy all have one thing in common: they destroy habitat as well as directly kill wildlife, including endangered species and their habitat. Can these problems be reconciled with the movement toward renewable energy, allowing us to partake of its many benefits? At least for now, we regularly see renewable energy progress impeded by the need for Endangered Species Act compliance. The ESA has presented itself as a potentially catastrophic obstacle to renewable energy development. The time has come to think about how we might maximize our access to renewable energy while minimizing its impacts on vulnerable species.

  This paper/presentation will review the existing conflicts between endangered species and these three sources of renewable energy. This will be followed by analysis of the potential for harmonizing each energy source with the dictates of the Endangered Species Act, concluding with specific proposals for redesigning our methods of harvesting these forms of renewable energy. As one example, solar energy can reach utility scale without wiping out the desert tortoise habitat that presently stands in its way. I propose a system of rooftop easements in areas of dense population to smooth the way toward urbanization of utility-scale solar energy. The ultimate goal of the piece is to demonstrate the extent to which it is possible to use each form of renewable energy without significant ecosystem impacts, and to generate somewhat of a ranking of preferred modes of development.

- As a smaller project, I am working on an analysis of environmental standing jurisprudence and ecological science to determine the likelihood that a loss of ecosystem services could qualify to confer standing on recipients of such services who do not otherwise meet the prevalent standard

of spending time in the impacted area. While this question has not been directly litigated, a review of existing environmental standing cases presents both support for this theory and obstacles it may face.

- Finally, I recently conducted an empirical study of the current composition of Environmental & Natural Resources Law faculty, for the June 2012 AALS midyear workshop panel entitled "Generations of Environmental Law." I presented the resulting data (a breakdown of all 544 law professors in the field and how they grouped into 5-year ranges of experience as well as the various subfields of expertise and other distinguishing factors) at our workshop, during which we analyzed the ratio of senior to junior faculty and discussed opportunities for mentoring within the field. I will be co-authoring an article with Jessica Owley on the issues addressed in the workshop, utilizing this data. We have just begun to organize the expected article.

Long-term Agenda:

I expect that my primary focus will remain on issues relating to biodiversity and ecosystems. Lately that work has begun to overlap with an increased interest in climate change, which is the focus of my scholarship currently in progress. In particular, I am most intrigued by "life after climate change" work, envisioning what the new ecological landscape might be like and how our regulatory approaches will have to change to govern it. Besides my primary work in progress described above, this has also given me some ideas about changes in land use regulation that may become necessary in the face of mass human migration. Once my existing works in progress are off the presses, I see some potential for my climate change work to dovetail with my federalism work, as there are several avenues for each work to inform the issues raised in the other. The resulting article would draw from both prior works. I have also developed an increased interest in Ocean & Coastal Law (while teaching Natural Resources Law, of which it is a subset), which I would like to teach at some point to possibly spark some related scholarship. This field has a very strong relationship to climate change as well. I have begun to plan for another book of collected chapters, this time on the various areas of Eco-Federalism, which I also hope to organize upon completion of my current works in progress. A goal of mine for years has been (and remains) to eventually design a casebook that focuses on the scientific issues that non-scientist environmental lawyers need to understand. It will be a survey of key environmental and natural resources statutes and cases, but with a focus on understanding the relevant science, likely titled LAW, SCIENCE, AND THE ENVIRONMENT.

SELECTED PRESENTATIONS

Natural Resources Law Teachers Institute, Rocky Mountain Mineral Law Foundation, May 29-31, 2013, Flagstaff, AZ

- Invited to present *The Biodiversity Paradigm Shift: Adapting the Endangered Species Act to Climate Change*

71st Annual MPSA Political Science Conference, April 11-14, 2013, Chicago, IL

- Selected to serve as Discussant for session, *Generating and Communicating Scientific Information for Environmental Issues*
- Discussants are allotted 20 minutes after the presentations and before audience participation is invited, in order to provide expert analysis of the works presented

J.B. and Maurice C. Shapiro Conference: Laying the Foundation for a Sustainable Energy Future: Legal and Policy Challenges, George Washington University Law School, April 10-11,

2013

- Invited to present *Responsible, Renewable, and Redesigned: How the Renewable Energy Movement can make Peace with the Endangered Species Act*
- Resulting papers to be published in the George Washington Journal of Energy and Environmental Law

Environmental Law Virtual Guest Speaker Series, March 25-April 5, 2013

- Presentation to be recorded and posted online for students in a large group of participating law schools (hosted by Mercer Law School), followed by one week participating in a discussion forum to answer questions about my presentation

Environmental Capstone Colloquium / Spring Speaker Series, February 7, 2013, University of Florida Levin College of Law

- Guest speaker on the topic, *Endangered Species and Climate Change*

Law & Economics Center Workshop on Public Choice Economics for Law Professors, January 25-28, 2013, Captiva, FL

- Invited/funded Participant

AALS Annual Meeting, January 4-7, 2013, New Orleans, LA

- Presented *Cooperating with Wildlife: The Past, Present, and Future of Wildlife Federalism* as part of the AALS Sections on Natural Resources Law and Property Law joint program, *40 Years of Environmental and Natural Resources Law-A Prospective Look*
- Resulting papers to be published in the Environmental Law Reporter

Symposium: The Law and Policy of Hydraulic Fracturing: Addressing the Issues of the Natural Gas Boom, November 16, 2012, Case Western Reserve University School of Law

- Invited to present *Awakening the Slumbering Giant: How the New Horizontal Drilling Technology Brought the Endangered Species Act to Bear on Hydraulic Fracturing*
- Resulting papers to be published in the Case Western Reserve Law Review

Central States Law Schools Association 2012 Scholarship Conference, October 19-20, 2012, Cleveland, OH

- Presented work in progress, *The Biodiversity Paradigm Shift: Adapting the Endangered Species Act to Climate Change*

ABA Section of Environment, Energy, and Resources (SEER) 20th Annual Fall Meeting, October 10-13, 2012, Austin, TX

- Invited to present on the ESA and Climate Change
- On panel, *Wind, Water, Weather and the Endangered Species Act*

Anderson-Libecap Manuscript Roundtable, October 4-5, 2012, the Law & Economics Center (LEC) at George Mason University School of Law

- Invited/funded participant in manuscript roundtable for book on Environmental Markets

Symposium: The Next Generation of Environmental & Natural Resources Law: What Has Changed in 40 Years and What Needs to Change as a Result, September 28-29, 2012, University of Akron School of Law

- Developed symposium (all aspects: creation/description, obtaining funding, promotion and call for proposals, selecting presenters and moderators, arranging for symposium publication

in Akron Law Review, field-trip planning, and event planning)
- Hosted conference and wrote introduction to symposium edition

Presented Work-in-progress to faculty at University of San Francisco School of Law, August 1, 2012
- Presented *Cooperating with Wildlife: The Past, Present, and Future of Wildlife Federalism*

Association for Environmental Studies and Sciences 2012 Annual Meeting and Conference: Preparing for our Environmental Future, June 21-24, 2012, Santa Clara University
- Presented work in progress, *Cooperating with Wildlife: The Past, Present, and Future of Wildlife Federalism*

AALS 2012 Mid-Year Meeting, Conference on Torts, Environment, and Disaster, June 8-10, 2012, Berkeley, CA
- Co-presented workshop, *Generations of Environmental Law*

Engaged Scholarship/Practically Grounded Symposium, May 4, 2012, Pace Law School
- Invited Participant in small (about 20 participants) discussion gathering and co-author of publication to result therefrom

Northeast Ohio Faculty Colloquium, March 23, 2012, Cleveland area, OH
- Presented work in progress, *Cooperating with Wildlife: The Past, Present, and Future of Wildlife Federalism*

Public Interest Environmental Law Conference, February 29 - March 3, 2012, University of Oregon School of Law
- Co-organized and presented on panel, *What is the Value of Critical Habitat?*
    - Presented *The Troubled History of Critical Habitat under the Endangered Species Act*
- Co-organized and presented on panel, *Environmental Law and New Frontiers in Cooperative Federalism*
    - Presented work in progress, *Cooperating with Wildlife: The Past, Present, and Future of Wildlife Federalism*

Northeast Regional Scholarship and Teaching Development Workshop, February 3-4, 2012, Albany Law School
- Presented idea-stage work in progress, *Cooperating with Wildlife: The Past, Present, and Future of Wildlife Federalism*

AALS Annual Meeting, January 4-8, 2012, Washington, DC
- Organized and moderated a "hot topic" panel, *The ESA Implementation Tipping Point: Can the U.S. Fish & Wildlife Service Keep Up with Multiple New Demands?*

Symposium: The Migratory Bird Treaty Act: Reshaping a Powerful Conservation Tool, October 20-22, 2011, Lewis & Clark Law School
- Invited/funded to write and present symposium article, *Paved With Good Intentions: The Fate of Strict Liability under the Migratory Bird Treaty Act*

Presented Work-in-progress to faculty at University of Akron School of Law, October 5, 2011
- Presented *Paved With Good Intentions: The Fate of Strict Liability under the Migratory Bird*

Treaty Act

Presented Work-in-progress to faculty at University of San Francisco School of Law, July 13, 2011

- Presented *Paved With Good Intentions: The Fate of Strict Liability under the Migratory Bird Treaty Act*

ABA Quick Teleconference: Is 2010 a Critical Year for Critical Habitat?, November 2010

- Organized and moderated panel discussing 2010 cases impacting the implementation of the critical habitat provisions of the Endangered Species Act

Northeast Ohio Faculty Colloquium, October 8, 2010, Cleveland area, OH

- Hosted day of scholarly presentations by and for faculty of several Ohio law schools

Regulation by Litigation Roundtable at the Center for Business Law and Regulation, September 25, 2009, Case Western Reserve University School of Law

- Invited Roundtable Participant

Public Interest Environmental Law Conference, February 26 - March 1, 2009, University of Oregon School of Law

- Organized and moderated panel, *The Future of the ESA: Suggestions for the New Administration*
- Added to a panel to discuss teaching climate change materials in environmental courses

Law, Science, and the Environment Forum, April 19-20, 2007, Lewis & Clark Law School

- Invitational workshop; invited to serve as a discussant

Additional events attended:

- ABA Section of Environment, Energy, and Resources, 2012 Spring Council Meeting (participated as Chair of the Endangered Species committee), April 27-28, 2012, Vancouver, BC
- Law & Society Association Annual Meeting, June 2-5, 2011, San Francisco, CA
- RMMLF Natural Resources Law Teachers Institute, May 25-27, 2011, Stevenson, WA
- AALS Annual Meeting, January 2011, San Francisco, CA
- Rocky Mountain Mineral Law Institute, July 23-25, 2009, San Francisco, CA
- RMMLF Natural Resources Law Teachers Institute, May 27-29, 2009, Chico Hot Springs, MT
- AALS Annual Meeting, January 6-10, 2009, San Diego, CA
- AALS Workshop for New Law School Teachers, June 25-29, 2008, Washington, DC
- Public Interest Environmental Law Conference, March 1-4, 2007, University of Oregon School of Law

PRACTICAL EXPERIENCE

Sequoia ForestKeeper, Kernville, CA (telecommuted from Oregon during LL.M. work)
Legal Director, January 2007 – March 2008
Managed legal program for non-profit organization working to protect the Sequoia National Forest and Giant Sequoia National Monument. Work included drafting comment letters and administrative appeals, planning and implementing litigation strategies, responding to various legal questions from

the executive director, hiring and supervising law student interns, and attending related conferences.

New York County District Attorney's Office, New York, NY
Assistant District Attorney, August 2002 – November 2005
Investigated and prosecuted large caseload, negotiated plea deals, presented over a hundred cases to grand juries, had dozens of court hearings and eight trials, all solo. In addition to prosecuting a broad spectrum of felonies, had partial specialization in domestic violence cases.

The Honorable Faith S. Hochberg, District Judge
United States District Court for the District of New Jersey (Newark)
Law Clerk, 2001-2002

The Honorable Norman H. Stahl, Circuit Judge
United States Court of Appeals for the First Circuit (Boston)
Law Clerk, 2000-2001

McCutchen, Doyle, Brown & Enersen, San Francisco, CA
Associate, 1999-2000; Summer Associate, 1998
Conducted legal research and drafted briefs, complaints, answers, and internal memoranda. Did a significant amount of pro bono work, including constitutional matters.

Jenner & Block, Chicago, IL
Summer Associate, 1997
Conducted legal research and drafted internal memoranda. Worked on pro bono death penalty case that resulted in a reduction to a life sentence. Received an offer of permanent employment.

Equal Employment Opportunity Commission, Washington, DC
Intern Investigator, Summer 1994 & Winter 1994-95
Investigated possible Title VII violations through witness interviews, document requests, and other tools. Drafted the Commission's determination of each case based on that research.

PUBLIC SERVICE

Conservation Biology
March 2012 & January 2013: Reviewed article for peer-reviewed scientific periodical

AALS Section on Natural Resources and Energy Law
2013-14: Treasurer
2012-13: Executive Committee Member

AALS Section on Environmental Law
2012-14: Executive Committee Member

ABA Section of Environment, Energy, and Resources, Endangered Species Committee
2011-2013: Committee Chair (Co-chair 2012-13)
2011 & 2012: Summer Diversity Fellowship selection committee member
2010-2011: Vice Chair for Quick Teleconferences

AALS House of Representatives
2010-2013: Elected Law School Representative for University of Akron School of Law

New York County District Attorney's Office, Community Affairs
2002-2005: Taught the office's public interest curricula in Manhattan schools, provided on-site lectures and tours for groups, either judged or coached for many mock trials, was involved in mentor program for middle school children.

San Francisco Bar Association, Volunteer Legal Services Program
Volunteer Attorney, Summer 2000
Represented tenants on a pro bono basis in eviction defense cases.

Governor's Blue Ribbon Panel on Hate Groups
Deputy Counsel, Fall 1999
Conducted interviews and other research related to combating hate activity. Reported and discussed results at regular meetings of the Panel, chaired by Warren Christopher and George Deukmejian. Drafted portions of the Panel's final report and recommendations to Governor Gray Davis.

San Francisco Homeless Advocacy Project
Advocate, Summer 1998
Represented an indigent man in his administrative appeal after he was denied disability benefits.

Human Rights Advocates
Intern, Spring-Summer 1998
Drafted written statement for the NGO to submit to the United Nations Human Rights Commission.

ADDITIONAL INFORMATION

Bar Admissions: California, New York, and the U.S. District Court for the Eastern District of California.

Teaching: I have conducted at least one educational field trip for every course ever taught, including summer courses. I have found this to be incredibly valuable to my students, as well as a great experience for all of us. I take my Criminal Law students on a trip to New York City for an insider's tour of the criminal justice system there (where I was once a prosecutor). My environmental courses typically tour wetland restoration projects with instruction by professors in related disciplines as well as professionals working with the projects.

World Travel: I have traveled to all seven continents, including dozens of countries, and have twice published in the travel section of the London Independent. These travels often included significant wildlife viewing, either by safari or scuba diving, which fueled my interest in biodiversity. My 2004 Antarctica trip (the final continent) resulted in the decision to transition into Environmental and Natural Resources Law.

Geographic Background: I was born in San Francisco and spent sizable portions of my early childhood in India. We settled down in Berkeley around my ninth birthday, and I stayed there through college and beyond.