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New Report from LLM Program Analyzes Low-Income Minority Residents’ Access to East Bay Parks

By Jill Goetz

Access to Parkland: Environmental Justice at East Bay Parks, a new report published by the LLM in Environmental Law Program’s City Parks Project, is the first comprehensive published analysis of access by low-income minority residents to the parkland holdings of the East Bay Regional Park District (“East Bay Parks”).

Access to Parkland reviews published and unpublished reports on access to and usage of the East Bay Parks’ holdings, which include nearly 100,000 acres in Alameda and Contra Costa counties east of San Francisco Bay. The report is also based on interviews and meetings with senior staff at East Bay Parks and other interested parties. The report was funded by grants from the East Bay Community Foundation, As You Sow Foundation of San Francisco, and Potrero Nuevo Fund.

“We examined the existing data in terms of user surveys, census demographic information, and anecdotal internal reports prepared by the staff of East Bay Parks,” says the report’s author, GGU Adjunct Professor Paul Kibel, who directs the LLM Program’s City Parks Project. “That data and information, though far from complete, revealed some common themes. Our report provides an integrated overview of this information and the inferences that can be drawn in terms of which parks are being used by whom and why.”

Access to Parkland focused on the East Bay Regional Parks District system because it is the largest (in acreage) of any public park system in the immediate San Francisco Bay Area, Kibel notes, and was not based on any assumptions regarding racism by East Bay Parks or its supporters. “The purpose of this report is to facilitate a more frank and vigorous public dialogue about who can or cannot readily reach (and therefore readily use) parkland managed by East Bay Parks,” he writes in the introduction.

THE REPORT’S KEY FINDINGS INCLUDE:

- Low-income minority communities are predominantly located in the East Bay “flatlands,” especially flatland portions of Oakland, Richmond, Berkeley, Hayward, and Fremont, whereas affluent communities are primarily located at higher elevations and on hillsides. The majority of East Bay Parks’ acreage is located on the hillsides, near and around affluent White neighborhoods.

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Helen Kang Named ELJC Acting Director

School of Law Associate Professor Helen Kang, who has led the GGU Environmental Law and Justice Clinic (ELJC) to many important victories on behalf of its clients, was appointed the clinic’s acting director in August.

Before joining the law school in 2000, Kang was a trial attorney with the Environmental Enforcement Section of the US Department of Justice and a partner in the San Francisco law firm of Goodman Kang. She holds a BA from...
Recent Graduate Ashling McAnaney Named Clinic Graduate Fellow

Ashling Power McAnaney (JD 07), who as a GGU law student participated in the Honors Lawyering Program and served on the Editorial Board of *Golden Gate University Law Review*, is the 2007–08 Graduate Law Fellow with the GGU Environmental Law and Justice Clinic.

“The one-year fellowship provides a great opportunity to our recent graduates to practice public interest law,” says Associate Professor Helen Kang, acting director of the Environmental Law and Justice Clinic. “Fellows see first-hand how an environmental justice law firm works, while they practice their craft by providing legal services to our deserving clients and helping our wonderful students in the clinic. Ashling will bring her unique blend of thoughtfulness and productivity to the clinic, which will do much for our ability to serve our clients.”

“I am thrilled to be the Graduate Fellow for the Environmental Law and Justice Clinic,” McAnaney says. “I came to Golden Gate with the desire to practice plaintiff-side environmental litigation. Working in the ELJC as a student was a profound experience for me because I saw that students and clients working together could get much-needed results and relief. I look forward to being part of this team again, and I am grateful for the fellowship because it is both a fulfilling job and an opportunity to gain the skills and experience I will need to forge a career in environmental law.”

A Day at the Beach

Environmental Law Society members (from left) Amanpreet Kaur, Monique Preoteas, and chapter president and vice president Lucas Williams and Eric Hoffman participated in California Coastal Cleanup Day on Saturday, September 20, at a typically foggy Ocean Beach in San Francisco. Nearly 500,000 volunteers turned out at over 700 beaches up and down the California coastline to pick up trash in the event sponsored by the California Coastal Commission.

Golden Gate University School of Law Presents:

“Environmental Justice 25 Years after Warren County”

The 2007 GGU Environmental Law and Policy Symposium

(5 MCLE Credits Available)

Friday, Nov. 16, 2007, 9am – 5pm, Room 2203, GGU, 536 Mission Street, San Francisco

Featuring Keynote Address by Dr. Robert Bullard, author of *Dumping in Dixie: Race, Class, and Environmental Quality*

Topics include Breuner Marsh in Richmond; environment and labor; disproportionate air pollution impacts; environmental justice at state and federal agencies; and more.

Cosponsored by the As You Sow Foundation; Environmental Law Section, State Bar of California; Center on Race, Poverty and the Environment; Cornerstone Earth Group; Environmental Law Section, Bar Association of San Francisco; and Fitzgerald Abbott & Beardsley LLP.

Cost is $60 for MCLE credit, $30 for non-credit; free for students with valid ID. To preregister, contact Shayne Weston at 415-442-7234 or sweston@ggu.edu. Registration fees collected day of event.
Impacts of Global Warming on Toxic Waste Sites Theme of Summer Symposium

By Eric Hoffman

In June, representatives from community-based organizations, research institutions, and government entities, including the California Climate Change Research Institute and the Environmental Protection Agency, spoke at a day-long symposium, “Global Warning: Toxins @ Bay,” held on the Golden Gate University School of Law campus. The symposium was sponsored by Citizens’ League for Environmental Action Now (CLEAN), a conservation organization based in Brisbane, California.

Presenters discussed the problems the Bay Area may face if sea levels rise as predicted in the next 50 years due to global warming. The presenters noted the very real threat that toxins from local brownfields and landfills could flood San Francisco Bay if precautionary measures are not taken.

Speakers and audience members discussed potential solutions, such as building sea walls to contain the toxins; but the focus of the symposium was on more creative solutions, such as cleaning up toxic waste sites and landfills and constructing wetlands. The symposium ended with a call for citizens to take action to hold brownfield producers liable for cleanup and to urge policymakers to address global warming proactively.

Presenters included Guido Franco of the California Climate Change Research Institute; Michael Warburton, Public Trust Alliance; Harold A. Ball, Environmental Protection Agency; Peter Strauss, PM Strauss & Associates; Jane Williams, California Communities Against Toxics; and Bradley Angel, Greenaction for Health and Environmental Justice.

“This symposium offered a rare opportunity for Bay Area residents to learn more about how global warming might increase their exposure to toxins leaching from waste sites,” says Dana Dillworth, director of CLEAN and a longtime wetlands advocate in Brisbane. “Presenters explored how we can protect ourselves and our estuaries from the migration of toxins in groundwater and, with attendees, called for innovative, effective, and natural solutions so that we don’t pass this problem on to future generations.”

The symposium was cosponsored by the Golden Gate University School of Law Environmental Law and Justice Clinic. Additional support was provided by the Silicon Valley Community Foundation, Clean Water Action, California Communities Against Toxics, Brisbane Baylands Community Advisory Group, and San Bruno Mountain Watch.

Eric Hoffman is a third-year student in the School of Law and vice president of the GGU Environmental Law Society.

Law School Publishes Inaugural Issue of GGU Environmental Law Journal

By Michael Minkus

The Golden Gate University Environmental Law Journal (ELJ) has printed its first issue, titled 1982 Warren County Protests: Environmental Justice Twenty-Five Years Later. The issue discusses the past, present, and future of environmental justice. The title refers to the 1982 protests opposing the siting of a disposal facility for toxic polychlorinated biphenyls (“PCBs”) in Warren County, North Carolina—a largely low-income, African-American area. The protests are now recognized as a watershed event.

The Warren County issue features eight articles from environmental justice scholars and three student pieces. The ELJ is hosting a symposium on the Warren Country protests with GGU’s Environmental Law and Justice Clinic, on November 16 at the GGU School of Law. The symposium has been certified for 5 MCLE credits. The keynote speaker will be Dr. Robert Bullard, author of the seminal Dumping in Dixie: Race, Class, and Environmental Quality (Westview Press 2000). (See symposium ad on page 2.)

The ELJ will publish two editions each academic year: a winter Pacific Region edition and a summer edition on the topic of the fall symposium the following November. The 2008 Symposium Edition is titled The West’s Aging Dams: Retain or Remove? and contemplates dam removal as many of the dams licensed when they were built are coming due for license renewal. Please keep the ELJ in mind for your submissions this coming summer and fall, and look for the upcoming Pacific Region and Symposium editions of the journal. Visit the ELJ on the GGU Law Library’s site for subscription information and table of contents for each issue.

Michael Minkus is a third-year law student at GGU and editor of the GGU Environmental Law Journal.
Staff Attorney Helen Kang ... continued from page 1

Yale College and received her JD from the University of California, Berkeley School of Law.

At GGU, Kang has taught the Environmental Law and Justice Clinic seminar and been an extremely dedicated educator and advocate. Some of her recent successes with the ELJC include serving as lead attorney on a case representing Oakland, California–based Communities for a Better Environment against Pacific Steel Casting Company, which operates a steel casting foundry in West Berkeley, California. In February, the company settled with Communities for a Better Environment and agreed to reduce air pollution from the foundry.

Kang also was the clinic’s lead lawyer in a case brought by citizen groups in Northern California, who charged that Evergreen Pulp Mill Inc.’s pulp mill, located near Eureka, was violating clean air act standards. In March, the company settled with the plaintiffs and agreed to install pollution control equipment and take other steps to reduce toxic emissions.

The clinic was formerly led by Professor Alan Ramo, who is now teaching full-time while leading the JD and LLM environmental law programs, while Professor Cliff Rechtschaffen is on temporary leave. (See story at right.)

SPEAKING WITH...
Professor Cliff Rechtschaffen, Special Assistant to the Attorney General on Climate Change

By Jill Goetz

This summer, Professor Cliff Rechtschaffen was named special assistant to California Attorney General Edmund G. (“Jerry”) Brown Jr. on climate change issues. A noted author on environmental law and policy and former Fulbright scholar who has directed the law school’s JD environmental law program, Rechtschaffen is on leave from the university to work directly with the attorney general on issues relating to implementation and enforcement of California’s statutes and regulations aimed to reduce greenhouse gas emissions. Professor Alan Ramo, who has led GGU’s Environmental Law and Justice Clinic for the past 14 years, has moved into full-time teaching and is serving as acting director of the JD Environmental Law Program in Rechtschaffen’s absence while he also directs the LLM Environmental Law Program.

Golden Gate University Environmental Law News (ELN) recently touched base with Cliff Rechtschaffen a few months into his tenure at the attorney general’s office.

ELN: Is your position a new position within the attorney general’s office?

CR: Yes. The position was created to help coordinate and oversee the work of the attorney general on issues relating to climate change policy and enforcement. The office has been doing so much work in this area, and the attorney general is intensely interested and involved in it. He needed someone not immersed in the day-to-day work of litigation to help oversee the work that the office is doing and to help chart new policy directions.

ELN: What are your primary responsibilities?

CR: I do special projects and policy work; I don’t handle actual case work. I work closely with [Supervising Deputy Attorney General and GGU Law Adjunct Professor] Ken Alex, who has handled many of the office’s global warming cases. Ken and others supervise the actual litigation; I work on the policy aspects of the AG’s work on climate change.

ELN: Describe a typical day as Jerry Brown’s right-hand man on climate change.

CR: Hectic. I spend a substantial amount of time briefing the attorney general before he speaks publicly on issues relating to climate change. On days when we are briefing the AG, it is very intense; you’ve got to be really “on,” as focused as you would be if you were in federal court.

Our office has been writing many comment letters under CEQA [the California Environmental Quality Act] arguing that local governments need to consider the impacts of greenhouse gas emissions when they approve major projects. I’ve been very involved in the process of reaching out to local officials, environmental groups, and developers to help people understand what agencies should be doing in terms of land use and transportation planning.

I’ve also done a fair amount of traveling within the state: in the short time I’ve been here, I’ve already traveled—at least once—to Fresno, Sacramento, San Ramon, San Jose, and Pebble Beach. [Rechtschaffen works in the Department of Justice’s downtown Oakland offices.]

Staff Attorney Helen Kang ... continued from page 1

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What is Jerry Brown like to work with?

The AG is very interesting to work with. He thinks way outside the box; he’s a very original thinker, challenging and demanding. He questions everything. His style reminds me of the Socratic method often used in teaching law students. Jerry Brown thinks in terms of the big picture. I have a solid theoretical understanding of environmental law, having taught it for 14 years—but I think that I’m also pragmatic: my scholarship has focused on issues of concern to practitioners, and I’ve also gained extensive practical experience working with Golden Gate’s Environmental Law & Justice Clinic. So I think it’s helpful to the AG that I have both a theoretical and real-world, practical approach to addressing climate change and other environmental law issues.

Campus politics aside, are you new to the political arena?

Well, I worked in the California AG’s office back in the 1980s and early 1990s handling environmental litigation, before I came to GGU. And before law school I worked as an aide for a US senator. But now I’m at a much higher level of involvement, on a much bigger stage.

I feel very fortunate to be a part of the AG’s efforts at this critical time. AB 32 [California’s pioneering global warming legislation] doesn’t go into full effect until 2012. We don’t have time to wait that long. That is a large part of what is motivating the AG to act now, and motivating the work that we’re doing. As a society, we don’t want to be investing in inefficient, fossil fuel-dependent projects that will be with us like an albatross around our necks for the next 30 years.

How optimistic are you that we can stop global warming?

I’m optimistic in the sense that we’ve made dramatic turns for the better just in the past two years. But we’re not at the point yet where we have the overwhelming public support and commitment that we need.

Anything you don’t like about your position in the attorney general’s office?

I miss my students. But I’m still in touch with them all the time, helping them when they apply for jobs, and a few have already popped over to visit for coffee or lunch. I also work with GGU Law alumni on a regular basis: for example, I’m now working with Angela Lipanovich (JD 06), general counsel for Akeena Solar, and Tim O’Connor (JD 07), a climate policy analyst with Environmental Defense, on projects. So I’m still in regular contact with members of GGU’s extended family.

Other than that, I’m very happy. It’s an honor and a great responsibility to be working so closely with the attorney general on such a critical issue at such a critical point in time.

And I get to ride my bike to work.

Environmental Attorneys and Scientists Participate in Fall Careers Program

By Lucas Williams

On August 30, Bill Wick of Wactor & Wick LLP was the first lecturer in the GGU Environmental Law Society’s fall 2007 “Careers in Environmental Law” speaker series. Wick discussed his dynamic career in environmental law, having worked for the public and private sectors, including at the US Environmental Protection Agency and Fortune 500 companies. Students were particularly interested in Wick’s experience working for the government and his suggestion that working for the EPA is a great way to gain experience before attempting to find a public interest job.

On September 20, Arthur Feinstein, former director of the Golden Gate Audubon Society, discussed his career in environmental land use disputes in the Bay Area. Feinstein gave an overview of his 25 years of experience in protecting wetlands and endangered species from development. Because he is a scientist, not a lawyer, Feinstein provided an interesting perspective on the limits of litigation in protecting the environment from development and suggested that negotiation is often more effective than lawsuits.

On September 27, Law Career Services and the GGU Environmental Law Society presented a panel of four GGU Law alumni working in environmental law. The panelists included Pam Palitz of Oakland-based California League for Environmental Enforcement Now (CLEEN), Holly Bressett (JD 07) of Sierra Club, Pouneh Ghaffarian (JD 05) of California Public Utilities Commission, and Lynne Saxton (JD 02) of the Environmental Law Foundation. The discussion was moderated by Visiting Assistant Professor Brent Plater of the Environmental Law and Justice Clinic.

Lucas Williams is a second-year law student at GGU and president of the GGU Environmental Law Society.
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- Although data on the income and racial profile of users of East Bay Parks are limited, the existing data clearly demonstrate that users at specific parks tend to reflect the surrounding community and that the percentage of low-income minority visitors to hillside parks is small.
- East Bay Parks’ hillside holdings are often inaccessible to low-income minority residents. Part of this problem relates to inadequate transit options. Many low-income minority residents do not own cars, and public transit options to reach parks remain limited.

RECOMMENDATIONS FOR EAST BAY PARKS INCLUDE:

- Undertake a process of review, hearings, and recommendations through its Public Advisory Committee to address the problem of inequitable access to its holdings.
- Reassess its mission of preserving large-acreage wildlands to better incorporate the goal of improving access to its holdings by low-income minority residents.
- Become more involved in working with public transit agencies (e.g., AC Transit, BART, MTA) to improve access to holdings, perhaps attempting to establish and/or increase routes between certain communities and parks.
- Collaborate more closely with city park agencies, perhaps by creating joint power authorities to include other agencies in addressing access to East Bay parklands.

Kibel, who when not teaching at GGU is director of Policy West, a public policy consultancy, and of counsel to the environmental/land use practice group at the Oakland-based law firm of Fitzgerald Abbott & Beardsley LLP, says Access to Parkland was inspired in part by the influential 1987 report Toxic Wastes and Race by the Commission for Racial Justice. “In terms of environmental justice analysis, Access to Parkland seeks to do for parkland issues what Toxic Wastes and Race did for hazardous waste issues,” Kibel says. “That report helped open up a national dialogue on the issue of inequitable burden of toxic emissions on low-income minority residents in the United States and provided a methodology for examining these inequities that was broadly replicated. Open space and parks are now emerging as an important new environmental justice concern. The analytical approach taken in the Access to Parkland report could be employed in equity evaluations of park management agencies around the country.”

Access to Parkland: Environmental Justice at East Bay Parks can be viewed online at www.ggu.edu/law.

Jill Goetz is director of publications and media relations for the School of Law.

Focus the Nation

During January 2008 as a part of “Focus the Nation,” the GGU Environmental Law Society (ELS) will be hosting a series of lectures, debates, and town hall meetings to raise awareness about solutions to climate change. A discussion with Claudia Polsky of California’s Department of Justice will kick off the events. Polsky will discuss her efforts to “green” the DOJ facilities. Additionally, ELS’s ‘Focus the Nation’ outreach committee will visit a local Berkeley high school to discuss the science and law behind climate change with students participating in an after-school program. Programming also includes the fourth annual Bay Area Water Law Symposium on Saturday, January 26, co-chaired by GGU’s ELS, which will center on the effects of climate change and drought on California’s water supply.

Environmental Law News is published by the Golden Gate University School of Law.

Editor: Jill Goetz

Contributors: Robert Byrne, Michael Minkus, Lucas Williams, Eric Hoffman

For more information, contact Professor Alan Ramo at aramo@ggu.edu or 415-442-6654.

The School of Law is fully accredited by the American Bar Association (ABA). In December 2005 the ABA placed Golden Gate Law’s accreditation on probationary status because of a low first-time passage rate on the California bar exam. While on probation the law school remains fully ABA accredited, and all students who enter and/or graduate during this period are considered to have graduated from an ABA-accredited law school.

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In late August, GGU Adjunct Professor Robert Byrne (LLM 02) and students in his Energy and Environmental Law class attended a speech on energy policy by German Foreign Minster Frank-Walter Steinmeier. Steinmeier, an attorney who has practiced in Frankfurt am Main and in Giessen, Germany, discussed the urgency for a closer trans-Atlantic partnership between the United States and Europe to combat climate change and to prevent global conflicts over scarce energy resources in the North Atlantic and Asia. His speech was held at the Intercontinental Mark Hopkins Hotel in San Francisco and co-sponsored by the World Affairs Council of Northern California, the Commonwealth Club of California, and the Consulate General of the Federal Republic of Germany. “Foreign Minister Steinmeier’s speech highlighted many of the issues covered in our study of energy law and provided an opportunity for students to appreciate how these issues are being addressed in a global context,” says Byrne, deputy attorney general in the Natural Resources Law Section of the California Department of Justice. “I am very thankful to the consul general of the Federal Republic of Germany, Herr Rolf Shuette, for having me and my law students as his guests for this important event.”

Kimberly Chew (JD 07) is the author of an article, “Tax Implications of the CSI: Go Solar This Year!” in the summer 2007 issue of the State Bar of California Environmental Law Section newsletter Environmental Law News. In the article Chew addresses the tax implications of the California Solar Initiative, a 10-year economic program implemented earlier this year to encourage the use of solar energy technology, particularly photovoltaics. The article concludes that the initiative’s incentives will be greatest initially and should be taken advantage of sooner rather than later. Chew is working as a postgraduate law clerk with Beyond Compliance, an environmental consulting firm in Oakland.

Robert Byrne (LLM 02) is an adjunct professor in the law school and deputy attorney general in the California Department of Justice.
ELS Distributes Low-Energy Lightbulbs

As a part of its participation in “Focus the Nation” (see story on page 6), the GGU Environmental Law Society gave away free CFL light bulbs during the first two weeks of October to GGU students, faculty, and staff. These energy and CO₂-reducing bulbs were donated by Lights Out San Francisco, where recent graduate Brendan Devlin (JD 07) is employed. Lights Out is a nonprofit that organized the highly successful effort to get San Franciscans to turn off all non-essential lighting from 8 to 9 pm on October 20. The CFL giveaway was also a success; ELS handed out more than 300 bulbs and engaged in dialogue about saving energy and reducing greenhouse gases with many students and staff.