

## 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.

---

### National Sea Grant Law Center

Last month, as part of our ongoing efforts to increase the legal capacity of the Sea Grant network, the National Sea Grant Law Center requested proposals for our first mini-grant competition. The Law Center was seeking to fund small projects, primarily workshops, which would bring people together or disseminate legal information to non-traditional audiences. The proposals arrived almost immediately. This competition reinforces our belief that more resources are needed within the Network to help Sea Grant programs tackle complicated legal and policy issues as they arise.

Three projects have been selected for funding so far. Oregon Sea Grant received funding to host a workshop to encourage fishing community groups (commercial, charter, and recreational fishing businesses) to connect and work together to better engage in the advisory process on some important ocean zoning and legal issues in Oregon: marine reserves and ocean-based energy generation. Alaska Sea Grant will be reassembling the Alaska Sea Grant Exxon Valdez Legal Research Team, which conducted seminal legal research that helped lead to an overhaul of Alaska state laws and reshaped federal regulations after the Exxon Valdez oil spill in 1989. The workshop is tentatively scheduled for March 2009 and will be held in conjunction with a number of anniversary events. MIT Sea Grant will be developing web-based outreach for a symposium co-organized by the Boston College Environmental Law Affairs Review titled "20-Ton Canaries: The Great Whales of the North Atlantic."

Stephanie Showalter presented an update on the National Sea Grant Law Center's activities at the Fall SGA meeting in New Orleans. She also provided some information on federal lobbying restrictions. Stephanie has been preparing for the December 4, 2008 Ralph Rayburn Beltway Brown Bag Series in Silver Spring, Maryland. She will be giving a presentation entitled *The National Sea Grant Law Center: Reducing Barriers and Conflicts through Legal Extension* and meeting with various NOAA offices to promote the Law Center's services.

Terra Bowling is preparing a paper on offshore wind energy permitting, as part of a larger Law Center project on offshore energy. She continues writing and editing for the Sea Grant Law and Policy Digest, The SandBar, and the monthly Case Alert. She also attended the Fall SGA meeting in New Orleans.

---

### Mississippi-Alabama Sea Grant Legal Program

Tim Mulvaney accepted a publication offer from the Tulane Environmental Law Journal for his article suggesting that the public trust doctrine, in accord with a framework set forth by Hawaii's Supreme Court, could operate independently from state water codes to protect instream flows in eastern regulated riparian jurisdictions, such as Mississippi. Tim submitted an abstract to discuss this topic at NOAA's Coastal Zone conference in Boston, MA in July 2009. Further, Tim is preparing to serve on a panel at an upcoming symposium of the University of Mississippi School of Law's Environmental Law Society, entitled "*The Effects of Climate Change on Law and Living*" in Oxford, MS. He also is working with MS-AL Extension Agents to present a segment on "Land Trusts and the Law" at a January workshop in Mobile, AL. In addition, Tim continues writing and editing MS-AL Sea Grant's quarterly publication, *Water Log*.

Tim attended a variety of important conferences in November, including the Extension Disaster Education Network annual summit, the Georgetown Environmental Law and Policy Institute's regulatory takings law forum, and the Sea Grant Association's fall meeting.

---

### NC Coastal Resources Law, Planning and Policy Center

During November 2008, Center co-directors Lisa Schiavinato and Joseph Kalo were invited to join the North Carolina Wind Working Group (WWG), a coalition of state agencies, universities, the private sector and nonprofit organizations. The mission of the WWG is to: (1) develop a clear understanding of existing attitudes toward wind development in the coastal region; (2) inform and educate key stakeholders, particularly the agricultural community, about the benefits of wind development; and (3) generate enough interest to inspire local individuals, businesses, and organizations to join in the efforts that will lead to real wind development. At the November meeting, Schiavinato gave a presentation to the group on the legal and regulatory obstacles to wind energy development along North Carolina's coast.

In addition, Schiavinato guest lectured at East Carolina University on the importance of the law in the field of coastal management. The audience for this lecture was graduate students in ECU's coastal resource management PhD program and interested ECU faculty. Schiavinato provided an overview of the U. S. legal system, including the courts, as well as discussed major laws relevant to the field of coastal management. She also led interactive discussion among students and members of ECU faculty on the recent Supreme Court decision of the "Navy sonar" case, *Winter v. Natural Resources Defense Council*.

An article written by Schiavinato and Kalo on the law and policy issues surrounding wind energy development along North Carolina's coastal and estuarine waters was selected for publication in the North Carolina Law Review in 2009.

Schiavinato also provided assistance to graduate students at Duke University's Nicholas School of the Environment on legal issues surrounding such issues as sand resources management and the role of the CZMA consistency provision in state coastal management programs.

The Center continued its work on the NC emerging ocean resources policy study. With the assistance of the NC Division of Coastal Management and the study's advisory committee, the Center published its draft report of the study on its website, <http://www.nccoastallaw.org>. Posting the draft report to the Center's website is a precursor to the upcoming public comment period, where the Center will seek input from citizens on issues and policy recommendations presented in the draft before preparing the final report. The final report will be presented to the NC Coastal Resources Commission in early 2009.

---

## Rhode Island Sea Grant Legal Program

### 7th Marine Law Symposium: A Viable Marine Renewable Industry: Solutions to Legal, Economic, and Policy Challenges

The RWU SOL Marine Affairs Institute/RI Sea Grant Legal Program asserted its leadership on cutting edge marine law and policy through its biennial Marine Law Symposium. This year's Symposium focused on the viability of a marine renewable energy industry for the United States, with an emphasis on offshore wind; hydrokinetics (wave, current and tidal); and ocean thermal energy conversion. Over two hundred attorneys, energy entrepreneurs, regulators and law students attended two days of presentations from thirty-five speakers.

The blog from the Symposium (<http://mls.rwu.edu>), the forthcoming *Roger Williams University Law Review* Symposium Issue, and materials presented before and during the Symposium (<http://law.rwu.edu/sites/marineaffairs/symposia/seventhMLS.aspx>) will continue the important work of this Symposium, i.e. providing a forum and opportunity to fully air these issues.

### 2008 New England Marine Law Workshop

Marine Affairs Institute Director Susan Farady and Research Counsel Megan Higgins presented "Zoning the Last Frontier: State Ocean Planning Initiatives" at the 2008 New England Marine Law Workshop convened by the Environmental, Earth & Ocean Sciences Department, UMass/Boston and the Marine Law Institute, University of Maine School of Law. Ms. Farady described the backdrop of current ocean planning initiatives in the United States originating with the Pew Oceans Commission and U.S. Commission on Ocean Policy, both of which called for change to ocean management including ecosystem based management, statutory changes, and increased use of scientific information. Following that, Ms. Farady discussed progress to date, thus far little at the federal level but several state initiatives are underway. Specifically, Maine, California, New York, Washington, Rhode Island, and Massachusetts have all made varying degrees of progress in reforming state ocean management and initiating ocean planning.

Ms. Higgins described the federal authority of a Special Area Management Plan (SAMP) according to the Coastal Zone Management Act. She focused on Rhode Island's accomplishment of developing seven SAMPs under the guidance of the Rhode Island Coastal Resources Management Council, specifically its most recent endeavor to develop an Ocean SAMP by 2010. The Ocean SAMP process will develop a zoning plan for the state's waters and is being conducted by the RI Coastal Resources Management Council, with several partners providing scientific, legal and data support (University of Rhode Island, Rhode Island Sea Grant, URI Coastal Resources Center, and Roger Williams University School of Law), and includes stakeholder and state and federal agency advisory bodies. The Marine Affairs Institute is providing legal research and analysis for the Ocean SAMP. See <http://seagrant.gso.uri.edu/oceansamp/> for more information.

Ms. Farady and Ms. Higgins presented at a monthly Roger Williams American Inn of Court meeting held at Save The Bay's facility at Field's Point in Providence, Rhode Island. Designed to improve the skills, professionalism, and ethics of the bench and bar, an American Inn of Court is an amalgam of judges, lawyers, and in some cases, law professors and law students. Each Inn meets approximately once a month both to "break bread" and to hold programs and discussions on matters of ethics, skills, and professionalism. Participating in the design of the November 2008 program emphasizing environmental law, Ms. Farady and Ms. Higgins presented on the evolving state of ocean governance reform, including Rhode Island's Ocean SAMP process to develop a zoning plan for Rhode Island waters.