Pace Environmental Litigation Clinic Files CWA Suit Against NYC On Behalf of ‘Keepers

By Andrew J. Provence, Legal Intern, PELC

On March 9, 1998, the Pace Environmental Law Clinic (PELC), under the direction of Professors Robert F. Kennedy, Jr. and Karl Coplan filed a Clean Water Act citizen suit on behalf of Soundkeeper, Riverkeeper, NY/NJ Baykeeper and others, against New York City for over 4,500 illegal discharges of nitrogen by eight of its sewage treatment plants over the past two years. These discharges cause low dissolved oxygen in Long Island Sound and Jamaica Bay—

CWA Suit -- cont. on page 8

ENVIRONMENTAL LAW FOR ASIA’S LAW PROFESSORS

Singapore is a “garden city,” with modern buildings, excellent mass transit systems, and clean air and water. It is home to a world-class law school at the National University of Singapore. In June of 1997 (and again in June 1998), law professors from throughout Asia have gathered at the University’s Faculty of Law for a one month seminar in how to teach courses in Environmental Law and introduce those courses into their own law schools’ curriculum.

Pace’s Professor Nicholas A. Robinson led the team of professors from Australia, China, and Singapore in designing the seminar between 1995 and 1997. Last year 33 professors from 15 nations participated, and a similar number have agreed to attend in 1998. All participants are experienced law teachers, whose law schools do not yet teach environmental law. This seminar is a “training the trainers” program. As the nations of Asia confront their environmental problems, they have enacted a growing

What’s Inside:
Kyoto and Global Warming 1
Clean Water Suit by Clinic 1
Alumni Corner 2
Environmental Science at Pace 2
1998-99 Course Offerings 2
Professors Workshop 3
National Moot Results 3
World Famous on the Internet 6
Litigation Clinic Docket 9
Animals and the Law 10
In Print 12

KYOTO, GLOBAL WARMING AND THE 21st CENTURY

By Ed Smeloff and Fred Branfman

Depending on your perspective it is possible to view the recently concluded Kyoto Protocol on Climate Change as either a success or failure. From the standpoint of diplomacy the international conference was a watershed event as leaders of industrial countries have acknowledged an obligation to reduce the consumption of energy from fossil fuels. It is also a triumph of science. The findings of the Intergovernmental Panel on Climate Change (IPCC), a multinational scientific effort to determine human impact on climate, have clearly been accepted by the nations of the world as authoritative. Only a few crackpot scientists and groups with vested economic interests continue to challenge the findings that humans are changing the earth’s climate. In this regard Kyoto could mark the beginning of a major shift in consciousness on an issue that will be central to human well-being in the 21st century.

Global Warming -- continued on page 4
Environmental Science Programs at Pace

Modern environmentalism began in the 1960s as a grass roots debate over the effects technology and unchecked land usage had on the ecosystem. Concerns over air quality, natural resources, energy, and sustainable development have spawned a web of legislation and regulation that impacts activities of organizations and institutions in the private and public sectors alike. Consequently, environmental science is one of the fastest-growing fields of the past decade. Career positions have been created throughout private industry, healthcare, research foundations, and government.

The Dyson College’s new Master of Science in Environmental Science (MSES) program, created in response to market forces particularly in the Northeastern United States, prepares students to meet the numerous technical and political challenges brought about by environment-related sanctions. The 39-credit curriculum is structured so that students may encounter environmental issues from scientific, ethical, practical and legal perspectives.

An interdisciplinary sensibility is brought to the program by its faculty, of whom many are senior professionals in government, research, industry and law. There is an effective link between the program and the LL.M. Environmental Law program at Pace University. The LL.M. students take the topical courses on Environmental Science. The experience of a hands-on en-

Environmental Law Courses at Pace

Fall 1998 Semester

Day Session:
- Environmental Law Survey
- Environmental Litigation Clinic
- Historic Preservation Law
- History and Jurisprudence of U.S. Environmental Law
- NEPA & Little NEPAs
- Risk and Environmental Regulation
- Water Resources Law

Evening Session:
- Environmental Regulation of Real Estate
- Environmental Law Survey
- Environmental Science I
- Hazardous Waste
- International Environmental Law
- State & Municipal Environmental Law

Summer 1999 Semester

Environmental Justice
- Environmental Litigation Clinic
- Washington D.C. Externship

Spring 1999 Semester

Day Session:
- Animal Welfare Law
- Environmental & Toxic Torts
- Environmental Commercial Transactions
- Environmental Law Practice & Skills

Evening Session:
- Environmental Litigation Clinic
- Environmental Litigation Seminar
- Hazardous Waste

Environmental Science -- continued on page 11
The Second Annual Pace Environmental Law Professors Workshop Highlights The State of Environmental Law within the Beltway.

Feb. 20 – The Second Annual Pace Environmental Law Professors Workshop was held in conjunction with the National Environmental Moot Court at Pace University. Attended by over 30 law professors, many of whom were accompanying their teams to the Moot at Pace’s White Plains campus, the Workshop involved presentations by Washington insiders, and a lively group discussion. The panel was moderated by William Futrell, President of the Environmental Law Institute (ELI), whose introduction noted that the administration had made environment one of three top priorities for the remainder of President Clinton’s term in office. Noting the atmosphere of scandal at the White House, he joked that the President’s office has never been so responsive on policy issues.

A report on the current environmental agenda of Congress was delivered by panelist Alison Taylor-Berkes, Minority Counsel to the Senate Committee, who distinguished the 105th Congress from the 104th, noting that there was a recognition of the popular support for environmental initiatives in this Congress. David Zoll, General Counsel for the Chemical Manufacturers Association, pointed to specific issues that were in need of careful scrutiny. Those included aspects of reporting under environmental regulations that could result in the increased risks of either terrorism or industrial espionage, and trade secrets. He also raised the possibility of revamping the Administrative Procedure Act (APA) to prevent the administrative use of guidelines and other non-legislative rulemaking techniques. This point raised considerable discussion from the audience.

The final panelist was Professor Richard Lazarus from Georgetown University, who presented a review of the environmental cases currently before the Supreme Court, and some key cases in the Circuits. Lazarus, who was formerly in the Office of the Solicitor General, was able to provide key insights into the strategies used in these cases, as well as some prognostications about the results of cases yet to be decided (he even predicted the date that one opinion would be issued!).

The program was set up by Professor Ann Powers, and coordinated by Director of Environmental Programs Robert J. Goldstein.
Global Warming -- continued from page 1

world’s 38 developed nations at current levels. Press reports have noted that the Kyoto protocol would require a reduction in emissions by about 5.2 percent from 1990 levels. However, emissions have already decreased by about 5 percent because of the collapse of energy-intensive industries in Eastern Europe and the former Soviet Union. Even if the goals of Kyoto are met a total of 140 billion tons of carbon will be added to the atmosphere from 1990 to 2010 increasing atmospheric concentrations from 353 parts per million (ppm) to 382 ppm, an eight percent increase. If the nations of the world do not meet their Kyoto commitments there will be an additional 6 billion tons of carbon emitted into the atmosphere by 2010 raising atmospheric concentrations by another 2 parts per million. Carbon concentrations were 280 ppm at the beginning of the Industrial Revolution and, without steep reductions in emissions, will double sometime in the 21st century. Atmospheric concentrations at the level of 560 ppm will change the earth’s climate in ways, according to the IPCC, that are “likely to have wide-ranging and mostly adverse impacts on human health, with significant loss of life.” Without a full-scale transition away from a carbon based economy powered by coal, oil and natural gas, a doubling of carbon concentrations or worse is inevitable.

The significance of Kyoto is that it begins to build an international legal framework for significantly reducing carbon emissions over the long-run. The Kyoto conference is a first step toward the introduction of policies such as carbon trading and a clean energy fund to achieve specific reduction targets. If not undermined by the U.S. Congress, Kyoto could send an important signal to investors and industries about the opportunities to introduce technologies that reduce carbon emissions. Kyoto could turn out to be a turning point in making an orderly transition to a hydrogen-based economy powered by such renewable energy sources as solar, wind, biomass, fuel cells, and transported by vehicles far more fuel efficient than those in use today.

International negotiations and scientific research have been the main forces propelling governments to address the issue of global warming. The main countervailing force has been U.S. oil, coal and auto companies with their enormous influence on the U.S. Congress and the debate about climate change in the United States. They succeeded last year in passing a Senate resolution admonishing the Clinton Ad-
nesses in Europe and Japan prepare to meet the treaty’s obligations, it may prove increasingly difficult for some U.S. businesses opposed to the treaty to maintain their opposition. Already the U.S. auto companies are recognizing the need to produce more fuel-efficient cars, both because of domestic pressure and the threat of losing off-shore markets to Japanese and European companies. At Kyoto, Toyota was passing out bumper stickers calling for less CO2 through “eco-driving” and promoting their new hybrid electric, all-electric and fuel-cell powered cars. Some predict that these cars could account for one-third of all new vehicles sold by 2005. Even major oil companies like British Petroleum (BP) and Royal Dutch Shell have recognized the need to be proactive in combating climate change. BP’s CEO Jonathan Brown recently committed the company to energy conservation, the development of new energy technologies, and cooperation with developing world countries in reducing greenhouse gas emissions.

Secondly, responsible Senate leaders are beginning to understand the connection between international environmental and trade policies. The acceptance of the principle of trading in greenhouse gases at Kyoto was an important step forward for the United States. While there are still skeptics among the European and developing nations, support for a pilot emissions trading program is growing and will be a major topic of discussion at the next climate negotiations in Argentina in November, 1998. Recently, Senator Robert Byrd, co-sponsor of last-year’s Senate resolution on climate change, praised the administration for including in the protocol emissions trading and voluntary projects between industrialized and developing nations.

However, the most important political factor working for ratification is the fact that the leading contender for President in 2000, Vice President Gore, has long made global warming a priority. Gore is one of the few American politicians who have a personal political stake in implementing a global warming agreement. His effort to get the treaty ratified will reflect both on his competence to lead, and answer the key question many have about him: the extent to which he holds deep personal principles.

If he is elected President in 2000 having campaigned on global warming, it should dramatically increase the chances for the eventual ratification of the Protocol. The N.Y. Times published a poll just before the Kyoto conference indicating that 65% of the public would support unilateral action to curb global warming. It is possible that if the President and Vice-President can capitalize on those pro-environmental feelings, as they did after the Republican capture of the House in 1994, that they could trump the Republican leadership on this issue. Perhaps the most remarkable intellectual gap at Kyoto was that between the economic pessimists and technology optimists. The former predict the loss of millions of American jobs, a precipitous drop in GNP, and the erosion of personal freedoms if the Protocol is implemented. The later foresee economic opportunities and new jobs, little if any cost during a short transition period and community empowerment through smaller scale and more localized technologies.

At a press conference Dennis Stolfe of the Farm Bureau stated that “The livelihood of 2 million American farmers is very much at stake. A twenty five cent increase in gasoline prices would lead to a 25% net reduction in farm income.” Gene Trisco, an attorney for the United Mineworkers said, “we conservatively estimate that 1.6 million American jobs hang in the balance.” Wisconsin Congressman Sensenbrunner stated that “75% of Wisconsin Electric’s Utility’s plants are coal-generating, and would be out of compliance with the U.S. proposal. For the utility to generate power, they will have to increase their rates by as much as 50% to buy credits from China and Russia.”

Global Warming -- continued on page 11
PACE VIRTUAL ENVIRONMENTAL LAW LIBRARY:
WORLD FAMOUS ON THE INTERNET

From a Presentation for the AALS Committee on Libraries and Technology, Annual Meeting, San Francisco, CA

By Robert J. Goldstein

In the year-and-a-half since the Pace Virtual Environmental Law Library (the “Library”) has come on-line, the site has received praise and recognition from around the world. During its brief history the Library has been favorably described by reviewers; linked to by hundreds of prestigious institutions around the world; and has undoubtedly been a factor in the rising reputation of the environmental program internationally. With the addition this past summer of Global Warming Central, the Library is both a research tool and a forum for discussion on pressing global issues.

Issues of content and quality are key elements that led to these results, but the novel nature of the medium required equally innovative techniques to get the users to take notice. This paper will discuss the issues of content and quality that are the precursors to success on the Internet, as well as the media-specific techniques that might be used in promoting such a site on the Internet.

Purpose of the Library

The Library was conceived of as a vehicle to use the strengths of the Internet to promote environmental law. The reasons to proliferate environmental law and the principles upon which it is grounded are many, but among these the Library was based on the recognition that global environmental problems must be dealt with in a global manner. The potential benefits include enhanced human rights, in addition to well-recognized environmental benefits.

The strengths of the Internet upon which the success of the Library was based included the potential richness of sources; the infinite capacity for data storage; the speed at which data transfer takes place; the boundary-less nature of cyber-space; and the potential of a diverse and ever-growing audience.

The potential richness of sources is clear by the proliferation of prestigious institutions using the Internet. These grow in geometric progression while the quantity and quality of the material that they make available increases proportionately. Participants are no longer restricted to large well-endowed institutions as the entry-level for making a server available to the Internet has dropped to the price of a basic personal computer, inexpensive software and a telephone line. This enables the specialized holders of information to make their materials available at low cost.

The almost infinite capacity of the computers that comprise the Internet is also continuously growing by leaps and bounds. While this capacity may tax the existing technology of the current Internet, expansive plans for other Internets are being followed.

The speed at which data is transferred and the medium into which it is stored (digitized for the computer) will make paper transfers all but obsolete. It is the ability to transfer items in nanoseconds, plus the ability to immediately apply that data to applications (such as word processing) that enhances the Internet’s use as a library beyond the capacity of a mere collection of books.

The absence of political boundaries in cyber-space is key to a uniquely global approach to problems. Similarly, the absence of a clear delineation between disciplines on the Internet can effect a unified effort in attempts to solve common problems, involving experts outside the traditional boundaries of the academy.

Finally, the audience for these materials is vast, diverse and diffuse, insuring both widespread exposure and broad feedback.

Favorable Reviews:

The debut of the Library on July 22, 1996, received instantaneous attention with the recognition of Australia’s AAA Announcement Archive’s “Top 1% in the World” award, almost immediately after coming on-line. This was followed by a July 26, review in USA Today, which read: “Environmental Law People around the world who are fighting to protect the environment have a powerful new resource in the Web. The Pace University law school’s site connects the international community of environmental lawyers and experts.”

The site was also chosen as a Counsel Connect “Editors’ Pick,” and was the subject of articles in Metropolitan Corporate Counsel and the New York Daily News.

An article in The New York Times most recently recognized the Law School and the utility of Global Warming Central which “focuses on the debate in global warming and provides useful data and links for understanding controversial issues.” The Global Warming Central site received immediate attention after a new story about it on the ABC News Internet site. The site was then awarded the “Site of the Week” award by the Environmental New Network.

Search Engines:

A recent survey of the major search engines seeking the search term “environmental law” reveals that the Library has inched its way to the top of Excite (2 of an unspecified number of results); AOL NetFind (2 of 1,756,745); HotBot (2 of 329,432 results); Alta Vista (6 of 10,314,032); and WebCrawler (6 of 113,861). Although these search engines are constantly changing, the appearance of the Library on or near the first returned page has been fairly consistent. In other search engines the results have not been as satisfying, LookSmart reaches the Library at 21 (of 14,751,806); Lycos reaches the Library at number 28 (of 37,636); Infoseek at 42 (of 864,832); and Yahoo which does not list the Library among the 232 sites returned in a search.

Successful search engine results are fleeting, and can be affected by changes to the web site itself as well as changes in prioritization by the search engine itself. When I began designing sites, I did not take these priorities into account. At that point guidelines for search engine success were rapidly changing and were not well publicized. With the proliferation of sites it is necessary to take both general steps to allow for search engine recognition as well as specific steps for a particular search engine.

Some general principles that I have developed include: giving my sites a distinctive name. While the name, “Pace Virtual Environmental Law Library,” did not evoke a unique resource, “Global Warming Central,” does.

Don’t attempt to “trick” the search engine by repeating terms or including “invisible” reference terms that don’t specifically describe your site. It is much more difficult to resurrect a site that has been electronically banned from a search engine for violating its rules, than it is to gain initial recognition. This presents the site promoter with a thin line between the maximum promotional efforts that search engines will tolerate, and those that are automatically banned. It is important to note that your site is vying for position against commercial sites that research and use these methods in a very competitive market, and the search engines computerized filing techniques don’t necessarily discriminate between educational and commercial domains.

Study successful sites on search engines by looking at their HTML codes. These can reveal how the search engine reacts to promotional techniques. Unfortunately, they can also demonstrate randomness and irrationality.

Using the Internet

It is essential to understand the nature of the medium that you are dealing with in order to become a full and influential participant. The Internet is controlled by its users, they decide what information they will seek, when they will seek it, and whether it is important. There is little “window-shopping,” despite the interface being named a browser. What is commonly denominated as “surfing” is a trial-and-error process through which a user can sift through hours of mean-
ingless information before stumbling across something of value.

Search engines somewhat refined this process, whittling down the number of worthless sites with a carefully crafted search. Fewer users find sites listed in other media and type them into the browser, going directly to a location, although the increased use of Internet addresses in advertising and product packaging, as well as for entertainment is changing this. Many word processing and e-mail programs allow the user to “click” on an Internet address, “spawning” a browser, and going directly to the location.

These represent the ways in which most users penetrate the Internet. When the user has “arrived” at a location of interest, the user can identify the site with a “bookmark” that will allow an easy return to the site.

These simple concepts form the basis from which one must work to promote their site on the Internet. The most crucial of these concepts is the recognition that there are people on the other end, and communication with those people is by far the best way of gaining recognition on the Internet. The “immediate recognition” of the Library, alluded to above, was the result of a pervasive campaign of personalized e-mails sent to hundreds of individuals that were identified as having an interest in environmental law. This was not done by the practice known as “spamming” but through a painstaking process of identifying individuals, ascertaining their e-mail addresses, and personalizing a message to them.

The importance of human contact for Internet recognition cannot be overemphasized; even in the face of the mechanized search engines that now dominate the Internet, personal contact with an individual will get better results. My e-mail correspondence with an individual at one of the search engines, during which I pointed out the connection between human rights and environmental law helped to immediately propel my site to the top of that search engine’s listing. I have also responded to all requests for reciprocal links.

Getting your Internet address in print is another valuable tool that is just now becoming apparent to the advertising world. When the Pace Nigerian Law site was the subject of a Letter to the Editor in the New York Times, visits to the site increased significantly. When Global Warming Central was touted in two Times articles, site visits nearly doubled to 13,817 for the recent monthly period.

Search engines are often the most perplexing promotional tools, but are a necessary component of a campaign to gain attention. Each search engine places different values and weights on different aspects of Internet sites. Concomitantly most search engines, in a legitimate effort to prevent undue domination, have certain criteria that will cause a site to be de-listed. Learning the details of each sites’ foibles is beyond the scope of this paper, and delineation of those details would likely lead to instant obsolescence, but there are a multitude of sites that claim to have solved the riddles these search engines present.

Getting listed on these search engines is simple enough. The most reliable process is to visit the search engine itself and manually input your own site. This process has been automated by services such as “Submit-it”21 or “Add-it.”22 The issue with most search engines is not simply signing-on, but positioning one’s site to be retrieved during the very early stages of a search. This must be done in light of the individual search engine’s “sensitivities” and must be geared at reaching the widest audience interested in your topic. While your site will almost inevitably be retrieved in a search for “law,” it will be uncannily accompanied by several million other “law” sites. Conversely, while your site would stand alone in a search for your exact title, few users, if any, will search using such a specific term.

Despite the nature of the search engines as computerized tools, the promotion of your site on them is art rather than science.

The Virtual Environmental Law Library

With the above-described purposes in mind, the Library was constructed to make use of the richness of the Internet resources, rather than duplicate existing projects. It sought not merely to list Internet sources, as many sites had already done, but to catalog them in a useful and facile format. Efforts were made and are continuing to make the materials useful to lawyers and laypersons, serious researchers and “surfers.”

As currently configured the Library is divided into four substantive sections and has a number of satellite sites. The four basic section are International Law, Comparative Law, United States Law and State Laws. Into each section the capacity is being built for research to be done both horizontally and vertically. Horizontal research refers to the research within one topic over a broad range of similarly situated jurisdictions. For example, how do wetlands protections differ across sub-Saharan Africa. Vertical research refers to the tracking of the law of one topic from local jurisdiction, to international law. An example would be what laws affect the filling of wetlands in White Plains, NY. The ability to combine these laws in an appropriate format is a function that is facilitated by computerized research, but is enabled by the breadth of materials searchable on the Internet.

Currently each of the four sections is being built-up individually. In the International section, the best locations to access the primary materials are being updated constantly and companion material, including ratifications and synopses are being maintained. The value-added by the companion material is available only with the expertise available at an institution such as Pace, with its wealth of environmental experts which includes foreign students, well-versed in their native environmental laws.

That network of environmental experts, has become the nucleus of the Comparative section that features the law of particular countries. The ability of Pace Law School to transcribe and maintain these laws is limited, so the network has become the mechanism for inclusion of an indigenous capacity in each participating country to act as its “reporter” for environmental laws.

The United States section is the most clear-cut, but requires an enormous amount of maintenance to stay afloat amid a sea of emerging environmental law. The advantage of the Library is the ability to provide vertical research, that is unavailable unless issues are properly aligned to produce a spectrum from statutes to regulations. Likewise for States, where the digitized materials are available in many jurisdictions, the challenge remains to align issues to allow for vertical research.

Ancillary, but nonetheless crucial to the Library are its satellite sites that deal with particular issues or causes. Included among these is Global Warming Central that provokes debate and allows for feedback. Recent additions to the Law School’s web site will include the Pace Environmental Law Review23, and the Pace Center for Environmental Legal Studies’ newsletter Environmentally Friendly.24

Four Strong Points:

The Library has become a vehicle for the promotion of environmental law in a format that is useful to the professional and accessible to the novice; a paradigm for the use of the strengths of the Internet; a firm foothold for Pace University School of Law in the vast universe of cyber-space; and an instrument for substantive change in global environmental policies. Each of these four aspects warrants individual attention.

1. A Useful Tool. By constructing a “user friendly” and attractive home page, the Library has taken on several distinct roles. The first is the “face” that it places on the law school’s environmental program and its many faces. The second is the facility with which the uninhibited may access relevant laws. This is an important aspect of the Library. The icons which define the categories of treaties (and will eventually be cross-referenced for all environmental law), make it easy to find an area of interest. This can be sharply contrasted with other sites which rely on search engines alone for access to their data, or which simply give the name of a treaty, which may or may not indicate its subject-matter. The third is the ability of professional users to “cut to the chase” with pointed indices which allow access to data in various way. All of these add up to provide the users with an attractive and useful research tool.

Web Sites -- continued on page 8
2. An Internet Paradigm. The Internet is a relatively new form of media that is in need of definition and direction. The Library provides both by recognizing the unique nature of the Internet and by using the medium’s strengths. There are many databases, they are neither novel nor do they take advantage of what the Internet has to offer. On the Internet they simply provide their information to a greater audience, and some allow for the exchange of ideas (feedback). The Library is different, while making provisions to construct our own databases, the Library is a channel through which the seekers of information are matched with the providers of information. The seekers and providers may be anywhere on the planet (or off the planet, for that matter). The Library ties the two together, allowing for the information requested to be transported from the computer of the providers to the seekers at their home computer.

3. A Law School’s Place on the Internet. In a world which will be dominated by the paradigm of information being channeled from provider to user, the library (the book kind, that is) will be replaced by depositories of databanks accessible only through computers. The prominence of the great universities that have built enormous collections of books will be minimized if they cannot, or fail to, supplement those collections with databases. The Library (ours) has essentially staked out a claim in cyber-space for the channel which will move the seekers of environmental law, to the providers. There are, however, many opportunities to develop partnerships with other institutions to accomplish these goals. Pace Law School has committed itself to these goals, using expert environmental lawyers in building and maintaining the system. The “upshot” of this commitment can be seen in the overwhelmingly positive response that the Library has received, and the public exposure it has provided for Pace beyond its traditional horizons.

4. All the foregoing aspects of the Library are important, but perhaps the most important aspect of the Library is its ability for effect change by making available inaccessible bodies of environmental law to widespread audiences. One important direction in this is with the environmental law of Nigeria, which has been gathered and is available on the Internet. This information, is not only be useful for those in Nigeria, but more importantly, will put multi-national corporations (and their activist shareholders) doing business in Nigeria, on notice that they bear the responsibility for complying with this previously unenforced body of law. It is commonly noted that the Fax machine brought down the Soviet Union, due to its capacity to provide information from outside the country at crucial times. The capability of the Internet to achieve equally impressive change is greater than any medium since the printing press.

Conclusion
Although the Internet challenges us to come up with innovative ways of promoting the product of our research, and provides us with a vast audience, the principal attributes of quality and reliability are paramount. Assuming these, one need only understand the nature of one’s audience and of the Internet itself to successfully promote a site. In the end, successful results are the product of hard, thorough and continual work.

1 Director of Environmental Programs, Adj. Professor of Law, Pace University School of Law, White Plains, NY.
5 A very tangible benefit for the environment.
7 Law School Notes: Pace University School Of Law Develops Global Environmental Law Network on Internet, Metropolitan Corporate Counsel, Nov., 1996, 56.
19 Infoseek: Results, http://www.infoseek.com, accessed, Oct. 28, 1997. An example of the fleeting nature of these results is evident from a more recent search on this service that lists the library at number 2.
21 The best site I have found for this is RANK THIS! The Online Tool and Cyberguide for Search Engine Promotion, http://www.rankthis.com, accessed: Dec. 15, 1997. Use of this tool is fairly simple and saves the time of conducting individual searches. Merely input the search term under which your site needs to be accessed (in my case this is usually “environmental law”), and enter your general URL (i.e., enter “http://www.law.pace.edu”), rather than the exact file location), then press the icon of the search engine. The service will indicate whether your site is listed in the search engine’s top 200 listings. The best positioning for a site, however, is on a search engine’s first page of results.

CWA Suit -- continued from page 1

conditions fatal to marine life. Plaintiffs seek declaratory and injunctive relief, as well as civil penalties and costs, including attorney’s fees. The State of Connecticut has intervened in the suit, which was filed in the Eastern District of New York and has been assigned to Judge Raymond Darnie. New York State Department of Environmental Conservation has since filed a similar state court action against the City. The Pace Environmental Litigation Clinic intensively immerses students in an environmental law practice representing public interest groups, primarily the Riverkeeper, Inc. The Riverkeeper’s mission is to protect the waters of the Hudson River system from the Adirondacks to Long Island Sound. The Clinic represents Riverkeeper in federal and state courts, federal and state administrative proceedings and occasionally in local proceedings. Clinic students represent Riverkeeper in all of these proceedings. Their efforts have led to precedent setting decisions by federal courts under both the Clean Water Act and the Resource Conservation and Recovery Act. For further information see the Clinic’s current docket on page 9.
Pace Environmental Litigation Clinic Case Docket

Hudson Riverkeeper Fund, Inc. v. New York City Department of Environmental Protection, 94 Civ. 7237 (BSJ) (S.D.N.Y.)

BACKGROUND
Businesses are required to pre-treat their industrial waste in an effort to reduce the introduction of toxic metals into the New York City’s sewer system. Wastewater from the City’s sewer system is discharged into waters around New York City including the Hudson River. Under an agreement between the state DEC and New York City DEP, the City was required to have at least 72 employees to enforce the pretreatment program. It had only 63.

STATUS
The Clinic filed a complaint in U.S. District Court under the Clean Water Act charging New York City DEP with failing to comply with a state order on industrial pretreatment. We reached an agreement to settle the litigation.

CASE NAME
Hudson Riverkeeper Fund, Inc. v. Putnam Hospital Center, 95 Civ. 5115 (WCC) (S.D.N.Y.)

BACKGROUND
According to its own records, the hospital has discharged millions of gallons of improperly treated or partially treated sewage waste into a stream feeding the Croton Falls Reservoir. Its discharges are of particular concern because, as a hospital, it may be contributing significant pathogens to the water supply.

STATUS
We reached a settlement that requires the hospital to close its sewage treatment plant and send its waste to another treatment plant.

CASE NAME
Hudson Riverkeeper Fund, Inc. v. Orange and Rockland Utilities, 93 Civ. 3116 (CLB) (S.D.N.Y.)

BACKGROUND
Orange and Rockland operates the Lovett power plant on the Hudson River across from Indian Point. The plant draws in millions of gallons of cooling water intake from the river, killing tens of thousands of fish each year. Under O&R’s permit from the Department of Environmental Conservation, the plant is required to use the “best available technology” to mitigate environmental damage. We allege that O&R has failed to do so and filed a complaint to force the utility to live up to its permit.

In June 1995, O&R began experimenting with a “permeable curtain” designed to allow water to flow through it but to prevent fish from reaching the cooling water intakes. O&R conducted a second, larger experiment in August 1996.

STATUS
Riverkeeper agreed to withdraw its lawsuit in exchange for O&R’s commitment to explore fish-saving technologies. Riverkeeper reserves the right to bring another lawsuit if necessary.

CASE NAME
Hudson Riverkeeper Fund, Inc. v. Town of Yorktown, 95 Civ. 8749 (JSR) (S.D.N.Y.)

BACKGROUND
We are negotiating a settlement with ARCO. In March 1996, U.S. District Court Judge Brieant dismissed our lawsuit against the developer on the grounds that they were pre-empted by New York State’s action in state Supreme Court. The Clinic appealed Judge Brieant’s decision and then settled the appeal based on the owner’s agreement to clean up all of the construction waste within two years.

CASE NAME
Hudson Riverkeeper Fund, Inc. v. New York City Department of Environmental Protection, 94 Civ. 7237 (BSJ) (S.D.N.Y.)

BACKGROUND
We reached a settlement in which Yorktown agreed to pay $40,000 for projects to clean up the watershed, agreed to pay Riverkeeper’s fees and agreed to an increasing schedule of penalties designed to ensure that Yorktown either upgrades its plant or diverts its sewage.

STATUS
On the eve of a trial to determine the amount of penalties, Yorktown and Riverkeeper agreed to a settlement in which Yorktown agreed to pay $40,000 for projects to clean up the watershed, agreed to pay Riverkeeper’s fees and agreed to an increasing schedule of penalties designed to ensure that Yorktown either upgrades its plant or diverts its sewage.

CASE NAME
John J. Cronin and Hudson Riverkeeper Fund, Inc. v. Carol Browner, U.S. Environmental Protection Agency, 95 Civ. 1770 (BDP) (S.D.N.Y.)

BACKGROUND
Under the Clean Water Act, states may petition the EPA to declare “drinking water intake” zones, where ships are prohibited from discharging sewage waste. In 1990, Riverkeeper requested that the state petition EPA for an intake zone on the Hudson River from the Kingston-Rhinecliff bridge to the Newburgh-Beacon bridge, but EPA did not do so.

STATUS
The Clinic filed a citizen’s suit in U.S. District Court to force EPA to declare that section of the Hudson a drinking water intake zone. After the lawsuit was filed, EPA issued and proposed final regulations imposing “no discharge” requirements in that area. EPA agreed to pay attorney’s fees to Riverkeeper.

CASE NAME
Neighborhood Ass’n of Hamilton Avenue and Hunter Street et al. v. Barlow Properties, Index No. 09315/95 (Sup. Ct., Westchester County)

BACKGROUND
The owner of Barlow Properties wanted to expand a demolition debris transfer station in a historically significant African-American neighborhood on the banks of the Hudson River in Ossining without doing an Environmental Impact Statement.

STATUS
The state Supreme Court agreed with us and ordered an EIS, and the DEC agreed to hold a hearing. The owner agreed to drop the expansion plans in the face of a full hearing. In the meantime, the Clinic has filed suit to stop the owner from violating local zoning laws and being a common law nuisance. The community has now settled the case, with Barlow Properties agreeing to substantial restrictions on its operation and a schedule of payments for violations of permit or zoning conditions.

CASE NAME
Robert Scott v. King James Weyant et al., Index No. 1288-95 (Sup. Ct. Orange County)

BACKGROUND
The Clinic commenced an action to quiet title on behalf of Robert Scott, whose family has adversely possessed property overlooking the Hudson River for several generations. This property has been threatened with development by the nominal titleholder. In connection with the Clinic’s agreement to represent the Scotts, the Scotts deeds a conservation easement covering the affected property to Scenic Hudson, in order to ensure that the scenic value of the property will be granted summary judgment in Riverkeeper’s favor, finding that Yorktown had violated its permit and that Riverkeeper was a proper party to enforce the permit.

Docket -- continued on page 12

ENVIRONMENTALLY FRIENDLY 9
volume of environmental statutes and adhered to many environmental treaties. These nations have more environmental protection laws than they have trained attorneys to implement them. For environmental protection is to be effective in Asia, law schools must meet the challenge of training the first generation of environmental lawyers. The Asian Development Bank funds these seminars to build the capacity to teach environmental law. The course is under the auspices of the Commission on Environmental Law of the International Union for the Conservation of Nature and Natural Resources (IUCN), of which Pace’s Center for Environmental Legal Studies is a Member, the UN Environment Programme and the Asia Pacific Centre for Environmental Law (APCEL) of the National University of Singapore. The United Nations University has cooperated with the course as well.

The success of these seminars is measured in the new developments they stimulate. For instance, on March 16, 1998, Prof. M.K. Ramesh, who teaches environmental law at the National Law School of India at Nagarbhavi Bangalore, and directs its new Center for Environmental Education, Research and Advocacy (EERA), visited Pace Law School to confer with Prof. Robinson, and others on the Pace Law Faculty, about launching a similar training seminar for the laws schools of India with seminars at Bangalore and at Pace. The World Bank is underwriting these capacity building programs for India. Prof. Ramesh will also be in Singapore next June to work on the teaching team.

Pace and Wuhan University will be designing future such seminars for professors in the People’s Republic of China, also under the auspices of IUCN. These national seminars would carry on the format of the Singapore courses, in the context of China. As more advanced postgraduate training is sought by some institutions in Asia, Pace looks forward to receiving professors in its Masters of Laws (LL.M.) and Doctor of Juridical Science (S.J.D.) degree programs as well.

THAT’S ENTERTAINMENT? THE USE OF ANIMALS FOR HUMAN AMUSEMENT

By Adjunct Professor Suzan Porto


Afternoon programs included: Jane Garrison of People for the Ethical Treatment of Animals (PETA) on A Call to Attorneys: Brainstorming to Help Captive Elephants; Naomi Rose, Ph.D. of the Humane Society of the U.S. (HSUS) on the Cost of Captivity: What Price Entertainment? Mark Berman of Earth Island Institute on Captive Marine Mammal Law (and the Lack Thereof); Wayne Pacelle of HSUS on Combating the Recreational and Commercial Killing of Wildlife; Prof. Gary L. Francione and Anna E. Charlton, Esq. of Rutgers Animal Rights Center Your Right to Speak Out to Protect Animals; and Melanie Nardone of the Greyhound Protection League on Greyhound Racing: Bloodsport for Profit. The keynote address was delivered by Pat Derby on Show Biz is No Biz for Animals.

CONFERENCE OBJECTIVES

From ancient times to the present day, nonhuman animals have been used as mere objects of amusement by humans. Humans have entertained themselves by capturing nonhuman animals from their natural habitats and putting them on display in zoos and marine mammal parks, by forcing them to perform in circuses and in traveling animal acts in ways unnatural to nonhuman animals, by hunting nonhuman animals down and killing them for the "sport" of it, by inflicting pain on them for the mere thrill of it, and, often, solely for the greed of it.

The purpose of this Conference is to provide a forum for all members of the community to learn from experts about the issues pertaining to the use of nonhuman animals in zoos, circuses, roadside animal acts, marine mammal parks, rodeos, sport and trophy hunting, and greyhound racing. Strategies and remedies were explored. The papers will be published as conference proceedings.

SPONSORS

The Jolene Marion Memorial Fund for the Advancement of Animal Law was established at Pace University School of Law in 1995 by friends and colleagues of the late Jolene Marion, Adjunct Professor of Law, who devoted her professional life to the advancement of Animal Law through her teaching and her practice. As founder and Senior Staff Attorney of the New York City-based Legal Action for Animals, Jolene was a tireless advocate for the legal rights of all sentient creatures. At Pace, Jolene developed and taught the Animal Welfare Law course that continues to be offered during the School's Spring Session. The Jolene Marion Memorial Fund seeks to continue her work by sponsoring the Annual Animal Law Conference and supporting the maintenance of a comprehensive collection of Animal Law publications at the Pace University School of Law. Contributions can be made to the Jolene Marion Memorial Fund for the Advancement of Animal Law, at Pace University School of Law. The Conference was also sponsored by the Pace Center for Environmental Legal Studies and the Pace Environmental Law Society.
On the other hand, environmental groups and technological optimists say just the opposite. They claim that implementing the Protocol can lead to an economic renaissance, creating new renewable energy industries, and hundreds of thousands of new jobs. For example, a study conducted by the Tellus Institute asserted that the U.S. could reduce carbon emissions by 22% below 1990 levels by 2010, while generating a net increase of $14 billion in GNP and 770,000 jobs.

The most optimistic - and influential - of the technological optimists are Amory and Hunter Lovins. At Kyoto they released a paper entitled “Climate: Making Sense and Making Money.” The Lovins’ arguments form the basis for much of the Clinton program for combating global warming, particularly the proposals for tax incentives and increased spending on R&D for energy efficient technologies and renewable resources. They predict that if economic and regulatory barriers to new technologies are removed that by the year 2050 carbon emissions could be cut to one-third of current levels while population doubles and affluence triples.

Many pundits are predicting the Kyoto Protocol will never be implemented. Indeed, some observers have begun to write off Kyoto before the ink is even dry on the agreement. Such pessimism,

Global Warming -- continued on page 12

THE FOURTH ANNUAL
LLOYD K. GARRISON
LECTURE ON
ENVIRONMENTAL LAW

By

Oliver A. Houck
Professor, Tulane Law School
April 20, 1998

Thirty years ago, Lloyd K. Garrison and his associate Albert K. Butzell, of Paul Weiss, Rifkind, Wharton & Garrison, won the landmark decision to preserve Storm King Mountain on the Hudson River (pictured on our masthead). This victory for the Scenic Hudson Preservation Conference did more than safeguard “an area of unique beauty and major historical importance.” It inaugurated what today we recognize as the field of Environmental Law.

For all his 93 years, Garrison, a great-grandson of William Lloyd Garrison, the Abolitionist, devoted his brilliance and indefatigable energy to building a humane and caring society, respectful of the rule of law.

Past Garrison Lecturers have included Professor William H. Rodgers, Jr., Joseph L. Sax, and David Sive.

The Lecture, held in the Pace Moot Court Room, is free and open to the public.
There are hundreds of pipes discharging pollutants into New York Harbor without permits. The New York City Department of Environmental Protection compiled a complete survey of these illegal polluters but took no enforcement action against them. The discharges range from industrial sites to hospital to illegal sanitary connections to storm sewers.

STATUS
The Clinic has obtained the city DEP’s files under the Freedom of Information Law and legal interns are investigating enforcement actions against the illegal discharges.

CASE NAME
Village of Mount Kisco

BACKGROUND
The village of Mount Kisco does not have a sewage treatment plant to treat its sewage. Rather, the waste is pumped through a pump station to Yonkers Sewage Treatment Plant. However, during times of heavy rain, the pumps cannot handle all the sewage, so sewage is diverted to a “surge tank” that overflows into Branch Brook. On January 19, 1996, the pump station discharged about 250,000 gallons of sewage into Branch Brook. The brook flows into Kisco River, which, in turn, flows into the New Croton Reservoir – a major source of drinking water for New York City.

STATUS
The Clinic filed a notice of intent to sue the Village of Mount Kisco in U.S. District Court for allegedly violating the Clean Water Act. We are monitoring Mt. Kisco’s efforts to reduce the flow into its sewage plant to avoid overflows in the future.

Global Warming -- continued from page 11

The early commitment of some larger developing nations, such as Argentina, Brazil and South Korea to limit their greenhouse gas emissions;

A concerted campaign to ratify the treaty in the U.S. Senate involving a broad coalition of environmentalists, religious organizations, forward-looking businesses and parts of organized labor;

Effective implementation of emissions trading that reduces the cost of reducing carbon emissions and promotes the diffusion of clean technologies in the years 2000-2012; and

The successes of these years would lead to a determined effort to rapidly reduce emissions further beginning the year 2012.

Scientists have pointed out that there is much inertia in the climate system and that abating climate change will require a sustained international effort over long-time periods. Obstacles to implementing the Kyoto protocol - nationalism, ideology, and the economic interests of the fossil fuel industries are not to be underestimated. However, the increasing concentrations of greenhouse gases cannot simply be ignored. Failure to address the problem could harm the well-being of many generations to come, an inconceivable legacy for our generation. The next IPCC assessment will be available in 2001. Better understanding of the consequences of climate change and an assessment of the progress we have made by that time may require a new international effort to take more drastic measures.