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Regulatory Takings and Resources: What Are the Constitutional Limits? (Summer Conference, June 13-15)

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AGENDA: Regulatory Takings and Resources: What Are the Constitutional Limits?

University of Colorado Boulder. Natural Resources Law Center

Byron R. White Center for the Study of American Constitutional Law

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Natural Resources Law Center
and the
Byron R. White Center for American Constitutional Study
University of Colorado School of Law

**Regulatory Takings and Resources:
What Are the Constitutional Limits?**

June 13-15, 1994

Monday, June 13, 1994

- 8:00 a.m. Registration and coffee
- 8:30 **Welcome and Overview**
Dean Gene R. Nichol, University of Colorado School of Law
Larry MacDonnell, Natural Resources Law Center
- 8:40 **The Law of Takings: An Introduction**
Professor Carol M. Rose, Yale Law School, New Haven
- 9:30 **Issues in Regulatory Takings**
Professor J. Peter Byrne, Georgetown Univ. Law Center, Washington, DC
- 10:30 **City of Tigard and Takings Law**
Professor Richard Lazarus, Washington University School of Law, St. Louis
- 11:00 **Perspectives on Takings Law: a Panel**
Dean Gene Nichol, Moderator
Carol Rose
Peter Byrne
Richard Lazarus
- 12:15 Lunch
- 1:20 p.m. **Takings Issues: A Department of Justice Perspective**
Peter Coppelman, Deputy Assistant Attorney General for Environment & Natural Resources Division, Department of Justice, Washington, DC
- 2:00 **Takings and Retroactivity**
Professor Jan Laitos, University of Denver College of Law
- 2:45 Break
- 3:05 **Wetlands Regulation and Takings**
Fred Bosselman, Professor of Law, Chicago-Kent Law School
Virginia Albrecht, Beveridge & Diamond, Washington, DC
Jon Kusler, Association of State Wetland Managers, Berne, NY
- 5:00 End of day
- 6:00 Cookout on Flagstaff Mountain

Tuesday, June 14, 1994

- 8:30 **Mining Regulation and Takings**
Mark Squillace, Professor of Law, University of Wyoming
Tom Galloway, Galloway and Associates, Washington, DC
Larry McBride, Freedman, Levy, Kroll & Simonds, Washington, DC
- 10:25 **Regulation of Public Resources and Takings**
Professor Brian Gray, Associate Dean, U. of California, Hastings College
of the Law
Mark Pollot, Keck, Mehin & Cate, San Francisco
Jerome C. Muys, Will & Muys, Washington, DC
- 12:00 Lunch (on your own)
- 1:45 **What a Federal Natural Resources Management Agency Can Do to Avoid
Takings**
John D. Leshy, Solicitor, Department of the Interior
- 2:50 **Endangered Species Act and Takings**
Robert Meltz, Congressional Research Service
Professor Oliver Houck, Tulane School of Law, New Orleans
John A. Macleod, Crowell & Moring, Washington, DC
- 5:00 End of Day -- Reception

Wednesday, June 15, 1994

- 8:30 **Regulation of Water Use and Takings**
David H. Getches, University of Colorado School of Law
Richard Frank, California Attorney General's Office
Barton H. Thompson, Jr., Professor of Law, Stanford Law School
- 10:50 **Legislative Approaches to Takings Issues**
John Echeverria, National Audubon Society, Washington, DC
Nancie Marzulla, Defenders of Property Rights, Washington, DC
- 12:00 Lunch (on your own)
- 1:15 **Management Approaches to Addressing Takings Issues**
James Lochhead, Executive Director, Colorado Department of Natural
Resources, Denver
I. Michael Heyman, Department of the Interior, Washington, DC
Gary Guzy, Deputy General Counsel, U.S. Environmental Protection
Agency, Washington, DC
- 3:00 End of Program

**REGULATORY TAKINGS & RESOURCES:
WHAT ARE THE CONSTITUTIONAL LIMITS?**

June 13-15, 1994

CONFERENCE ORGANIZERS

DAVID H. GETCHES (A.B. Occidental College, 1964; J.D. University of Southern California, 1967) is Professor of Law at the University of Colorado School of Law, teaching environmental, water, public land, and Indian law. He has published several books, including Searching Out the Headwaters: Change and Rediscovery in Western Water Policy, with Bates, MacDonnell, and Wilkinson (1993), Controlling Water Use: The Unfinished Business of Water Quality Control, with MacDonnell and Rice (1991), Water Law in a Nutshell (1990), and Water Resource Management, with Meyers, Tarlock and Corbridge (1993). He served as Executive Director of the Colorado Department of Natural Resources from 1983-86. He was the founding Executive Director of the Native American Rights Fund (NARF) in Boulder and has litigated Indian water law cases. He serves on the boards of the Grand Canyon Trust, the Land and Water Fund of the Rockies (LAW Fund), and the Rocky Mountain Mineral Law Foundation. He spent the academic year 1989-90 living and working in Costa Rica under a Ford Foundation grant, providing assistance to non-profit organizations dedicated to the pursuit of sustainable use of natural resources, and helping to establish CEDARENA, a center for natural resources and environmental law.

LAWRENCE J. MacDONNELL (B.A. 1966, University of Michigan; J.D. 1972, University of Denver, Ph.D. 1975, Colorado School of Mines) is Director of the Natural Resources Law Center and an adjunct professor at the University of Colorado School of Law, where he is currently teaching a Public Lands Seminar. He has taught at the Colorado School of Mines and the University of Denver and has been a research economist at the Denver Research Institute. He is presently at work on a book about irrigated agriculture in the western U.S. He is a co-author of the forthcoming Island Press book, Searching Out the Headwaters: Change and Rediscovery in Western Water Policy. He is also co-editor of Natural Resources Policy and Law: Trends and Directions (Island Press, forthcoming 1993), in which he has authored a chapter, "Mineral Law in the United States: A Study in Legal Change," and co-authored a chapter, "Rethinking Resources: Reflections on a New Generation of Natural Resources Policy and Law." He has numerous other publications in the field of western water law and policy.

GENE R. NICHOL, JR. (B.A. '73, Oklahoma State University; J.D. '76, University of Texas) has been Dean and Professor of Law at the University of Colorado School of Law since 1988. Specializing in Constitutional Law, he was Cutler Professor and Director of the Institute of Bill of Rights Law at William & Mary from 1985-88. Formerly he taught at West Virginia University (1978-84) and the University of Florida (1984-85), and he was an Associate with Ely, Guess & Rudd in Anchorage (1976-78). Recent lectures and publications include: "Justice Scalia, Standing and Public Law Litigation," Duke Law Journal (1993); "Is There a 'Law' of Federal Courts?" West

Virginia Law Review (fall 1994); and "Constitutional Judgment," Michigan Law Review, Vol. 91. Within the last year he has given more than 50 speeches and lectures on constitutional law, legal education and the legal profession to various organizations. He serves on the Judicial Advisory Committee of the State of Colorado and was elected the first chair of the University of Colorado System-wide Council of Deans.

FACULTY

VIRGINIA S. ALBRECHT (B.A. University of Wisconsin; M.A. University of Pennsylvania; J.D. Vanderbilt University) is a partner in Beveridge & Diamond's Washington, DC office, practicing primarily in the field of wetlands, endangered species, and private property rights. She represents developers, major industrial corporations, and state and local governmental agencies, among others. She handles permitting matters and enforcement cases and has also been involved in federal-state comprehensive planning efforts, advance identifications and "veto" cases under Section 404(c) of the Clean Water Act and Section 7 consultation, listing proposals and habitat conservation planning under the Endangered Species Act. She has litigated some of the landmark wetlands and endangered species cases, including Bersani v. Robichaud, Hoffman v. EPA, and Marin Audubon Society v. FDIC. She is on the associate faculty of the Lincoln Institute of Land Policy.

FRED P. BOSSELMAN (A.B. University of Colorado, '56; J.D. Harvard Law School) became a Professor at the Chicago-Kent College of Law in 1991 after an extensive career in private practice. From 1983-91 he was a partner with Burke, Bosselman & Weaver, with offices in Boca Raton, Florida and Chicago. Previously he was with the Chicago firm Ross & Hardies (1959-83). He has written extensively, including "Four Land Ethics: Order, Reform, Responsibility, Opportunity," Environmental Law, 1994; "Protecting Resources under the Scalia Regime," Land Use Forum, 1993; "Planning to Prevent Species Endangerment," 1992. Very recently, at the CLE International Conference in San Diego in May 1994, he presented a talk on "Wildlife Conservation under California's Natural Community Conservation."

J. PETER BYRNE (B.A. Northwestern University, '73; M.A. '75, and J.D. '79, University of Virginia) became Professor of Law at the Georgetown University Law Center in 1985, after practicing with the Washington, DC, law firm of Covington & Burling. He served as a law clerk with the Honorable Lewis F. Powell, Jr., of the U.S. Supreme Court, and also with the Honorable Frank Coffin, Chief Judge, U.S. Court of Appeals for the First Circuit in Portland, Maine. He has written in diverse areas of law, including academic freedom and law reform in Estonia. He has testified before Congress on H.R. 561, the Private Property Protection Act (1993), and H.R. 1845, the National Biological Survey Act, (1993). He also co-authored the brief of the National Audubon Society, Dolan v. City of Tigard, No. 93-518 (U.S.) and the brief of the U.S. Conference of Mayors, et al., Lucas v. South Carolina Coastal Commission, 112 S. Ct. 2886 (1992).

JOHN D. ECHEVERRIA (Yale Law School, '81 and the Yale School of Forestry and Environmental Studies) is General Counsel of the National Audubon Society. At Audubon he directs the Society's environmental litigation and legal policy program, including the Society's project on Property Rights and the Environment. He served as a law clerk to the Honorable Gerhard A. Gesell and as associate in the Washington, DC office of Hughes, Hubbard & Reed. Prior to joining Audubon in 1991, he served as General Counsel and Conservation Director of American Rivers, the national river conservation organization. He is the author of numerous publications on the "takings" issue and other environmental subjects, including "Let the People Judge: The Wise Use and Property Rights Movement," to be published by Island Press later this year.

RICHARD M. FRANK (B.A. University of California at Santa Barbara, '71; J.D. University of California at Davis, '74) joined the California Department of Justice in 1977 after serving as a staff attorney with the Federal Energy Administration in Washington (1974-76) and the California Energy Commission (1976-77). He currently serves as Supervising Deputy Attorney General of the Land Law Section in Sacramento, whose staff represents the Coastal Commission, State Lands Commission, San Francisco Bay Conservation and Development Commission, and the California Resources Agency. His litigation experience includes on behalf of the State of California and other state amici in most of the takings litigation before the U.S. Supreme Court over the past 15 years, numerous federal inverse condemnation cases, and substantial state and federal court litigation over the nature and scope of the public trust doctrine. He prepared an amicus curiae brief on behalf of Governor Wilson and the State of California in Lucas v. South Carolina Coastal Council. He also serves as a Professor of Law at the University of California at Davis and at Lincoln Law School in Sacramento.

TOM GALLOWAY (B.A. '67, Florida State University; J.D. '72, University of Virginia School of Law) practices public interest law at Galloway & Associates in Washington, DC, representing environmental organizations, citizens groups and workers. Clients include the National Wildlife Federation, Sierra Club, Friends of the Earth, United Mine Workers of America, Trout Unlimited, National Audubon Society, and the Natural Resources Defense Council. He has had an extensive public interest career, first with the firm Jones, Day, Reavis & Pogue (general federal regulatory practice, 1973-75), then as an attorney with the Center for Law and Social Policy, where he founded the Mining Project (1975-81). He also served as Attorney of Counsel with Harmon & Weiss (1981-82), and was a partner with Galloway & Greenberg (public interest practice, 1982-91). Publications include: The American Response to Revolutionary Change: A Study of Diplomatic Recognition (1978); and "The Surface Mining Control and Reclamation Act of 1977; The Citizens Ace in the Hole," N. Ky. Law Rev. (1981).

BRIAN E. GRAY is a Professor of Law at the University of California, Hastings College of the Law, in San Francisco, where he teaches Water Resources, Federal Public Lands and Natural Resources, Environmental Quality, and American Indian Law. Professor Gray's most recent publications include: "The Market and the Community: Lessons from California's Drought Water Bank," 1 West Northwest 17 (1994); "The Modern Era in California Water Law," 45 Hastings L.J. 249 (1994); and "Promises from a Distant Past," Constitution, Vol. 5, No. 2, at 60 (1993). He also has represented the Natural Resources Defense Council in the three principal cases that he will discuss during his presentation.

I MICHAEL HEYMAN (A.B. Dartmouth; J.D. Yale Law School) became in June 1993 Counselor to the Secretary and Deputy Assistant Secretary for Policy for the Department of Interior, responsible for policy, environmental affairs, and special assignments. In November 1993 he was designated to head the Clinton Administration's review of Guam Commonwealth. Previously he was active in educational legal activities, including a 10-year tenure as Chancellor at the University of California at Berkeley, professorships at the Yale, Stanford, and U.S. Berkeley law schools, and service as the chief law clerk for the former Chief Justice of the U.S. Supreme Court, Earl Warren. He is considered a leading scholar on civil rights, constitutional law, affirmative action, metropolitan government, environmental law and management, housing and public land law.

PROF. OLIVER HOUCK (Harvard College, '60; Georgetown Law Center, '67), has taught at Tulane Law School since 1981 - as Full Professor since 1986 - teaching Environmental Law, Natural Resources Law, Criminal Procedure, Wildlife, Coastal Zones, Toxics and Hazardous Wastes, Water Resources, and International Environmental Law. Formerly he served with the National Wildlife Federation as General Counsel and as Vice President for Conservation and Education (1971-81). Before that he was Assistant U.S. Attorney, Office of the U.S. Attorney for the District of Columbia, Washington, DC (1968-71). He served in Military Intelligence with the U.S. Army (1961-64) and as Military Capabilities Analyst with the U.S. Department of Defense (1964-66). He has litigated, researched and published widely, including most recently: "The Secret Opinions of the U.S. Supreme Court on Leading Cases in Environmental Law, Never Before Published!" (accepted for publication 1994, Colorado Law Review); "Of Bats, Birds and BAT: The Convergent Evolution of Environmental Law," Mississippi Law Journal (spring 1994); and a book review, "Going Too Far: A Review of 'Breaking the Vicious Circle, Toward Effective Risk Regulation,'" Environmental Law Reporter, Feb. 1994.

JON KUSLER (B.S., M.S., Ph.D., and J.D. University of Wisconsin) has been Executive Director of the Association of State Wetland Managers since 1983 and has served as a faculty member at the Universities of Wisconsin and Massachusetts. Since 1966 he has been a consultant to many states and federal agencies concerning law and policy of floodplain, wetland, coastal zone, and water pollution management, including the U.S. Water Resources Council, EPA, FEMA, the Army Corps of Engineers, and the Fish & Wildlife Service. He was a policy advisor to the National Wetland Policy Forum and a member of the National Academy of Science's Committee on the Restoration of Aquatic Ecosystems. He has written more than 100 books and articles, including a January 1994 article "Wetlands" in *Scientific American*; "Open Space Zoning, Valid Regulation or Invalid Taking," 1 *Minn. Law Review* (1972); The Law of Floodplains and Wetlands, Cases and Materials, ABA Committee on Housing and Urban Development (1984); and a report to the National Science Foundation in 1992 which is now in press entitled Public Liability and Natural Hazards: Common Law and Constitutional "Takings."

JAN LAITOS (B.A. Yale; J.D. University of Colorado School of Law; S.J.D., University of Wisconsin Law School) is the John A. Carver, Jr. Professor of Law and Director of the Natural Resources Law Program at the University of Denver Law School. He served as a commissioner (and Vice Chair) on the Colorado Water Quality Control Commission (1985-92) and is a trustee of the Rocky Mountain Mineral Law Foundation. Prior to joining the law faculty, he was law clerk to the Chief Justice of the Colorado Supreme Court, and an attorney in the Office of Legal Counsel at the U.S. Department of Justice in Washington, DC. He is author of two books - Cases and Materials on Natural Resources Law and Energy and Natural Resources Law, several articles on natural resources and environmental law, many on the Takings Clause. He is writing a treatise for the Little Brown Company on Constitutional Protection of Private Property, and a casebook for the Foundation Press on the Regulation of Toxic Substances and Hazardous Wastes.

RICHARD LAZARUS, a 1979 graduate of Harvard Law School and a 1976 graduate of the University of Illinois, is currently on the law school faculty of Washington University (St. Louis) where he teaches environmental law, natural resources law, and torts. He previously served on the law faculty of Indiana University (Bloomington) and has also worked for the U.S. Justice Department, both in the Environment and Natural Resources Division (1979-83) and the Solicitor General's Office (1986-89), where he was Assistant to the Solicitor General. He has represented the U.S., state and local governments, and environmental public interest groups in the U.S. Supreme Court in approximately thirty cases decided on the merits. In takings cases, he represented the U.S. in Agins v. City of Tiburon, San Diego Gas & Electric v. City of San Diego, Nollan v. California Coastal Commission; he served as co-counsel for the South Carolina Coastal Council in Lucas v. South Carolina Coastal Council; and, this Term, served as co-counsel for the City of Tigard in Dolan v. City of Tigard. Currently he serves on the Environmental Defense Fund's Litigation Review Committee and on EPA Administrator Carol Browner's Advisory Committee on Environmental Justice.

JOHN D. LESHY (Harvard College, A.B. '66, Harvard Law School, J.D. '69) became the Solicitor of the Department of the Interior in May 1993. In the previous ten months he had served as Special Counsel to Chairman George Miller of the House Natural Resources Committee, as Interior Department team leader for the Clinton-Gore transition, and as special assistant for legal affairs to Secretary Babbitt. He is on leave from his position as Professor of Law at Arizona State University, where he has taught water law, natural resources, constitutional and Indian law since 1980. From 1977 to 1980 he was Associate Solicitor for Energy & Resources at Interior. He was on the staff of the Natural Resources Defense Council (NRDC) in California from 1972-77 and the Civil Rights Division of the Department of Justice from 1969-72.

JAMES S. LOCHHEAD, Shareholder in the Glenwood Springs, Colorado law firm Leavenworth & Lochhead, became Executive Director of the Colorado Department of Natural Resources in 1994. His areas of practice include water rights, municipal and special district law, real estate, land use, and business/commercial law. Previously he was an Associate with Musick, Williamson, Schwartz, Leavenworth & Cope in Glenwood (1978-80). He has been the Governor's Representative to the Bureau of Reclamation Seven Basin State Task Force on Colorado River Reservoir Operations (1990-); and Colorado Commissioner for the Upper Colorado River Commission (1987-). He has also served on the West Slope Negotiating Team, Denver Systemwide Environmental Impact Statement; on the Water Development Task Group of the Governor's Metropolitan Area Water Roundtable; on the Western Slope Water Advisory Council; and on Senator Tim Wirth's Committee for the Review of Nominees to the Federal Bench. Publications include "The Importance of Protecting the Prior Appropriation Doctrine in the Context of Water Quality Regulation," Colorado Water Rights, 1990. He attended Willamette University before obtaining first his B.A. ('74) then J.D. ('78) from the University of Colorado.

NANCIE G. MARZULLA (University of Colorado School of Law, '83; Masters in Policy Analysis) is President and Chief Legal Counsel of Defenders of Property Rights, a non-profit legal foundation dedicated to the preservation of constitutionally-protected private property rights. Nancie and her husband (Roger J. Marzulla), also a lawyer, founded Defenders of Property Rights in 1991. She has an extensive background of involvement in property rights and free enterprise issues and has written and spoken extensively on the takings issue. Co-founder of the Colorado Chapter of the Federalist Society, she worked on her first takings case in the early '80s with the Mountain States Legal Foundation in Denver. In 1984 she went to the U.S. Department of Justice in Washington, DC, as a special assistant and litigator. In 1988 she litigated cases with the Washington-based law firm Verner, Lipfert, Bernhard, McPherson & Hand. She also has a Masters Degree in Policy Analysis and has worked as an Analyst in the Denver Urban Observatory.

LAWRENCE G. McBRIDE (A.B. English Literature, Stanford University, '70; J.D. Boalt Hall School of Law, University of California, Berkeley, '73) is a partner with Freedman, Levy, Kroll & Simonds in Washington, DC, with a practice in natural resources, including coal, oil and gas, hardrock mining and public land use, with an emphasis on issues involving the Department of Interior (BLM, MMS and OSM), but also including DOE, EPA, and FERC. His services include litigation counsel of record for companies and trade associations, administrative appeals, Washington representation drafting, analyzing or commenting on legislation or regulations, and strategy design for success with relevant federal agencies. Previously he served as Assistant Chief, General Litigation Section of the Land & Natural Resources Division, U.S. Department of Justice (1986-88), and before that as Acting Deputy Associate Solicitor for Energy and Resources, Solicitor's Office, Department of Interior (1984-85).

ROBERT MELTZ (B.A. '66, M.A. '67, University of Pennsylvania; J.D. '75, Georgetown Univ) has been an attorney-adviser with the American Law Division of the Congressional Research Service (Library of Congress) since 1975. In that capacity he is senior CRS adviser to members and committees of Congress on a range of environmental law issues, and on Fifth Amendment/property rights issues. He has written several reports to Congress on Fifth Amendment takings, including "When the United States Takes Property: Legal Principles," (1991), and "The Endangered Species Act and Private Property," (1993). Outside CRS, he has published most recently "Where the Wild Things Are: The Endangered Species Act and Private Property," 24 *Envtl. L.* ___ (1994). He recently embarked on writing a book treating the land-use implications of the taking issue. He also serves as Deputy Chair of the Section on Energy, Environment and Natural Resources of the Federal Bar Association.

JEROME C. MUYS is President of the Washington, DC law firm Will & Muys, P.C., where he practices in the public land and water resources fields. He is a graduate of Princeton and of Stanford Law School. After serving as a deputy attorney general in the California Department of Justice in Arizona v. California, the Colorado River litigation, (1957-58), he joined the Washington, DC law firm that was special counsel to California in that litigation. From 1966-70 he served as Assistant General Counsel and Chief of the Legal Staff of the U.S. Public Land Law Review Commission, where he was responsible, inter alia, for all legal aspects of the 33 consultant studies carried out for the Commission. He is past Chairman (1980-81) Budget Officer (1987-93) of the American Bar Association's Section of Natural Resources, Energy and Environmental Law. He teaches federal land and natural resources law at the University of Virginia Law School and water law at George Washington University National Law Center. He prepared a report on interstate water compacts for the National Water Commission in 1971, which was the basis for the Commission's recommendations on interstate compacts in its 1973 report, Water Policies for the Future. From 1988-93 he served as Special Master in Oklahoma and Texas v. New Mexico (U.S. Sup. Ct., No. 109, Original), a dispute over the Canadian River Compact.

MARK L. POLLOT (J.D. University of San Diego Law School) provides legal and administrative representation in constitutional, environmental and land use areas nationwide for the San Francisco law firm Keck, Mahin & Cate (since 1988). He has represented clients before agencies such as the U.S. Fish & Wildlife Service on endangered species (including most recently the San Joaquin kit fox and the Swainson's Hawk); the U.S. Army Corps of Engineers on wetlands and endangered species; the U.S. Bureau of Reclamation on endangered species issues involved in transfers of BOR water; and the California Coastal Commission on California Environmental Quality Act. He was formerly Special Assistant to the Assistant Attorney General for the Environment and Natural Resources Division of the U.S. Department of Justice and a special litigator in the Department's Civil Rights Division. While at Justice, he authored Executive Order 12,630 (the takings order), signed by President Reagan in 1988, and its implementing Attorney General's Guidelines. He is a Research Fellow with the Pacific Research Institute for Public Policy and author of the newly published Grand Theft and Petit Larceny: Property Rights in America.

STEVEN P. QUARLES (B.A. Princeton University; J.D. Yale Law School) is a partner with Crowell & Moring, Washington, DC, where he practices natural resource and environmental law, representing a wide range of clients including members of the forest products, mining, and oil and gas industries and their associations, the State of Wyoming, and the Western Governors' Association. He serves as litigation counsel to the American Forest & Paper Association and as legislative counsel to the Endangered Species Coordinating Council, an organization of natural resource industries and labor unions formed to address Endangered Species Act reauthorization. Previous experience includes a Fulbright Scholarship to Aligarh Muslim University in India. He served as program advisor to the Ford Foundation in Brazil and returned to serve as counsel to the U.S. Senate Committee on Energy and Natural Resources. Subsequently he served within Interior as Director of the Office of Coal Leasing and as Deputy Under Secretary. He has served on the Board of Mineral and Energy Resources of the National Academy of Sciences and on two committees of the National Research Council: the Committee on Onshore Oil and Gas Leasing and the Committee on Abandoned Mine Lands. He is the immediate past Chair of the Maryland State Hazardous Waste Facilities Siting Board.

CAROL M. ROSE (B.A. '62, Antioch College; M.A. '63, and J.D. '77, University of Chicago; Ph.D. '69, Cornell) is the Gordon Bradford Tweedy Professor of Law and Organization at Yale Law School, teaching environmental law and property, natural resources, energy policy, land use regulation, public land management, and water law. During law school she spent a year as associate director of a special project on state and local revenues and expenditures for the Southern Regional Council, an Atlanta-based civil rights organization. She has also taught at the law schools at Stanford, the University of California-Berkeley, Northwestern, Chicago and Harvard. She has been a visiting scholar at the law schools of the University of Cologne in Germany and the University of Adelaide in Australia. Her writings include articles in environmental law, land regulation, historic preservation, water law, public property, and the history and theory of property generally. She is currently on the Advisory Committee for the American Law Institute's Restatement of Property (Servitudes), the Board of Editors of the Foundation Press, and a member of the American Academy of Arts and Sciences.

LOIS J. SCHIFFER is currently Acting Assistant Attorney General (and Assistant Attorney General-Designate) in the Environment and Natural Resources Division at the U.S. Department of Justice. As Acting AAG, she manages the Division with responsibility for litigation on behalf of all federal agencies related to pollution, natural resources, and Indian issues. She has experience in environmental law through her previous work in private practice at Nussbaum & Wald in Washington and at the Department of Justice from 1978-84 as Chief of the General Litigation Section and as Special Litigation Counsel in the Lands Division. She has also worked as General Counsel at National Public Radio (1984-89); as an attorney at the Center for Law and Social Policy, a public interest law firm (1974-78). She is an adjunct professor of environmental law at Georgetown Law School. She has been on the boards of a number of non-profit organizations. She is a graduate of Radcliffe College (1966) and of Harvard Law School (1969).

MARK SQUILLACE (B.S. Michigan State University '74; J.D. University of Utah College of Law, '78) is Winston Howard Professor of Law at the University of Wyoming College of Law, teaching mining law, torts, environmental law, and water rights. He came to the University of Wyoming in 1984 after teaching at the West Virginia University College of Law. He also served as Director of Litigation at the Environmental Policy Institute, Washington, DC (1981-84) and as Attorney Advisor with the Office of the Solicitor, Interior, (1978-81). Significant publications include Environmental Law. Vol. 1: Environmental Decisionmaking and NEPA (Anderson, 1989, 1992 Supplements; 2d ed, 1994 with Battle and Fischman); Environmental Law. Vol. 3: Air Pollution. The Strip Mining Handbook (Environmental Policy Institute, 1990). Recent presentations have included "Conservation Ethics for the 90's," Powder River Basin Resources Council, 1992, and "Update on NEPA and the Endangered Species," Fifth Trelease Symposium, 1992. He is an editor of the Rocky Mountain Mineral Foundation's Mineral Law Newsletter and Vice-Chair of the ABA Public Lands and Land Use Committee, Section on Natural Resources, Energy and Environmental Law.

PROFESSOR BARTON H. THOMPSON, JR. has taught environmental, water, and natural resources law at Stanford Law School since 1986. His scholarship focuses on two areas: constitutional protections of economic interests and water policy. He has written major articles on the application of the "takings protections" in the natural resources field. He has also written a textbook on the Legal Control of Water Resources (with Sax and Abrams) and articles and reports on various issues of water law and policy. Current research focuses on water markets, the role of "community" in water law, and environmental partnerships. He graduated from Stanford Law and the Stanford Graduate School of Business in 1976, clerked for Chief Justice William H. Rehnquist of the U.S. Supreme Court, and in 1978 joined the law firm of O'Melveny & Myers, where he litigated natural resource, environmental and other cases. In 1993, he won the Hurlburt Award for Excellence in Teaching, and received the Robert E. Paradise Fellowship for Excellence in Teaching and Research.

ADDITIONAL FACULTY

PETER D. COPPELMAN (B.A. Harvard, '64; J.D. Cornell Law School, '68) became in January 1994 Deputy Assistant Attorney General in the Environment and Natural Resources Division at the U.S. Department of Justice, where he supervises the General Litigation, Wildlife and Marine Resources, and Environmental Defense Sections. He has worked on a number of Clinton Administration priority environmental initiatives, including old growth forests of the Pacific Northwest and other ecosystem management initiatives, protection of endangered anadromous fish in the Columbia River, and mining law reform legislation. After law school he first worked with California Rural Legal Assistance (1968-74); and then was managing partner of a small law firm in Oakland (1974-78). In 1978 he went to the Department of Justice in Washington, D.C. as a Trial Attorney, General Litigation, Land and Natural Resources Division. In 1981 he joined The Wilderness Society where he served as Director of Forest Wilderness Programs, Senior Counsel for Resource Planning and Economics, and as Vice President. From 1990-93 he was Counsel for Federal Legal Affairs for Greenfield Environmental and BKK Corporation, California companies involved in all aspects of hazardous and non-hazardous waste management, including treatment, transportation, and disposal.

GARY S. GUZY (Cornell Law, '82) was recently appointed by President Clinton as Deputy General Counsel at the U.S. EPA, where he supervises the agency's litigation and legal issues arising in reauthorization initiatives and other legislative matters. Before joining EPA he served for six years as Senior Attorney with the U.S. Department of Justice's Environment and Natural Resources Division. From the Everglades to Alaska, he has handled some of the nation's most significant environmental litigation. He has substantial expertise on legal issues of wetlands, water quality regulation, regulatory takings, hazardous waste regulation, interstate pollution, and federal-state relations under the pollution control statutes. He also has significant experience in reconciling the views of divergent federal agencies. Previously he was in private practice with Kaye, Scholer, Fierman, Hays & Handler in Washington, DC, litigating in environmental matters. He has also practiced in First Amendment law and has provided pro bono representation to several death row inmates, in all courts from state trial courts to the U.S. Supreme Court.

JOHN MACLEOD (B.A. and J.D. Notre Dame) is a partner in the Washington, DC firm of Crowell & Moring, specializing in natural resources law, extensively with the regulatory problems of the mining and timber industries. His practice involves substantial litigation and counselling. He has handled a wide variety of matters arising under the Surface Mining Act, the Mine Safety and Health Act, the Endangered Species Act, the Clean Air Act and the Clean Water Act. For more than 15 years he has served as chief counsel for the coal industry (NCA/AMC) in the ongoing regulatory litigation under the Surface Mining Act. He has also litigated a number of Endangered Species Act cases, most notably representing the plaintiffs in Sweet Home Chapter of Communities for a Great Oregon v. Babbitt, a significant case in which the D.C. Circuit invalidated the Fish & Wildlife Service regulation defining "harm." He has been a trustee of the Eastern Mineral Law Foundation since its creation, and speaks and writes frequently on natural resources issues.