



# TAKING STOCK: *The Magnuson-Stevens Act Revisited*

November 4 – 5, 2010



The Rooms Provincial Archives Division, VA 21-18 / R.E. Holloway, Labrador, 1900

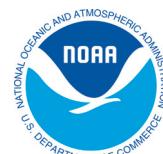
“The larger fish measured 5 ft. 5 in., and weighed 60 lbs.”

ROGER WILLIAMS UNIVERSITY  
SCHOOL OF LAW  
BRISTOL, RHODE ISLAND

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UNIVERSITY  
OF RHODE ISLAND

Roger Williams  
University  
SCHOOL OF LAW

Sea Grant  
Rhode Island





8th Marine Law Symposium  
Taking Stock: *The Magnuson-Stevens Act Revisited*

November 4-5, 2010  
Roger Williams University School of Law · Bristol, Rhode Island

## WELCOME!

Welcome to the 8<sup>th</sup> Marine Law Symposium, *Taking Stock: The Magnuson-Stevens Act Revisited*. As a premier national marine law clearinghouse, we are delighted to convene this Symposium as part of our mission to regularly gather law and policy experts to discuss timely marine and maritime issues, and prepare the next generation of marine law professionals.

Since human beings first cast a line from shore, or tossed a net over the side of boat, fishing has been part of human existence, and how we interact with the ocean. The fish stocks off the United States' shores were harvested centuries before the signing of the Constitution, and in fact, contributed in many ways to the founding of our nation. Over the course of two hundred years, changing population, technology, international law and consumer demand led to changes in how fishermen fished and how the law governed their activities. In response, Congress passed the Magnuson-Stevens Act nearly 35 years ago. This law set in motion a remarkable exercise in natural resource management that continues to this day.

Since 1976, the law has been amended several times and numerous cases litigated. Fishery management decisions are made with vigorous public participation, and an increasingly complex array of scientific, economic and legal considerations. Fishing is perhaps the most commonly recognized human use of the oceans, and as a result, the Act is oftentimes the most visible ocean-related law, governing significant economic and natural resources, impacting coastal communities, and a focus when changes in overall ocean management are contemplated.

Today, our oceans are under unprecedented pressure. We want to do more and more with ocean resources via traditional as well as new avenues, to support our desire for energy, transportation, recreational access and food. Impacts of climate change will directly impact ocean resources and our use of them. Our legal and management structure is attempting to respond to these challenges at state, regional and federal levels, through new laws, re-examining existing laws, policy initiatives, and various marine spatial planning exercises. At the heart of these efforts are critical questions about how well-established fishery management law is working, and how it will need to function in the future to respond to changing uses and conditions.

We will spend the next two days considering the Magnuson-Stevens Act, its' history, its' future, and the increasingly complex seascape that fishery management operates within. We have gathered leading ocean law scholars from Hawaii to Nova Scotia, advocates from conservation and private practice, and management professionals to lead our discussion. To further capitalize on the expertise we have gathered beyond the two days of the Symposium, we have prepared background documents and placed resources on our website, <http://law.rwu.edu/academics/institutes-programs/marine-affairs-institute/symposia>, and will be publishing articles from presenters in a special marine law 2011 edition of *The Roger Williams University Law Review*.

Decisions about how we use our oceans and manage fisheries are not going to get any easier. I hope this Symposium provides you an opportunity to contemplate and converse among colleagues outside the frenzy of management decisions, and consider effective solutions to the challenges we face in fishery and ocean management. I look forward to the conversations and welcome your participation.

Sincerely,

Susan E. Farady  
Director,  
Marine Affairs Institute, Roger Williams University School of Law  
Rhode Island Sea Grant Legal Program





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## AGENDA

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### THURSDAY, NOVEMBER 4, 2010

- 8:30 a.m.                    **Registration Opens**
- 8:30 – 9:00 a.m.           **Continental Breakfast**
- 9:00 – 9:30 a.m.           **Welcome**  
**Ronald O. Champagne, Ph.D.**, President, Roger Williams University  
**David A. Logan**, Dean, Roger Williams University School of Law  
**Susan E. Farady**, Director, Marine Affairs Institute, Roger Williams University School of Law
- 9:30 – 10:15 a.m.        **Keynote Speaker: Senator Sheldon Whitehouse (D-RI)**
- 10:15 – 10:45 a.m.       **Break**
- 10:45 – 12:15 p.m.      **Panel I: *The Magnuson-Stevens Act Revisited: Then and Now***  
When the law was first passed in 1976, the state of technology, governance, science and other issues such as climate change, were vastly different than they are today. The law has been amended several times and the subject of much litigation. This panel will explore the law's evolution over time, the cases interpreting the law, the statute's purpose, and how the law might be crafted differently in the future.
- Moderator:**     **Jared Goldstein**, RWU School of Law  
**Panelists:**       **Michael Conathan**, U.S. Senate Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard  
                                 **Josh Eagle**, University of South Carolina School of Law  
                                 **Eldon V.C. Greenberg, Esq.**, Garvey Schubert Barer  
                                 **Gene S. Martin, Jr., Esq.**, Office of NOAA General Counsel, Northeast  
                                 **Peter Shelley**, Conservation Law Foundation
- 12:15 – 1:30 p.m.        **Lunch**
- 1:30 – 2:45 p.m.        **Panel II: *The Magnuson-Stevens Act and Other Management Schemes***  
Natural resources within the US and in other countries are managed under different types of legal regimes. This panel will explore how Magnuson-Stevens compares to other domestic natural resource laws and fishery management compares to management of terrestrial resources such as forestry, minerals and grazing lands. Additionally, other countries' fishery management law will be compared to U.S. fishery management.
- Moderator:**     **Michael Burger**, RWU School of Law  
**Panelists:**       **John Duff**, University of Massachusetts at Boston  
                                 **Morgan Gopnik**, Duke University  
                                 **Phillip M. Saunders**, Dalhousie University/Schulich School of Law  
                                 **Lois J. Schiffer, Esq.**, NOAA General Counsel



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2:45 – 3:15 p.m.

**Break**

3:15 – 4:30 p.m.

**Panel III: *The Intersection of Magnuson-Stevens with Other Laws***

Key cases have focused on the complex relationship between Magnuson-Stevens and other laws such as the Marine Mammal Protection Act, the Endangered Species Act and the National Environmental Policy Act. This panel will explore how U.S. fishery management law interacts with other laws, how well existing coordination among the different laws works and how it might work better in the future.

**Moderator:** **Josh Eagle**, University of South Carolina School of Law

**Panelists:** **Kaja Brix**, Alaska Regional Office, NOAA Fisheries  
**Donna R. Christie**, Florida State University College of Law  
**Stephen M. Ouellette, Esq.**, Ouellette & Smith, PA  
**Dana Wolfe**, Ocean Conservancy

5:00 – 6:00 p.m.

**Reception**

*Mt. Hope Farm, Bristol, RI*

6:00 – 8:00 p.m.

**Dinner**

*Mt. Hope Farm, Bristol, RI*



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**FRIDAY, NOVEMBER 5, 2010**

8:30 – 9:00 a.m. **Continental Breakfast**

9:00 – 10:00 a.m. **Keynote Speaker: Eric C. Schwaab**, Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration

10:00 – 10:30 a.m. **Break**

10:30 – 12:00 p.m. **Panel IV: *Resource Allocation and the Magnuson-Stevens Act***

Fishery management is moving towards more use of ‘privatized’ allocation schemes, such as the recent shift in New England groundfish to sector management. This panel will explore the benefits and disadvantages of these allocation schemes, how the public trust interest in fishery resources is implicated, the evolving roles of government and industry, and the application of other laws beyond Magnuson-Stevens.

**Moderator:** Donald W. Perkins, Gulf of Maine Research Institute

**Panelists:** Vito Giacalone, Northeast Seafood Coalition

Sally McGee, Environmental Defense Fund

Alison Rieser, University of Hawaii at Manoa

Eric M. Thunberg, Northeast Fisheries Science Center, NOAA

12:00 – 1:00 p.m. **Lunch**

1:00 – 2:30 p.m. **Panel V: *Fishery Management, Marine Spatial Planning, and Energy***

The application of the Magnuson-Stevens Act SA will confront new challenges in the future, as interest increases in new offshore uses such as renewable energy development, the application of marine spatial planning and the ramifications of a marine disaster such as the Deepwater Horizon incident in the Gulf of Mexico. This panel will examine how fishery management law functions within an evolving management and policy landscape.

**Moderator:** Dennis Nixon, University of Rhode Island

**Panelists:** Daniel Cohen, Fishermen’s Energy

David E. Frulla, Esq., Kelley Drye & Warren LLP

Grover Fugate, RI Coastal Resources Management Council

Donald A. Migliori, Esq., Motley Rice LLC

Eric C. Schwaab, NOAA Fisheries

2:30 – 2:45 p.m. **Break**

2:45 – 3:30 p.m. **Wrap Up Discussion and Conclusion**

*Susan E. Farady, Marine Affairs Institute*



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## KEYNOTE SPEAKERS



### Senator Sheldon Whitehouse (D-RI)

For more than 20 years, Sheldon Whitehouse has served the people of Rhode Island: championing health care reform, standing up for our environment, helping solve fiscal crises, and investigating public corruption. Now, his experience as a seasoned prosecutor and policymaker is at work for Rhode Island in the U.S. Senate, where he is bringing new leadership to Congress and working to set our country on a different course.

Senator Whitehouse has emerged as a strong voice in Washington for issues affecting the people of Rhode Island. With the Ocean State facing record high unemployment, he has worked hard to stabilize the economy and put people back to work. The American Recovery and Reinvestment Act, which he supported, has created or saved more than 11,000 jobs in Rhode Island since it became law in 2009. He continues fighting in the Senate for greater investment in infrastructure and clean energy to create good jobs today and provide essential services to Rhode Island for years to come.

Senator Whitehouse has also been a leader in the fight to reform our broken health care system, and worked to include language in health reform legislation to close the Medicare Part D “doughnut hole” which leaves many seniors unable to afford their prescription drugs. He has also spearheaded the nationwide effort to expand the use of health information technology (HIT), such as electronic medical records, which lower costs and improve health care quality for patients. Whitehouse helped Rhode Island become a leader in this growing field throughout his career, and in 2010 Senator Whitehouse worked to secure \$26 million in federal funding for the Rhode Island Quality Institute for the implementation of HIT.

As a member of the Senate Environment and Public Works Committee, Senator Whitehouse has championed efforts to protect our environment, including our oceans and marine ecosystems, and he is a forceful advocate for urgent action to address the threat of climate change, especially its impact on our coastal communities.

A graduate of Yale University and the University of Virginia School of Law, Senator Whitehouse served as a policy advisor and counsel in the Office of the Governor of Rhode Island and as the state’s Director of Business Regulation before being nominated by President Bill Clinton to be Rhode Island’s U.S. Attorney in 1994. He was elected State Attorney General in 1998, a position in which he served from 1999-2003. On November 7, 2006, Rhode Islanders elected him to the Senate, where he is a member of the Special Committee on Aging, the Budget Committee, the Environment and Public Works (EPW) Committee, the Judiciary Committee, and the Select Committee on Intelligence. Senator Whitehouse chairs the Judiciary Subcommittee on Administrative Oversight and the Courts and the EPW Subcommittee on Oversight.





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**Eric C. Schwaab**  
**Assistant Administrator for Fisheries**  
**National Marine Fisheries Service**  
**National Oceanic and Atmospheric Administration**

Eric C. Schwaab was appointed as the Assistant Administrator for Fisheries at the National Oceanic and Atmospheric Administration in February 2010. He oversees the management and conservation of marine fisheries and the protection of marine mammals, sea turtles and coastal fisheries habitat within the United States exclusive economic zone. The National Marine Fisheries Service protects and preserves the Nation's living marine resources through scientific research, fisheries management, law enforcement, and habitat conservation.

His focus is on rebuilding the Nation's fisheries and the jobs and livelihoods that depend on them by promoting management approaches that will achieve both sustainable fisheries and vibrant coastal communities. The agency's budget for fiscal year 2010 is \$904.5 million and employs over 3,285 employees in 6 regions, 6 science centers and 12 laboratories in 15 states. The agency's headquarters is in Silver Spring, Maryland, outside Washington, D.C.

Mr. Schwaab brings more than 25 years of experience in local, state and federal natural resource management. He has spent the majority of his career at the Maryland Department of Natural Resources, where he began as a natural resources police law enforcement officer in 1983. During this time, he served as director of the Maryland Forest Service; director of the Maryland Forest, Wildlife and Heritage Service; and director of the Maryland Fisheries Service. In 2003, he left the Maryland Department of Natural Resources to serve as resource director for the Association of Fish and Wildlife Agencies until 2007. He then returned to the Maryland Department of Natural Resources as the Deputy Secretary. He also served as a member of the U.S. Department of Commerce Marine Fisheries Advisory Committee from 2005-2010.

Mr. Schwaab holds an undergraduate degree in Biology from McDaniel College and a Masters Degree in Environmental Planning from Towson University.

Eric Schwaab's presentation is entitled "Magnuson-Stevens Act – Ending Overfishing and Rebuilding the Nation's Valuable Marine Fisheries." Marine fish and fisheries have been vital to the survival and prosperity of communities in the United States for hundreds of years. Today, many important fisheries are subject to overfishing or at low population levels and need to be rebuilt to ensure they contribute to the future prosperity of coastal communities. Although much progress has been made in the last 30 years managing marine fisheries under the Magnuson-Stevens Fishery Conservation and Management Act, significant challenges remain.



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## **WELCOME REMARKS**

*THURSDAY, NOVEMBER 4*



**Ronald O. Champagne, Ph.D.**  
**President**  
**Roger Williams University**

Following a celebrated career as an academic and administrator in higher education and beyond, Ronald O. Champagne, Ph.D., became president of Roger Williams University on August 25, 2010. Dr. Champagne will lead the University while a presidential search committee identifies the next permanent president of Roger Williams.

A Rhode Island native, Dr. Champagne is an accomplished leader – his extensive résumé includes 12 years as president of Saint Xavier University in Chicago, four years as senior vice president for development at the Alzheimer's Association, and more recently, interim presidency roles at Shimer College in Chicago and Merrimack College in North Andover, Mass.

Throughout his career in academe, Dr. Champagne has displayed tremendous commitment to teaching and learning. As president of Saint Xavier from 1982 to 1994, he directed a major transformation of the institution that culminated in its transition from college to university in 1992. Along the way, the University achieved a top-tier rating and recognition for student diversity from *U.S. News & World Report*. Among myriad accomplishments, Dr. Champagne created the Center for Educational Practices to support faculty initiatives and teaching excellence and established the Saint Xavier University Whitman Scholarship for outstanding Chicago public school principals.

In recent years, Dr. Champagne has earned a stellar reputation as a leader at colleges and universities in periods of transition. He served as Shimer College president during the 2007-08 academic year, transforming the institution's enrollment and fundraising efforts and updating a long-range strategic plan as the college searched for a permanent president. From 2008 to 2010, Dr. Champagne led Merrimack College through a strategic planning process and accreditation preparations; he also spearheaded the creation of a new School of Education and produced operating surpluses for the college during two years of national economic uncertainty.

Dr. Champagne has also held administrative positions as senior vice president for development of the National Alzheimer's Disease and Related Disorders Association, where he advanced the organization's fundraising rank among the top 26 voluntary health associations in America from 18th in 2001 to ninth in 2004; vice president for development at Roosevelt University; vice president for academic administration and dean of the college at Salem College; and founder and director of the Manhattanville Advanced Studies Program at Manhattanville College. Faculty appointments include professor of philosophy of science at Roosevelt University and professor of mathematics at Saint Xavier University and Salem College.

Dr. Champagne earned his doctorate in philosophy in the foundations of mathematics and physics and a master's degree in philosophy from Fordham University in New York; he holds a master's degree in mathematics and physics from the Catholic University of America in Washington, D.C.; and he earned a bachelor of arts in mathematics, philosophy and classics from Duquesne University in Pittsburgh, Penn.





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**David A. Logan**  
**Dean and Professor of Law**  
**Roger Williams University School of Law**

A graduate of the University of Virginia School of Law, David A. Logan has been Dean at the Roger Williams School of Law since 2003. After law school, David clerked for a federal judge and then joined a major Washington, D.C. law firm. During his time in practice he represented American Indian tribes, as well as being on brief in *Havens Realty v. Coleman*, in which the United States Supreme Court approved the use of “testers” to prove racial discrimination under the federal Fair Housing Act. From 1981-2003, Dean Logan was on the faculty at Wake Forest University School in Winston-Salem, North Carolina, where he taught and wrote about Torts.

He has won awards for his teaching and public service, and is often called upon to provide expert commentary on controversial legal issues. Dean Logan has frequently been quoted in major newspapers and appeared on Nightline, The NBC Evening News, and CBS Morning News, National Public Radio, and the O'Reilly Factor.



**Susan E. Farady**  
**Director**  
**Marine Affairs Institute/Rhode Island Sea Grant Legal Program**

Professor Farady is the Director of the Marine Affairs Institute and the Rhode Island Sea Grant Legal Program, and adjunct faculty. She teaches marine policy and law, and directs the education, outreach and research programs of the Institute, including the joint degree program with the University of Rhode Island Department of Marine Affairs, activities with Rhode Island Sea Grant, and marine affairs curriculum and outreach activities at the School of Law. Professor Farady has presented on marine governance reform, marine protected areas, and the National Marine Sanctuary

Act. She serves as an advisor to the Stellwagen Bank National Marine Sanctuary, the Metcalf Institute for Marine and Environmental Reporting, and the Sea Education Association. Professor Farady co-authored a textbook, *Marine and Coastal Law*, 2<sup>nd</sup>. Ed. and has published papers on the National Marine Sanctuary Act and governance reform.

Prior to joining RWU, she directed the Ocean Conservancy's New England Regional Office, served as an advisor to the Maine Department of Marine Resources and the New England Fishery Management Council Enforcement Committee, and practiced both civil and criminal law. She received her Bachelor's Degree from the University of Colorado and her J.D. from Vermont Law School.



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**PANEL I**



**Jared Goldstein – Moderator**  
**Professor of Law**  
**Roger Williams University School of Law**

While serving as an associate at Shearman & Sterling in Washington, D.C., Professor Goldstein became one of the first civilian lawyers allowed into the Guantanamo Bay prison, in conjunction with his representation of several families of Kuwaiti detainees. He continues his work with the detainees through his scholarship at RWU, and is a national expert on the applicability of habeas corpus to the Guantanamo Bay detainees. He has published numerous articles on the topic and penned an Op-ed reprinted in newspapers around the country.

Additionally, Professor Goldstein was a Bristow Fellow in the Office of the United States Solicitor General and served as an attorney for the Department of Justice, working in the appellate section of the Environment and Natural Resources division, where he drafted briefs on behalf of the United States in several Supreme Court cases. He received numerous awards while working at the Department of Justice including the Special Commendation for Outstanding Service and the National Oceanic and Atmospheric Administration General Counsel's award.

Professor Goldstein teaches Constitutional Law and an array of Environmental Law courses and serves on the Marine Affairs Institute's Advisory Board. He regularly publishes in top law journals and because of his nationally recognized expertise, he has authored numerous briefs in the Supreme Court of the United States. Professor Goldstein is a graduate of Vassar and Michigan (J.D., *magna cum laude*).



**Michael Conathan**  
**Professional Staff Member**  
**U.S. Senate Committee on Commerce, Science and Transportation's Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard**

Michael Conathan is a Professional Staff Member of the U.S. Senate Committee on Commerce, Science, and Transportation's Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard. Much of his work is done in support of Senator Olympia Snowe (R, Maine), the Subcommittee's Ranking Member in addition to the full Committee's Ranking Member Kay Bailey Huchison (R, Texas). Mr. Conathan has been with the Committee for nearly five years, serving first as a Sea Grant Fellow in 2006, and subsequently taking on a full time position beginning in February of 2007. Ocean legislation enacted during his tenure has included the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act, the Integrated Coastal and Ocean Observing System Act, the Federal Ocean Acidification Research and Management Act, the NOAA Undersea Research Program Act, and the Coast Guard Authorization Act of 2010. Prior to his work on the Committee, Mr. Conathan received a Masters Degree in Marine Affairs from the University of Rhode Island, where he served as a faculty research assistant and was awarded a grant to travel to Denmark in the summer of 2004 in support of his thesis research on offshore wind energy development. He also holds a Bachelor of Arts in English Literature from Georgetown University and is an alumnus of the Williams College Mystic Seaport Maritime Studies Program. Mr. Conathan is native of Cape Cod.

Congress last reauthorized the Magnuson-Stevens Act in 2006, seven years after the authorization had expired in 1999. The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act was a hard-fought compromise bill that included major policy overhauls, and now, four years later, we are once again facing the expiration of the authorities in Magnuson which will take place in 2012. The debate over rebuilding timelines and scientifically-based annual catch limits



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continues, and legislation to insert more flexibility in the process has been introduced in both houses of Congress. Mr. Conathan's presentation will provide a brief recap of the changes made to the law in 2006, an overview of major legislative initiatives proposed in the 111<sup>th</sup> Congress, and a look ahead to what we can expect to see in the 112<sup>th</sup> Congress as we gear up to begin the next major reauthorization of our Nation's primary fishery management legislation.



**Josh Eagle**  
**Associate Professor of Law**  
**University of South Carolina School of Law**

Professor Eagle teaches property, environmental and natural resources law. He has published in the past on a range of issues, including fishery management and endangered species. His current research focuses on ocean zoning, marine protected areas, and on improving public participation in resource decision-making.

Prior to joining the faculty at the University of South Carolina in 2004, Professor Eagle was Director of the Stanford Fisheries Policy Project, an interdisciplinary research project aimed at improving fishery management through better integration of marine science and law. While at Stanford, Professor Eagle taught law school and undergraduate courses in environmental and ocean law and policy. He also wrote several case studies that are now used to teach environmental and natural resources law in classrooms around the country.

From 1990 to 1995, Professor Eagle served as a trial attorney for the United States Department of Justice in Washington, D.C. From 1997 to 1998, he was wildlife counsel in the policy office of the National Audubon Society in Washington, D.C. Professor Eagle is a graduate of Johns Hopkins University (B.A.), Colorado State University (M.S., Forest Sciences), and Georgetown University Law Center (J.D.).

Professor Eagle will present on the council provision of the MSA. Given both the ambiguous and conflicted nature of the MSA and the uncertainty inherent in our understanding of marine systems, the most important factors in council decisions are the values and preferences of council members. Interestingly (or perhaps not surprisingly, given its importance), Congress has generally avoided modifying provisions governing council membership. Key questions are: What impacts have past composition patterns likely had on decisions, marine systems, and the public debate over fisheries issues? Should Congress address the composition issue, and if so, how? And, what kinds of changes would we expect to see from differently composed councils, e.g., councils with more marine conservation members, fewer appointed members, or more appointed members?



**Eldon Van Cleef Greenberg, Esq.**  
**Senior Counsel**  
**Garvey Schubert Barer**

Eldon Greenberg is Senior Counsel in the Washington, D.C. office of the law firm of Garvey Schubert Barer (1000 Potomac Street, N.W., Washington, D.C. 20007; tel.: (202) 965-7880; e-mail: [egreenberg@gsblaw.com](mailto:egreenberg@gsblaw.com)). Mr. Greenberg, a former General Counsel of the National Oceanic and Atmospheric Administration, has an extensive practice on behalf of natural resources clients, with a particular specialization on fisheries matters. He has represented commercial fisheries trade associations and seafood harvesting and processing companies in a wide range of agency and

judicial proceedings under the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, the Endangered Species Act and other U.S. laws relating to living marine resources.



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Mr. Greenberg's presentation will cover the evolution of the Magnuson-Stevens Fishery Conservation and Management Act since its enactment in 1976. It will begin with the initial focus of the legislation on jurisdictional issues and will then discuss the "Americanization" amendments in the late 1970s and early 1980s. This will be followed by consideration of refinements to domestic management in the mid-1980s. It will thereafter consider "the rediscovery of internationalism" in the 1990 amendments to the Act. Finally, it will evaluate "the rise of environmentalism" as reflected in the Sustainable Fisheries Act of 1996 and the Magnuson-Stevens Reauthorization Act of 2007.



**Gene S. Martin, Jr., Esq.**  
**Office of NOAA General Counsel**  
**Northeast**

Gene Martin has been an attorney with NOAA's Office of General Counsel for over 23 years. Since 1990, he has been legal counsel to the New England Fishery Management Council and the Sustainable Fisheries Division of NMFS Northeast Region regarding fisheries issues that arise under the Magnuson-Stevens Act during the development and implementation of New England fishery management plans. Before coming to the Northeast Region, Mr. Martin advised NMFS on ESA and MMPA issues as well as serving as staff attorney to the U.S. delegation to the International Whaling Commission. He received a J.D. from Brigham Young University Law School and a Masters of Marine Policy from the University of Delaware.

The topic for Mr. Martin's presentation is "Insider's Perspective in Interpreting and Implementing Magnuson-Stevens Act Measures in New England". He will provide an overview of some of the significant changes to the Magnuson-Stevens Act and the major legal and policy issues facing the New England Fishery Management Council and NMFS in implementing these changes.



**Peter Shelley**  
**Massachusetts Advocacy Center Director**  
**Conservation Law Foundation**

Peter Shelley is Vice President and Director of CLF's Massachusetts Advocacy Center. He was awarded a Pew Fellowship in Conservation and the Environment in 1996 and the David B Stone Medal by the New England Aquarium in 2003. Before CLF, Mr. Shelley served for five years as an Assistant Attorney General for the Pennsylvania Department of Environmental Resources. He has a BA from Hobart College and received his JD with honors from Suffolk University Law School. Mr. Shelley is admitted to the bar in the Commonwealth of Massachusetts, State of Maine, State of Pennsylvania and U.S. District Court for the District of Massachusetts.

Mr. Shelley's presentation is "The Conservation Perspective on the Magnuson-Stevens Act." The Conservation Law Foundation sued the federal government in 1991 for failing to implement the conservation requirements of the Magnuson-Stevens Act in 1991, the first litigation to focus on the conservation aspects of the national standards. Twenty years later, CLF is back in court, this time defending the federal government for the latest version of the groundfish management plan, now under attack by some elements of the fishing industry and their political backers. In this context, Mr. Shelley will offer his perspective on whether the Act is working better for the fish in 2010 than it was in 1990.





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## PANEL II



**Michael Burger - Moderator**  
**Associate Professor of Law**  
**Roger Williams University School of Law**

Michael Burger teaches Environmental and Marine Law at RWU Law. Prior to his arrival here, he was assistant acting professor of Lawyering at New York University School of Law. Professor Burger is a graduate of Columbia University School of Law, where he was a Harlan Fiske Stone Scholar and an articles editor for the *Columbia Journal of Environmental Law*; and of Brown University, where he graduated *magna cum laude* and received the Ratcliffe Hicks Prize for highest standing in language and literature. He also holds a Master of Fine Arts degree from the Graduate Creative Writing program at NYU.

Between college and law school, Professor Burger worked as an overnight editor for a Bay Area news wire, a writer for *The American Lawyer* magazine, and a freelance writer and editor for various other print and online publications. After graduating, he served as an environmental attorney in the Office of the Corporation Counsel of the City of New York, where he worked on matters ranging from global warming to the most local of land-use planning. Professor Burger's scholarly interests include environmental law, ocean and coastal law, and law and literature. His recent work on local climate-change initiatives was published in the *University of Cincinnati Law Review* and the *Environmental Law Reporter*.



**John Duff**  
**Associate Professor and Graduate Program Director**  
**Environmental, Earth & Ocean Sciences Department**  
**University of Massachusetts / Boston**

John Duff received his J.D. from Suffolk University Law School in Boston and his LL.M. from the Law and Marine Affairs Program at the University of Washington. He also holds degrees in business (B.S.B.A.) from the University of Lowell and Journalism (M.A.) from the University of Mississippi. Over the course of the last twenty years he has worked as a newspaper reporter; an attorney in private practice; served as general counsel to a nonprofit organization focusing on marine habitat protection issues; and, has directed the marine law research programs at the law

schools of the universities of Mississippi and Maine. His work earned him a Fulbright Senior Fellowship in 1998. Since 2004, Professor Duff has served as a faculty member in the Environmental, Earth and Ocean Sciences Department at the University of Massachusetts/Boston where he teaches courses on climate change and clean energy law, environmental policy, ocean and coastal law and land use. Professor Duff is currently working on research related to ecosystem-informed management, ocean planning and the increasing privatization of offshore public resources. Virtually all of the work that he has been engaged in deals with the interface of natural resource assemblages, technology and public policy.

Professor Duff's research has been published in a variety of journals and professional reports. He is a co-editor of the book *INTERNATIONAL OCEAN LAW*; he serves on the editorial board of *OCEAN DEVELOPMENT AND INTERNATIONAL LAW*; and, he is a past president of The Coastal Society. He is a Faculty Advisor in the United Nations-Nippon Foundation Law of the Sea Fellowship Programme and a consultant to municipal, state, federal and intergovernmental agencies.



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**Morgan Gopnik**  
**Environmental Science and Policy Consultant**  
**Ph.D. candidate, Duke University**

Morgan Gopnik works as a consultant to foundations, associations, and nonprofit organizations interested in improving ocean management in the U.S. Her current projects focus on the theory and practice of marine spatial planning. Ms. Gopnik served for seven years as Director of the Ocean Studies Board at the National Academy of Sciences, advising the Federal government on a range of ocean and coastal issues. She left the Academy to serve as Senior Advisor to the U.S. Commission on Ocean Policy where she oversaw the writing of their final report to Congress and the White

House. Ms. Gopnik was subsequently appointed Senior Vice President for Programs at the Ocean Conservancy, leading their scientific, legal, and advocacy staff before starting her independent consulting practice. She received a Masters degree in Environmental Engineering from Caltech in 1982 and is currently a candidate for a Ph.D. in Marine Science and Conservation at Duke University.

Ms. Gopnik's presentation is entitled "Uniting Resource Management with Spatial Planning." The management of common pool resources always struggles between a focus on the units (say, fish or trees) and a focus on the larger ecosystem. For decades the management of our National Forests has placed timber harvests within a broader planning context. What can this history tell us about placing fishery management within the new framework of marine spatial planning?



**Phillip M. Saunders**  
**Associate Professor**  
**Dalhousie University/Schulich School of Law**

Phillip M. Saunders is a professor at the Schulich School of Law, cross-appointed to the School for Resource and Environmental Studies and is a Research Fellow at the Centre for Foreign Policy Studies. He is a Member of the Nova Scotia Bar. His teaching and research interests are in international marine and environmental law, maritime boundary delimitation, tort law, judicial remedies and international fisheries law. Professor Saunders was formerly with the International Centre for Ocean Development, as Senior Policy Advisor and as Field Representative, South Pacific. He has managed and delivered development and training projects in the areas of marine and

environmental law in the South Pacific, the Caribbean, the Indian Ocean, Southern Africa, Southeast Asia, South Asia, Central America and Russia. He acted as counsel for Nova Scotia in the arbitration of the boundary between the offshore areas of Nova Scotia and Newfoundland, and is co-general editor of *International Law, Chiefly as Interpreted and Applied in Canada* (7<sup>th</sup> ed., 2006). Professor Saunders served as Dean of Dalhousie University's, Schulich School of Law (2005-2010).

Professor Saunders' presentation will provide an overview of Canadian federal fisheries management, with a focus on comparison with experience under the Magnuson-Stevens Act. The differing legislative traditions of the two countries, coupled with the high degree of discretionary latitude provided to Ministerial decision-makers in Canada, are identified as key drivers in the two contrasting approaches.





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**Lois J. Schiffer**  
**NOAA General Counsel**  
**U.S. Department of Commerce**

Lois J. Schiffer is the General Counsel for the National Oceanic and Atmospheric Administration. She serves as the chief legal officer for all NOAA activities and as a policy advisor to the Under Secretary of Commerce for Oceans and Atmosphere. As General Counsel, Ms. Schiffer provides overall management and leadership to more than 100 attorneys. Legal issues at NOAA include those relating to management of the nation's marine fisheries; protection of marine mammals and threatened and endangered species; coastal zone management; mitigation and restoration of natural resource damages; operation of weather and environmental satellites; monitoring oceanic, atmospheric, and climatic data; and mapping and charting U.S. waters.

Ms. Schiffer has extensive experience in environmental law through her work in federal jobs, in private practice, and for non-profit organizations. From 1993-2001, Ms. Schiffer served as the Assistant Attorney General for the Environment and Natural Resources Division at the Department of Justice with responsibility for cases related to pollution, natural resources, wildlife, tribal law, and federal lands. More recently, she served as General Counsel to the National Capital Planning Commission. She has argued cases before a number of courts of appeals and the U.S. Supreme Court and has, for over 20 years, been an adjunct professor of environmental law at Georgetown University Law Center.

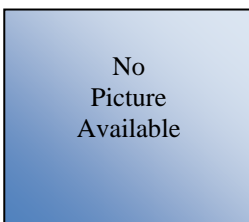
Ms. Schiffer is the recipient of the Charles Fahy Distinguished Adjunct Professor Award at Georgetown University Law Center, and of the Edmund J. Randolph Award for outstanding service at the Department of Justice. Ms. Schiffer received her undergraduate degree from Radcliffe College (1966) and her law degree from Harvard Law School (1969).

### **PANEL III**



**Josh Eagle - Moderator**  
**Associate Professor of Law**  
**University of South Carolina School of Law**

See Bio under Panel 1



**Kaja Brix**  
**Director, Protected Resources Division**  
**NOAA Fisheries Alaska Region**

Kaja Brix is the Director of the Protected Resources Division of NOAA Fisheries Alaska Region in Juneau, Alaska. She is a biologist by training and has led this program for the past 6 years. She has been with NOAA Fisheries for 15 years. NOAA Fisheries Protected Resources in Alaska is responsible for the conservation and management of marine mammals off the coast of Alaska, including sea lions, seals, and whales. Alaska has a coastline of 5580 miles ranging from the relatively temperate waters of southeast Alaska to the polar



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waters of the north slope. NOAA Fisheries conducts research on the marine mammals off this coast and implements conservation policies under the Endangered Species Act and the Marine Mammal Protection Act.

Ms. Brix will present on the interaction between the Magnuson-Stevens Act and the Endangered Species Act. The Magnuson-Stevens Act and the Endangered Species Act interface most significantly in Alaska through the management of some of the largest groundfish fisheries in the U.S. and the world and the conservation of the endangered western population of the Steller sea lion. How do we balance two competing mandates: that of the Endangered Species Act to conserve and recover endangered species and the Magnuson Act mandate to maximize yield of single species fish stocks that are the prey for Steller sea lions? What does it take to move towards practicing ecosystem based management under these two mandates?



**Donna R. Christie**  
**Elizabeth C. and Clyde W. Atkinson Professor of Law**  
**Associate Dean for International Programs**  
**Florida State University College of Law**

Professor Christie is the Elizabeth C. and Clyde W. Atkinson Professor of Law and the Associate Dean for International Programs at the Florida State University College of Law. Professor Christie is best known for her work in ocean and coastal management law. She is a co-author of the leading casebook in the field, *COASTAL AND OCEAN LAW* (West) as well as the author of numerous articles and reports exploring ocean policy, fisheries management and coastal resources management.

Professor Christie has been involved in ocean policy development at the state level for Florida as well as at the national level as an author of the *REVIEW OF U.S. OCEAN AND COASTAL LAW* (APPENDIX 6), prepared for the U.S. Commission on Ocean Policy. Internationally, she also has been involved in coastal and ocean law and policy development in the Caribbean. She has served as Chair of the AALS section on Natural Resources Law and the section on Ocean and Maritime Law. She has been an elected member of the American Law Institute since 1995. Professor Christie teaches Law of the Sea, International Environmental Law, Coastal and Ocean Law, and Natural Resources Law. Professor Christie graduated from the University of Georgia in 1969 with a specialized B.S. degree in Chemistry. She received her J.D. degree from the University of Georgia School of Law and also attended The Hague Academy of International Law. From 1978-1980 was a Postdoctoral Fellow in the Marine Policy and Ocean Management Program at Woods Hole Oceanographic Institution.

Professor Christie's presentation is entitled "Assessing the Efforts to Reconcile Fishery Management with Protection of Marine Mammals and Endangered Species". The primary goals of the statutes regulating fisheries and protecting endangered species and marine mammals are generally compatible, but when the management regimes are applied to natural systems where the species co-exist, conflict among the competing management goals of has been inevitable. This presentation will discuss whether recent efforts are successfully addressing and mitigating these conflicts.



**Stephen M. Ouellette, Esq.**  
**Ouellette & Smith, PA**

Stephen Ouellette has been practicing law and trying cases in state and federal courts and before administrative agencies for over 25 years, representing fishermen and small businesses. Atty. Ouellette represented the City of Gloucester and the Northeast Seafood Coalition in the "Amendment 13" case before Gladys Kessler and currently represents the Cities of Gloucester and New Bedford and fishing interests from the mid-Atlantic to Maine in litigation challenging aspects of Amendment 16 to the Northeast Multispecies FMP. As an advocate for the commercial fishing industry he has been involved in the fishery management process at all levels, frequently repre-

senting fishing interest and submitting comments during rulemaking to ensure fairness in fisheries law enforcement and proper administration and implementation of fisheries conservation measures to ensure the viability of the commercial fishing industry and fishing communities.



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**Dana Wolfe**  
**Staff Attorney**  
**Ocean Conservancy**

Dana Wolfe is an attorney for Ocean Conservancy, an organization that promotes healthy and diverse ocean ecosystems and sustainable fisheries through science-based advocacy, research and public education. Ms. Wolfe advises the organization on ocean conservation and fisheries issues, particularly with respect to implementation of Magnuson-Stevens Act requirements to end overfishing. Ms. Wolfe has been with Ocean Conservancy for six years, and represented the organization to Members of Congress and their staff throughout the reauthorization of the MSA in

the 109<sup>th</sup> Congress. Prior to joining Ocean Conservancy, Ms. Wolfe worked in legislative affairs as legislative counsel for the Coast Alliance, as a lobbyist on public lands conservation issues for Sierra Club, and on a range of environmental issues as a legislative assistant to former U.S. Representative Steve Gunderson (R-WI). Ms. Wolfe received her J.D. from the Dickinson School of Law and received her LL.M. in environmental law from the George Washington University.

Ms. Wolfe will present on the intersection of the Magnuson-Stevens Act and the National Environmental Policy Act (NEPA). Given the fisheries-specific management scheme of the Magnuson-Stevens Act, NEPA offers the best opportunity to move fisheries management into a structure that considers the effects of fishing on the marine ecosystem as a whole and helps ensure healthy environments that support vibrant fisheries. Ms. Wolfe's presentation will explore the intersection of NEPA with the requirements of the MSA, focusing on the challenges that the MSA's unique management structure poses for adequate NEPA application, and examining the potential for the use of NEPA as a tool for ensuring long-term sustainability of our nation's fisheries.

#### **PANEL IV**



**Donald W. Perkins – Moderator**  
**President & CEO**  
**Gulf of Maine Research Institute**

Don Perkins has served as the Gulf of Maine Research Institute's President & CEO since 1995. He manages GMRI's evolution as a strategic science, education, community institution catalyzing solutions to the complex challenges of ocean stewardship and economic growth in the Gulf of Maine bioregion.

Mr. Perkins brings an eclectic mix of private sector and not-profit sector experience to GMRI. Prior to joining GMRI, he instructed at the Hurricane Island Outward Bound School, directed the Marin Conservation Corps in California, served as a financial advisor to Native American tribes, and managed the operations of Binax, Inc., a medical diagnostics company.

Mr. Perkins has been active in the marine resource arena on multiple levels. He currently serves as a director with the Gulf of Maine Lobster Foundation and the Maine Innovation Economy Advisory Board. He previously co-chaired the Governor's Ocean Energy Task Force and served on the boards of the Gulf of Maine Ocean Observing System, Gulf of Maine Council on the Marine Environment, the Maine Department of Marine Resources Advisory Council, and the Maine Legislature's Task Force on the Development of Aquaculture. He was co-founder of Friends of Casco Bay. Outside the marine market, Don serves as a director of MMG Insurance.

Mr. Perkins holds a B.A. in Anthropology from Dartmouth College and a M.B.A. from the Stanford University Graduate School of Business.



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**Vito Giacalone**  
**Policy Director**  
**Northeast Seafood Coalition**

Vito Giacalone, a third generation U.S. commercial fisherman based in Gloucester, Massachusetts has over 30 years experience in the fishing industry. He is the owner/operator of the 78' dragger Jenny G and owner of Fishermen's Wharf, a working waterfront shore-side property in Gloucester. Mr. Giacalone is the Policy Director for the Northeast Seafood Coalition (NSC), an organization of small, independent, entrepreneurial businesses that fish for – and support fishing for – cod, haddock, flounders, and other groundfish species along the northeast coast. NSC's mission is to work for long term health of fishery resources, fishing communities, and the fishing industry throughout the northeast. In his role as Policy Director, Mr. Giacalone has been actively engaged in the development and implementation of 12 of 17 groundfish "sectors" which became operational on May 1, 2010. These twelve 'sectors' represent fishing communities throughout the New England Region including New Hampshire, Massachusetts and Rhode Island. The NSC-organized sectors include nearly 500 permits and an average of 60% of the total commercial annual catch limits of each individual groundfish stock managed by NEFMC.

In addition to serving as the Policy Director at NSC, Mr. Giacalone is the Executive Director of the Gloucester Fishing Community Preservation Fund, a 501(c)(3) non-profit corporation organized to preserve and promote awareness of Gloucester's fisheries, heritage, and the fabric of the Gloucester community; protect and enhance the Port of Gloucester and the Port's infrastructure; and, in order to aid disadvantaged fishermen, serve as a central repository and exchange for the distribution of limited access, multi-species fishing privileges and permits for fishing vessels based in Gloucester.



**Sally McGee**  
**Northeast Regional Policy Director, Ocean Program**  
**Environmental Defense Fund**

Sally McGee is the Northeast Regional Policy Director for Environmental Defense Fund's Oceans Program. She works with commercial and recreational fishing industries, federal, state and local natural resource agencies, and other non-governmental organizations in support of sustainable marine fisheries that align conservation with the business of fishing. Ms. McGee is currently serving her third term as a member of the New England Fishery Management Council. She has chaired the Council's scallop and habitat committees and currently serves as an elected member of the Council's executive committee.



**Alison Rieser**  
**Dai Ho Chun Chair and Professor of Geography**  
**University of Hawaii at Manoa**

Alison Rieser is the Dai Ho Chun Chair and Professor of Geography at the University of Hawaii at Manoa, in Honolulu, where she directs the UH@SEA and Graduate Ocean Policy Programs. She is also Professor Emerita at the University of Maine School of Law in Portland, where she oversaw the Marine Law Institute and its Ocean & Coastal Law Journal and taught for over 20 years. Ms. Rieser co-authored Coastal and Ocean Law (West 2007), now in its third edition, and was awarded a Pew Fellowship in Marine Conservation in 1999. She holds a J.D. with honors from The George Washington University Law School and an LL.M. from Yale.





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Ms. Rieser will discuss her paper “Dispatches from the Benthos: Fishing Privileges and the Promise of Stewardship”, which was co-authored with Les Watling, University of Hawaii at Manoa, Department of Zoology. In this paper, Ms. Rieser and Mr. Watling use spatial analysis and brief case histories to consider whether recent attempts to secure fishing privileges have led to stewardship of marine ecosystems.

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**Eric M. Thunberg**  
**Economist, Social Sciences Branch**  
**Northeast Fisheries Science Center, NOAA**

Eric M. Thunberg is an economist with the Social Sciences Branch of the Northeast Fisheries Science Center in Woods Hole, Massachusetts. He has extensive experience working on plan teams to provide economic analysis of fishery management actions for the Mid-Atlantic and New England Fishery Management Councils. Dr. Thunberg’s research interests include fishery management policy design, fishery performance measures, and regional economics. Dr. Thunberg has a B.Sc. from the University of New Hampshire and M.Sc. and Ph.D. in natural resource economics from Virginia Tech.

## PANEL V



**Dennis Nixon - Moderator**  
**Associate Dean for Research and Administration,**  
**Graduate School of Oceanography, and Professor of Marine Affairs**  
**University of Rhode Island**

Dennis Nixon joined the faculty of the University of Rhode Island in 1976, rising to the rank of Professor of Marine Affairs. He taught courses in admiralty, fisheries, marine pollution, and coastal zone law. He is the author of over 60 articles, papers, and reports as well as the textbook *Marine and Coastal Law*, now in its second edition.

After 25 years on the faculty and Director of the Graduate Marine Affairs Program, Dean Nixon began his career as an academic administrator in 2001 when he assumed the position of Associate Dean for Academic Affairs in the College of the Environment and Life Sciences. He transferred to his current position in 2009, where he has the responsibility of administering all operations on the Narragansett Bay Campus, including the *R/V Endeavor*.

Dean Nixon became involved with research vessel operations in 1986, when he was recruited as a guest speaker on liability issues for the annual meeting of the Research Vessel Operators Council. He undertook several studies on behalf of the National Science Foundation on research vessel insurance and liability issues, and became a regular advisor to the members of the academic research vessel fleet. In 1991, he was asked to serve in the newly created position of Risk Manager and Legal Advisor for UNOLS, a position he has enjoyed since then. In that capacity, he has provided legal advice for UNOLS members and the sponsoring federal agencies. He was instrumental in the transition from charter parties to cooperative agreements in the ships owned by the National Science Foundation. He restructured the insurance requirements for the entire UNOLS fleet. He has visited every major oceanographic program in the United States and provided legal counsel for most of them. As part of the U.S. delegation to the International Ship Operators’ Meeting (ISOM), he has visited and lectured in the oceanographic programs of fourteen other countries on five continents.



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Dean Nixon received two Outstanding Service Awards in 2009: the first from the National Science Foundation for his work as UNOLS Legal Counsel, and the second from the American Academy of Underwater Sciences for his work on the law of scientific diving.

Dean Nixon received his J.D. from the University of Cincinnati College of Law, a Master of Marine Affairs from the University of Rhode Island and B.A. (*cum laude*) from Xavier University.



**Daniel Cohen**  
**President**  
**Fishermen's Energy**

Daniel Cohen is a principal and President of Fishermen's Energy, a fishermen owned offshore wind company, which is developing two offshore wind farms off of New Jersey. A long term goal of Fishermen's Energy is to organize the fishing industry from Maine to South Carolina to develop offshore energy resources. Mr. Cohen is also a principal and President of Atlantic Capes Fisheries, Inc. an East Coast vertically integrated fishing company operating over 20 fishing vessels with facilities in New Jersey, Rhode Island and Massachusetts. He is personally committed to building natural resources companies pairing the twin goals of sustainable renewable resources in a scientifically managed marine environment with an economically sustainable fishing industry. To fulfill this commitment Mr. Cohen has spent one third of his[extra line?]time, outside the company, in public roles, such as Chairman of the NFI-Scientific Monitoring Committee and the NFI-Clam Committee. Mr. Cohen was recognized for this environmental leadership role by being awarded the "FINese Award for Responsible Fisheries" by the National Fisheries Institute, the largest association of seafood harvesters, processors, marketers and importers in the United States. In 2009 Mr. Cohen was recognized for his environmental leadership by the New Jersey Board of Public Utilities when he was named New Jersey's "Clean Energy Advocate of the Year".

Fishermen's Energy, LLC, formed by principals of leading East Coast Fishing companies to propose unique solutions to state and federal initiative's to develop offshore wind and alternative energy. Initially opposed due to the negative effects on mobile gear fishermen by fixed structures offshore, they decided to enter competitively to propose unique solutions to societies energy needs by being agents of change, rather than victims of change. Fishermen's Energy paradigm looks to assure that both industries (commercial fishing and offshore energy) can develop compatibly and any cumulative long term impacts to specific fisheries and fishermen are mitigated by specific projects and their operators.



**David E. Frulla, Esq.**  
**Partner**  
**Kelley Drye & Warren, LLP**

David Frulla is a partner in Kelley Drye & Warren's Washington, D.C. office. He focuses his practice in the areas of environmental law, government relations and public policy, and campaign finance and political law.

Mr. Frulla is one of the nation's premier litigators and regulatory advocates in the realm of fisheries and marine resources law. He has represented numerous associations involved in New England fisheries. Mr. Frulla also maintains an advocacy-focused practice that seeks to develop and implement regulatory approaches to lessen governmental burdens on businesses and other regulated entities. Employing Kelley Drye's multi-disciplinary approach, Mr. Frulla seeks creative, often science-based, solutions that involve the judicial, legislative, and executive branches at the federal and state levels.

Mr. Frulla will be discussing the commercial fishing industry's perspective on marine spatial planning. He will not only address legal issues, but also Administration policy, and current business developments.





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**Grover Fugate**  
**Executive Director**  
**Rhode Island Coastal Resources Management Council**

Grover Fugate is Executive Director of the Rhode Island Coastal Resources Management Council (CRMC). In his role of nearly 25 years, Mr. Fugate is responsible for overseeing the development of all policies and programs for the state's coastal program. Currently, he is serving as project manager of the Rhode Island Ocean Special Area Management Plan (SAMP), the CRMC's seventh such regulatory program. The SAMP will provide management of a variety of existing and new uses in state ocean waters and focuses in part on providing guidance for the development of offshore renewable energy resources. Due to his leadership with the model Ocean SAMP project, Mr. Fugate has earned several significant awards, including the prestigious 2010 Susan Snow-Cotter Award for Excellence in Ocean and Coastal Resource Management from the National Oceanic and Atmospheric Administration (NOAA). He is also the recipient of the 2008 Rhode Island Sea Grant Lifetime Achievement Award. Mr. Fugate is the author of several academic journal articles on coastal and natural resources management issues and is a guest lecturer at the University of Rhode Island and Roger Williams University.

Prior to joining the CRMC, Mr. Fugate served as Director of Shore Zone Management with the Department of Development, Government of Newfoundland and Labrador, working on planning for the Province's offshore oil development. During his time there, Mr. Fugate developed the Environmental Protection Process for major onshore projects related to offshore development and was also a lecturer at the Department of Part-time Studies and Extension at Memorial University. Before this, he served in other key natural resources management positions in Newfoundland and Labrador. He holds an MBA from Memorial University with a program specialization in resource policy analysis in 1984, and graduated from the University of Connecticut in 1976, with a degree in Natural Resource Management. He also completed a certificate program in Public Administration from Memorial University.



**Donald A. Migliori**  
**Member Attorney**  
**Motley Rice LLC**

Building upon his experience in complex asbestos cases, the historic tobacco lawsuits and 9/11 litigation, Don Migliori is a multifaceted litigator. He represents victims of terrorism, aviation disasters, environmental contamination, defective medical devices and drugs, and occupational diseases in cutting-edge litigation that spans the country. Mr. Migliori is currently serving as co-lead counsel and liaison counsel for the Composix® Kugel® Mesh multidistrict litigation, the first MDL in federal Rhode Island Court. He is also a member of the Plaintiffs' Steering Committee in the

Levaquin® litigation and serves on the BP Oil Spill Interim Ad Hoc Feinberg Liaison Committee. A recurrent speaker at legal seminars across the country, Mr. Migliori has appeared in numerous media outlets to address legal issues related to terrorist financing, aviation security, class action litigation, premises liability, asbestos and defective medical devices cases. He teaches mass torts as a "Distinguished Practitioner in Residence" at Roger Williams University School of Law and is a member of the American Association for Justice and the American Bar Association and serves as President Elect of Rhode Island Trial Lawyers and Treasurer for the Rhode Island Association for Justice. Mr. Migliori received an A.B. degree from Brown University and M.A. and J.D. degrees from Syracuse University.



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**Eric C. Schwaab**  
**Assistant Administrator for Fisheries**  
**National Marine Fisheries Service**  
**National Oceanic and Atmospheric Administration**

See Bio under “Keynote Speaker”

Mr. Schwaab will give an overview of the National Policy for the Stewardship of the Oceans, Our Coasts and the Great Lakes – Established by Presidential Executive Order on July 19, 2010. He will also discuss several important components that make up Coastal Marine Spatial Planning and the integration of fishery management with this initiative.



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## **GENERAL INFORMATION**

### **Badges**

All registrants and guests must present the official Marine Law Symposium badge to be admitted to symposium events.

### **Food & Beverages**

Symposium registration includes admission to all symposium programs, continental breakfasts and lunches. The Bay View Room and Second Floor Atrium is available for use during the breakfast, breaks and lunches. A sign is posted at the door to this room.

### **November 4th Dinner – Mt. Hope Farm**

If you have signed up for the dinner, directions to the Farm are provided on Page 23. We regret that no additional reservations can be taken for the dinner.

### **Continuing Legal Education (CLE) Credit**

The Rhode Island MCLE Commission has granted 11 credits (no ethics credits) by attending the symposium. Please note rules differ in each jurisdiction. Please see symposium staff at the registration table for a CLE certificate.

### **Hospitality Room**

A hospitality room (Room 244) has been set up for your convenience in making cell phone calls and gaining web access. Please ask at the registration table for directions to the room.

### **No Smoking**

Roger Williams University has a no-smoking policy in effect within all buildings.

### **Telephones**

There are two public telephones located in the School of Law: one located on the main floor next to the elevators and one on the lower level far side of the cafeteria near the mailboxes.



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## DIRECTIONS

### **From Bristol Harbor Inn to the law school:**

Turn right out of the parking lot of the Inn. At the stop sign (immediately after turning right), turn left onto State Street. At the next stop, turn right onto Hope Street (Rt. 114S).

Follow Hope Street for approximately two miles. Roger Williams University will come into view on your left as you approach the Mt. Hope Bridge—there is a turnaround **before** the light that takes you over the bridge—it is not marked, but allows you to do a U-turn onto Rt. 114N to put the university on your right. Pass the main university entrance on the right and follow signs for Event Parking to the next right turn. Following that right turn, the lot will be on your left. The School of Law is the 3-story brick building south of the lot, past the athletic fields. The symposium will be held in Room 283 of the law school. Take the stairs (or elevators, which are on your left when you enter the building) to the second floor. Go to your right at the top of the stairs. Room 283 is the first room on your left.

### **From the law school to Bristol Harbor Inn:**

#### Exiting from the University's lower parking lot

If security has directed you to the university's lower parking lot, when you are leaving the campus, turn left onto Route 136S. Approximately 500 yards up the road, bear right onto Route 114S and follow Rt. 114 for approximately two miles.

\*At the intersection of Hope and State streets, turn left onto State Street. At the bottom of State Street, turn right onto Thames Street, then take an immediate left into the Thames Street Landing parking lot (you will go through the arch of the building). The Bristol Harbor Inn entrance will be halfway down the parking lot on your right.

#### Exiting from the University's main entrance

Exiting the main entrance of the law school, you will need to cross the lanes of traffic to the left lane heading onto Rt. 114N—there is a stop sign for crossing traffic. After the stop sign, follow Rt. 114N for approximately two miles. See the

\* above for the remaining directions.

### **From the law school to Mt. Hope Farm:**

Exiting from the University's main entrance or lower parking lot, turn right onto Rt. 136 (Metacom Avenue). Follow Rt. 136 for approximately one mile. Mt. Hope Farm will be on your right – follow signs for parking. The dinner will be in the barn, directly across from the main house.

### **From Mt. Hope Farm to Bristol Harbor Inn:**

Turn right exiting the farm. Follow Rt. 136 for approximately 0.5 miles. Turn left onto State Street. Follow State Street for approximately 1 mile (you will cross Wood, High and Hope Streets). Turn right at the stop sign onto Thames Street, then take an immediate left into the Thames Street Landing parking lot (you will go through the arch of the building). The Bristol Harbor Inn entrance will be halfway down the parking lot on your right.



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## ACKNOWLEDGEMENTS

Thank you to our Institute partners and the Symposium Planning Committee for their invaluable contributions to this event:



Roger Williams University School of Law, the only American Bar Association-accredited law school in Rhode Island, provides a broad-based legal education to over 600 students, drawn from over 40 states and 300 colleges and universities. Founded in 1993, the School of Law is a young, dynamic institution that has made its mark in the professional and educational legal communities in an unprecedented short period of time. The School of Law earned full accreditation approval from the American Bar Association by February 1997, the earliest possible time under the Association's rules and procedures, and became a member of the Association of American Law Schools in 2006.

Although a young law school, its academic profile is rising sharply. Since 2000, applications have jumped as the school has added new faculty with national reputations. Law school professors have appeared on television, radio, and print media as expert commentators on a range of subjects including the Martha Stewart criminal case, Vioxx civil litigation, sentencing guidelines, and the status of Guantanamo detainees.

The Marine Affairs Institute, the Feinstein Institute for Legal Service, three exciting live-client clinics, and summer programs in London provide students unique opportunities to learn outside of the confines of the traditional classroom setting. Visit the School of Law at <http://law.rwu.edu>.



The Rhode Island Sea Grant College Program is a federal-state-university partnership, based at the University of Rhode Island, which designs and supports research, outreach, and education programs that foster coastal and marine stewardship. Rhode Island Sea Grant is one of over 30 programs that make up the National Sea Grant College Program, a part of the National Oceanic and Atmospheric Administration. Rhode Island Sea Grant works with federal, state, and local partners to achieve its goals.

Rhode Island Sea Grant addresses challenges of human-dominated ecosystems through efforts in two core thematic areas: Sustainable Coastal Communities and Ecosystems and Sustainable Fisheries. Visit Rhode Island Sea Grant at <http://seagrants.gso.uri.edu/>. It also boasts of having one of the four Sea Grant Legal Programs in the country. The Legal Program, located at the Marine Affairs Institute at Roger Williams University School of Law, provides analysis and research of marine law issues to further innovative legal and policy approaches to coastal and fisheries management.



The National Oceanic and Atmospheric Administration's (NOAA's) mission is to understand and predict changes in Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs. This mission is based on a vision that an informed society uses a comprehensive understanding of the role of the oceans, coasts, and atmosphere in the global ecosystem to make the best social and economic decisions to protect life and property and conserve and



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protect our natural resources. NOAA's data, scientific research and technical products are instrumental in advancing the environmentally-sound use of the marine environment by both traditional and evolving new technologies.

NOAA is extensively involved in coastal and ocean energy matters through its mandates related to fisheries, marine mammals and other protected marine resources, national marine sanctuaries, coastal zone management, oceanic and atmospheric research, etc. Energy facilities provide significant economic and energy self-sufficiency benefits to the nation. Energy projects also impact the coastal and ocean biological and physical environment as well as have socio-economic impacts on coastal and ocean uses and users. Energy demands are increasing the need to facilitate the appropriate siting of energy-related activities and to coordinate authorities of states and federal agencies and the interests of affected parties. NOAA, through its many mandates related to meeting the Nation's energy needs, seeks to reduce coastal use conflicts, conserve coastal resources, and to work with coastal managers, fishery managers, and decision makers to address energy facility technologies and siting.

THE  
UNIVERSITY  
OF RHODE ISLAND  
COLLEGE OF THE ENVIRONMENT  
AND LIFE SCIENCES

The University of Rhode Island offers world-class training in the basic sciences combined with hands-on learning that will shape students into successful problem solvers. Students in CELS have the opportunity to learn in advanced research laboratories and community outreach settings, where they gain important real-world experiences. Our internationally renowned faculty members are student oriented and winners of numerous national teaching awards. Our programs integrate classroom studies, field training, internships and research experiences with faculty and staff. Students develop well-honed skills that prepare them to be scientists, managers and policymakers destined for key roles in the life sciences and in the stewardship of our environment and society.

#### DEPARTMENT OF MARINE AFFAIRS

Marine Affairs is the multi-disciplinary, systematic study of the human uses of coastal and ocean space and the resources found there and the myriad factors that influence that pattern of use. Central to marine affairs are concerns relating to conflict of use and the need to maintain the sustainability of the natural environment. To this end, the Department of Marine Affairs focuses on the governance of coastal and ocean uses, the need for and development of integrated approaches to governance, and the potential for governance systems and mechanisms to incorporate consideration of relevant ecosystems and their dynamics. Increasingly, as attention turns to management efforts on an ecosystem basis, whether in terms of coastal watersheds, the coastal zone, estuaries, large marine ecosystems or some combination thereof, the need to incorporate marine science in public policy becomes more pronounced and is a concern of marine affairs. A central goal is the development of appropriate governance systems that utilize adaptive management techniques on an ecosystem basis.

The mission of the Department of Marine Affairs is to provide leadership in the management of marine and coastal environments through distinction in teaching, research, and outreach programs. The department's teaching mission is accomplished through degree programs at the Bachelor's, Master's, and Doctoral levels. Through their coursework,





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independent research and internships, students develop the research, communication, and leadership skills necessary to make important professional contributions in the sustainable management of ocean and coastal resources. Department faculty engage in research on a wide range of issues related to the central mission of sustainable and effective ocean and coastal management. The faculty demonstrates "real world" applications of a Marine Affairs education through involvement with governments, international organizations, business, professional groups, and non-governmental organizations.

**Planning Committee:**

Michael Conathan, U.S. Senate Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard  
Barry Costa-Pierce, Director and Professor, Rhode Island Sea Grant College Program and University of Rhode Island  
Josh Eagle, Associate Professor, University of South Carolina School of Law  
Susan E. Farady, Esq., Director, Marine Affairs Institute/RI Sea Grant Legal Program, Roger Williams University School of Law  
Charlotte Ferris, Roger Williams University School of Law  
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The Marine Affairs Institute/Rhode Island Sea Grant Legal Program at Roger Williams University School of Law educates and prepares exceptional marine law professionals and is the home of North America's expert marine law and policy researchers, educators and conveners. We achieve our goals by:

- Offering rigorous and diverse maritime and marine law courses.
- Providing full extracurricular opportunities to develop excellent research, writing and advocacy skills.
- Convening local, regional, national and international experts in a neutral forum to address relevant maritime and marine law issues.
- Leveraging unique institutional strengths and interdisciplinary approaches of our partners, Rhode Island Sea Grant and the University of Rhode Island.

### **Curriculum**

Courses are taught by full professors as well as by expert practitioners, and include:

Admiralty Law	Marine Insurance
Administrative Law	Marine Pollution
Climate Change Law	Marine Salvage
Environmental Law	Maritime Security Law
Fisheries Law	Ocean and Coastal Law
Law of the Sea	Ocean Management and Policy

### **Sea Grant Law Fellows**

In partnership with the Rhode Island Sea Grant College Program, the Institute hires law students as Sea Grant Law Fellows to conduct legal research and analysis for government agencies, industry and non-profit organizations. Fellows are supervised and work on timely legal issues such as fisheries management and coastal access, honing their legal research and writing skills while acquiring hands-on application of their classroom knowledge. Constituents benefit from receiving balance, neutral research while also providing students with real world experience.

### **Marine Affairs Joint Degree Program**

Students interested in more extensive study of marine law and policy may simultaneously earn a JD from RWU and a Master of Marine Affairs degree from the University of Rhode Island (URI) in 3 ½ years through sharing of selected credits. Joint degree students enhance their legal education with additional courses at URI on economic, international and policy considerations, positioning them well to address today's complex maritime, ocean and coastal legal issues.

### **Events**

The Institute sponsors speakers, symposia, and inter-disciplinary training programs that provide law students and practitioners with opportunities to meet with other marine law professionals in both formal and informal settings to learn about recent developments in ocean and coastal law. Topics include marine renewable energy, international cargo liability, ecosystem based management and fishery law.



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