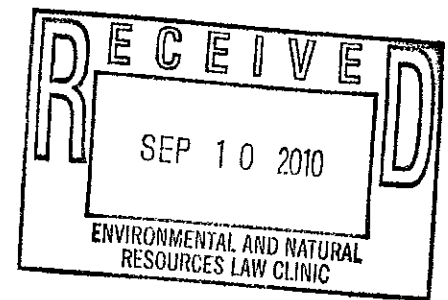




2000 L STREET, N.W., SUITE 620
WASHINGTON, D.C. 20036

PHONE: (202) 939-3800
FAX: (202) 939-3868
EMAIL: law@eli.org
WEB: www.eli.org



Environmental and Natural Resources Law Clinic
Vermont Law School
P.O. Box 96
164 Chelsea Street
South Royalton, VT 05068

September 1, 2010

Dear Environmental and Natural Resources Law Clinic:

The Environmental Law Institute, the American Bar Association's Section of Environment, Energy, and Resources, and the National Association of Environmental Law Societies are pleased to announce the sixth annual "Endangered Environmental Laws" Student Writing Competition. ELI is a nonpartisan, nonprofit environmental research and policy organization. Its Endangered Environmental Laws Program seeks to strengthen our long-standing system of environmental protection by addressing issues arising at the intersection of constitutional and environmental law. The ABA's Section of Environment, Energy, and Resources is the premier forum for lawyers working in areas related to the environment, natural resources, and energy. The Section's Constitutional Law Committee explores the growing conjunction of constitutional law and environmental practice areas. The National Association of Environmental Law Societies (NAELS) is a coalition of over 50 law student groups that aims to connect, educate, and inspire the next generation of environmental leaders.

Last year's competition produced winner Nathan Howe, a second-year student at Washington and Lee University School of Law, for his entry "The Political Question Doctrine's Role in Climate Change Nuisance Litigation: Are Power Utilities the First of Many Casualties?" Mr. Howe's essay will be published in ELI's *Environmental Law Reporter (ELR)* this fall. In some years, we also name Honorable Mentions, whose essays may also be published in *ELR*.

ELI, ABA, and NAELS are excited about the opportunity for law students to contribute to the dynamic field of constitutional environmental law. We have enclosed a copy of the competition notice and would greatly appreciate your posting the notice for interested students. If you have any questions, please contact ELI Research Associate Louise Yeung at yeung@eli.org or (202) 939-3247. Thank you for your assistance, and we look forward to receiving submissions from your law school!

Sincerely,

Jay Austin, Director
Endangered Environmental Laws Program
Environmental Law Institute





ENVIRONMENTAL LAW INSTITUTE®

AN INDEPENDENT, NON-PARTISAN ENVIRONMENTAL EDUCATION AND POLICY RESEARCH CENTER

SIXTH ANNUAL "ENDANGERED ENVIRONMENTAL LAWS" STUDENT WRITING COMPETITION (2010-2011)

Co-sponsored by
The Environmental Law Institute
The American Bar Association Section of Environment, Energy, and Resources
The National Association of Environmental Law Societies

The U.S. Constitution has long been interpreted by the courts and understood by most Americans to support comprehensive environmental protections. However, arguments questioning the constitutional legitimacy of environmental law have continued to gain traction in the federal courts. In response to this trend, ELI, ABA/SEER, and NAELS invite law students to submit papers exploring current issues of constitutional environmental law.

AWARD: \$2000 cash prize, an offer of publication in the *Environmental Law Reporter*, and a one-year individual membership to ELI.

TOPIC: Any topic addressing recent developments or trends in U.S. environmental law that have a significant constitutional or "federalism" component. (See sample topics below.)

ELIGIBILITY: Students currently enrolled in law school (in the U.S. or abroad) are eligible, including students who will graduate in the spring or summer of 2011. Any relevant article, case comment, note, or essay may be submitted, including writing submitted for academic credit. Jointly authored pieces are eligible only if all authors are students and consent to submit. Previously published pieces, or pieces that are already slated for publication, are ineligible.

DEADLINE: Entries must be received no later than 5:00 PM ET on **April 11, 2011**. Email essays (and questions) to Louise Yeung at yeung@eli.org. You will receive a confirmation by email.

SUBMISSION REQUIREMENTS:

Cover page. This separate page must include the following information:

- Title;
- Author's name, year in law school, and expected graduation date (to facilitate impartial judging, the author's name and law school must NOT appear anywhere in the essay, other than on the cover page);
- Law school name and address;
- Author's permanent and school mailing address, email address, and phone number (IMPORTANT: indicate effective dates for any contact information subject to change);
- Abstract (limited to 100 words) describing the piece;
- Certification that the article has not been published and is not slated for future publication (while authors may submit their articles to other competitions, acceptance for publication elsewhere will disqualify an entry from further consideration); and
- Statement as to where the author(s) learned about this competition.

SAMPLE TOPICS FOR THE 2010-2011 ELI-ABA-NAELS WRITING COMPETITION

Students may choose a topic below or develop their own constitutional environmental law topic.

- 1) Claims that federal environmental laws are beyond Congress' authority under the **Commerce Clause**. *See Delta Smelt Consol. Cases*, 663 F. Supp. 2d 922 (E.D. Cal. 2009), *appeal docketed*, No. 10-15192 (9th Cir. Feb. 3, 2010); *U.S. v. King*, 2009 WL 940600 (D. Idaho April 6, 2009), *appeal docketed*, No. 09-30442 (9th Cir. Dec. 22, 2009). *Cf. Virginia ex rel. Cuccinelli v. Sebelius*, 2010 WL 2991385 (E.D. Va. Aug. 2, 2010) (denying motion to dismiss Commerce Clause challenge to the Patient Protection and Affordable Care Act of 2009).
- 2) Claims that environmental regulations cause a **taking** of private property. *See Stop the Beach Renourishment, Inc. v. Fla. Dep't of Env'tl. Prot.*, 130 S. Ct. 2592 (2010); *Casitas Mun. Water Dist. v. United States*, 543 F.3d 1276 (Fed. Cir. 2008), *remanded to* No. 05-168 (Fed. Cl. trial scheduled Oct. 18, 2010); *Cf. Guggenheim v. City of Goleta*, 582 F.3d 996 (9th Cir. 2009), *reh'g en banc argued*, No. 06-56306 (9th Cir. June 22, 2010).
- 3) Constitutional doctrines on access to courts, such as **standing** and the **political question doctrine**, that affect environmental disputes. *Conn. v. Am. Elec. Power Co.*, 582 F.3d 309 (2d Cir. 2009), *petition for cert. filed*, No. 09A1126 (U.S. Aug. 2, 2010); *Kivalina v. ExxonMobil Corp.*, 663 F. Supp. 2d 863 (N.D. Cal. 2009), *appeal docketed*, No. 09-17490 (9th Cir. Nov. 5, 2009); *Comer v. Murphy Oil USA*, 585 F.3d 855 (5th Cir. 2009), *vacated and en banc reh'g granted*, 598 F.3d 208 (Feb. 26, 2010), *en banc reh'g dismissed for lack of quorum*, 607 F.3d 1049 (May 28, 2010); *Summers v. Earth Island Inst.*, 129 S. Ct. 1142 (2009).
- 4) Claims that state authorities have discriminated against out-of-state commerce in violation of the **"dormant" Commerce Clause**. *E.g., Energy Solutions LLC v. Nw. Interstate Compact on Low-Level Radioactive Waste Mgmt.*, 2009 WL 1392836 (D. Utah May 15, 2009), *argued*, No. 09-4123 (10th Cir. Jan. 14, 2010); *National Petrochemical & Refiners Ass'n v. Goldstene*, 2010 WL 2490999 (E.D. Cal. June 16, 2010).
- 5) Novel challenges to federal environmental authority under the **Tenth Amendment**, **Equal Footing Doctrine**, **Property Clause**, **Article 1 § 8 Cl. 17**, and other theories. *See, e.g., Tex. Oil & Gas Ass'n v. E.P.A.*, No. 10-60459 (5th Cir. filed June 11, 2010). *See also* H.B. 143, 2010 Gen. Sess. (Utah 2010) (codified at Utah Code Ann. § 78B-6-503.5) (authorizing state use of eminent domain authority to take ownership of federal lands).
- 6) Claims that EPA orders cause a deprivation of **due process**. *Gen. Elec. Co. v. Jackson*, 610 F.3d 110 (D.C. Cir. 2010), *petition for reh'g en banc filed*, No. 09-5092 (Aug. 13, 2010).
- 7) Arguments to invalidate state and local environmental programs based on the **Supremacy Clause**. *See Metro. Taxicab Bd. of Trade v. City of New York*, --- F.3d ---, 2010 WL 2902501 (2d Cir. July 27, 2010); *Pac. Merch. Shipping Ass'n v. Goldstene*, 2009 WL 2777778 (E.D. Cal. Aug. 28, 2009), *appeal docketed*, No. 09-17765 (9th Cir. Dec. 11, 2009); *Nat'l Petrochemical & Refiners Ass'n v. Goldstene*, 2010 WL 2490999 (E.D. Cal. June 16, 2010).