

## WELCOME

To keep the network better informed about our programs and projects, the Sea Grant Legal Programs have decided to produce a monthly email newsletter. Through this newsletter we will highlight recent publications, staffing changes, and new initiatives. Feel free to contact the directors of the individual Sea Grant Legal Programs for additional information on any of the projects or products mentioned below. For information on how your program can tap into the services of the National Sea Grant Law Center, please contact Stephanie Showalter at [sshowalt@olemiss.edu](mailto:sshowalt@olemiss.edu) or by phone at (662) 915-7775.

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## National Sea Grant Law Center

August was a busy month for the National Sea Grant Law Center, especially for our staff attorney Terra Bowling. Terra and her husband welcomed their new daughter, Poppy Katherine Bowling, into the world on August 22. Terra will be on maternity leave until mid-October.

The staff of the Law Center spent the month filling advisory requests. Two memos were prepared for California Sea Grant, on behalf of the California Department of Fish and Game, about the application of state law to aquaculture facilities in federal waters. One memo provides a short summary regarding the extraterritorial jurisdiction of states (MASGP 08-007-011) and one discusses the authority of California with respect to escapes and conflicts with other states (MASGP 08-007-012). Another memo was prepared for the Saugatuck Dunes Coastal Alliance detailing the available legal protections for coastal environments and resources in Michigan, including the Coastal Zone Management Act, the Endangered Species Act, state wetland protection acts, and the Public Trust Doctrine. (MASGP 08-007-07). All three memos are available online at <http://www.olemiss.edu/orgs/SGLC/National/advisory.htm>. We also produced a fact sheet summarizing the Clean Boating Act passed by Congress in July.

The fact sheet is available at <http://www.olemiss.edu/orgs/SGLC/National/Clean%20Boating%20Act.pdf>.

Stephanie Showalter participated in the Sea Grant-sponsored symposium on seafood certification at the American Fisheries Society Annual Meeting in Ottawa, Canada on August 20. Her presentation on the Legal Aspects of Seafood Certification is available at <http://www.olemiss.edu/orgs/SGLC/slides.html>.

Classes started Monday at the University of Mississippi School of Law and the Law Center is pleased to offer a Wildlife Law class this semester. Stephanie currently has eighteen students enrolled who will learn about state authority to manage wildlife, federal protection for wildlife and wildlife habitat, and the laws governing the international trade in wildlife.

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## Rhode Island Sea Grant Legal Program

### •2008 Marine Law Summer Program

The Legal Program's third Marine Law Summer Program was a success, with an enrollment of twenty-three students. The classes offered included Energy, Development and Climate Change; Law of the Sea; Marine Salvage Law; Maritime Legislation & Regulatory Law; and Mediation Skills.

In addition to the classes, lectures and field trips were included. Students joined David Buetel, a commercial fishing gear expert on the *Cap'n Bert*, a research vessel from the University of Rhode Island, for a morning boat trip on Narragansett Bay. The trip consisted of a 30-minute trawl, an explanation of commercial fishing procedures and gear, and discussion of the relevant fisheries regulations. Students in the second summer session boarded the *Providence Piers* for a tour of Upper Narragansett Bay. The boat's captain and a tour guide provided a history of the waterfront, the history of Roger Williams' settlement of Providence and a waterside view and history of the port of Providence. Austin Becker, with the Coastal Resources Center of RI Sea Grant, was also on board to provide information related to his work on the inventory of the Bay and its working waterfront. Chris Hunter from the Working Waterfront Alliance and Prof. George Mason, Providence College, also participated in the tour. In addition, as part of the Energy, Development and Climate Change class, students visited the site of the first wind turbine in Rhode Island at Portsmouth Abbey School, Portsmouth, Rhode Island. Read more about the turbine at <http://www.portsmouthabbey.org/page/2181>.

Kristen M. Fletcher, Executor Director of the Coastal States Organization in Washington, DC and former director of the Marine Affairs Institute, gave a lecture entitled "*Reauthorization (and Rethinking) of Coastal Zone Management*". David J. Farrell, Jr., Esq., a practitioner from Massachusetts and a member of the Board of Directors of the Maritime Law Association of the U.S., presented a lecture on "*Challenges and Opportunities Practicing Maritime Law in New England*."

### •Sea Grant Law Fellow Projects

#### *Rhode Island Fluke Conservation Cooperative Sector Allocation Pilot Program*

Kate Haber, 2L, is working with the RI Department of Environmental Management's Division of Fish & Wildlife, RI Attorney General's Office and the Rhode Island Commercial Fishermen's Association to assess the legality of a proposed Fluke Sector Allocation Management Plan. The research conducted by Kate will lead to the development, establishment and management of a rights based management solution to a well-documented regional bycatch problem. The proposed solution recommended by the Rhode Island Fluke Conservation Cooperative is a community co-managed Sector Allocation plan, which advocates transitioning away from Quota Management. The work product will serve as the basis for discussion for upcoming public hearings to discuss the implementation of the plan, proposed for January 1, 2009 (for at least a period of one year).

#### *Defining Property Boundaries for Public Access*

Amanda Argentieri, 3L, is working with the RI Coastal Resources Management Council and RI Attorney General's Office to define the legal property boundary in the Town of Westerly. The legal question is whether deed language (that refers to a surveyed plat map) or a surveyed plat map that is registered in the land evidence records is the appropriate boundary with regard to the "foot of bank" with rights-of-way at regular intervals that lead to "beach."

#### *Marine Law Symposium*

Two Sea Grant Law Fellows, Josh Barker and Gwen Hancock, will undertake the task of conducting legal research for the Marine Law Symposium scheduled for October 23-24, 2008. Expert panelists will explore a means to achieve a viable marine renewable energy industry for the United States with a focus on offshore wind; hydrokinetics (wave, current and tidal); and ocean thermal energy conversion (OTEC). Its panels will discuss a range of solutions addressing the nascent U.S. marine renewable energy sector's current legal, economic and policy challenges, including:

- Jurisdictional and permitting/licensing schemes;
- Developing Strategies for Marine Renewable Energy Regulation;
- Financing and Economic Issues;
- Renewable Energy Integration (Engineering, Market and Policy);
- Human Dimension Issues;
- International Perspectives on Offshore Energy Projects; and
- Offshore Energy Research & Development Funding

The research conducted will provide the basis for both the Ocean SAMP (see below) and a Symposium issue published by the *Roger Williams University Law Review*.

For more information please see: <http://law.rwu.edu/sites/marineaffairs/symposia/seventhMLS.aspx>.

#### •Ocean Special Area Management Plan (SAMP)

The Legal Program is part of an effort, lead by the RI Coastal Resources Management Council, to define use zones for Rhode Island's offshore waters through a research and planning process that integrates the best available science with open public input and involvement. The Legal Program will analyze the state and federal permitting process for marine renewable energy projects; contact members of the legal community, highlighting legal and policy challenges and solutions for implementing renewable energy in Rhode Island; distribute legal findings to the Sea Grant Legal Program/Roger Williams University School of Law Marine Affairs Institute constituents, including various sectors of the marine renewable energy community; and provide legal research and analysis of ocean zoning to support the development of state policies and regulations for the SAMP. For more information on the SAMP, please see: <http://seagrant.gso.uri.edu/oceansamp/>.

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## North Carolina Coastal Resources Law, Planning and Policy Center

In August 2008, the North Carolina Coastal Resources Law, Planning and Policy Center continued its work with the NC Division of Coastal Management (DCM) on its emerging ocean resources study. The Center is in the midst of preparation of the final report that will be presented to the DCM and the NC Coastal Resources Commission (CRC) at the end of 2008 / early 2009. The ocean policy steering committee convened this month to provide the Center with input on draft recommendations for the final report. The Center also engaged in discussion with the Environmental Law Institute, which is working with the State of Virginia on preparing policy recommendations regarding wind energy development off the Virginia coast. The Center provided ELI with information on current North Carolina law and policy. Furthermore, due to the positive feedback the Center has received on a recent article on the legal framework for coastal and offshore wind energy development in its *Legal Tides* newsletter, it has been invited by the CRC to present on law and policy issues surrounding wind energy development off the NC coast, as well as participate on a panel discussion on the issue, at the CRC's September meeting. Finally, the Center is planning its annual "Shape of the Coast" Continuing Legal Education program, which will be held October 24th in New Bern. The agenda has been finalized, and registration will begin very soon. The day before the "Shape of the Coast" program, the Center will hold its annual advisory board meeting.

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## Mississippi-Alabama Sea Grant Legal Program

New research counsel Tim Mulvaney continues to work on a report with the Mississippi Department of Wildlife, Fisheries and Parks with respect to the Department's instream flow management policy. Tim also began teaching a trial practice course at the law school at the University of Mississippi. Further, he is pursuing the use of a variety of electronic media, such as creating a blog and recording audio and video podcasts, to supplement the print edition of the Program's quarterly reporter, *Water Log*. *Water Log* is always seeking law student authors, so please email [tmulvane@olemiss.edu](mailto:tmulvane@olemiss.edu) if you know of interested students or have suggestions with respect to utilizing the electronic media discussed above.

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## Louisiana Sea Grant Law and Policy Program

The Sea Grant Law & Policy Program (SGLPP) has been a component of the Marine Advisory Services of the Louisiana Sea Grant College Program for more than 30 years. Last month, the SGLPP announced the available of the *Louisiana Coastal Hazard Mitigation Guidebook*. The program intends to continue its hazards mitigation work by producing a homeowner's guide. For more information about the program and its publication, please visit them on the web at <http://www.lsu.edu/sglegal/>.

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## University of Florida School of Law Conservation Clinic

Faculty and students affiliated with the Conservation Clinic at the University of Florida School of Law continue to work on issues affecting coastal communities. In the Fall semester the Clinic will work with Florida Department of Community Affairs to assist three new communities in the Waterfronts Florida Partnership Program to incorporate their community waterfront visioning into local comprehensive plan policy language. In November, Florida will vote on a constitutional ballot initiative to change the way commercial working waterfronts are assessed for property taxation purposes. If passed, qualifying commercial properties will be assessed at current rather than highest and best use. In addition, the Florida Department of Community Affairs has initiated rulemaking to implement a 2008 statute that authorizes the state to purchase commercial working waterfront properties in order to keep them viable.

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## Other Sea Grant-Funded Legal Activities

## •Regulatory Pathfinder for Coastal Development in South Carolina

With the help of a grant from the South Carolina Sea Grant Consortium, Kim Diana Connolly at the University of South Carolina School of Law designed a regulatory pathfinder to assist private individuals, business owners, local and state government officials and other interested persons in determining what rules and regulations might be applicable to the projects they want to undertake in the eight coastal counties in South Carolina. The Pathfinder should also be helpful to individuals outside of South Carolina undertaking basic research. The website is not intended to represent legal advice; it is merely a tool with which to begin research and become familiar with the topic. The pathfinder can be accessed at [http://www.law.sc.edu/pathfinder/coastal\\_development/](http://www.law.sc.edu/pathfinder/coastal_development/) .