



Friends of Casco Bay
Casco BAYKEEPER®

Documents for the Tuesday, September 19, 2023 Meeting
5:30 – 7:30 p.m.

This meeting is IN PERSON at
Gulf of Maine Research Institute (GMRI)
350 Commercial Street, Portland

You can also join the meeting virtually.

The link to Join Zoom Meeting

<https://zoom.us/j/97903569843?pwd=Mmx6RXFKL0lrVmFPY1lpaHR1eXITZz09>

Dial by your location

+1 929 436 2866 US (New York)

Meeting ID: 979 0356 9843

Password: 520717in the meeting

Friends of Casco Bay – Board Meeting Agenda

Tuesday – September 19, 2023



The meeting will be held in person at GMRI (and via Zoom)

5:30 – 5:40 Welcome – *President Sandy Marsters*

- Check in question: *What would you like to see the board accomplish in the coming year?*
- Minute for the Bay: *share a reflection about the Bay, about the watershed, or about our work*

5:40 – 5:55 *Action Item: Acceptance of Consent Agenda*

Action Item: Nomination of Anthony Moffa and Janna Rearick to Board of Directors

Action Item: Approval of Ellen Grant as an At-Large member of the Executive Committee

5:55 – 6:05 **Executive Director Update** – *Executive Director Will Everitt*

Action Item: Resolution to close Key Bank Line of Credit: At the request of Key Bank: Let the minutes of the meeting of the Board of Directors of Friends of Casco Bay on September 19, 2023 reflect our vote in the affirmative to have Will Everitt, Executive Director, close the Key Bank Lending line of credit of \$50,000 immediately.

6:05 – 6:10 **Community Engagement Committee Update** – *Vice President Kirsten Piacentini*

6:10 – 6:20 **Environmental Justice, Diversity, Equity, and Inclusion Committee update**

– *Committee Chair Pat Ianni*

Action Item: Approval of EJDEI Statement

6:20 – 6:50 **Discussion of Board Self-Assessment Survey and Recruitment of Future Board Members** – *President Sandy Marsters and Ellen Grant*

6:50 – 7:25 **What did we see and do this summer? A discussion about our field season**

– *Staff Scientist Mike Doan and Science and Policy Associate Heather Kenyon*

7:25 – 7:30 **Questions, clarifications, concerns, comments**

7:30 **Adjourn**

Consent Agenda Documents to Review:

- Minutes – Board meeting, May 16, 2023
- Minutes – August and September CEC Meetings
- Minutes – June and September EJDEI Committee meetings
- Interim Financials

Meeting Supporting Documents for Review and Discussion:

- Agenda for this meeting
- Letters of Interest and Resumes of Anthony Moffa and Janna Rearick
- Draft EJDEI Statement version 9
- Board Terms document
- Board Self-Assessment Survey Results

Mark Your Calendar:

- **Tuesday, October 3, 5:30-6:30 p.m.:** CEC Meeting at GMRI (and via Zoom)
- **Thursday, October 5, 5-6:30 p.m.:** Stormwater Tour at Back Cove
- **Monday, October 9, 4-5 p.m.:** EJDEI Committee Meeting
- **Tuesday, October 17, 5:30-7:30 p.m.:** Board Meeting at GMRI (and via Zoom)
- **Saturday, November 4: Film Fest for Casco Bay, 2-6 p.m.,** Abromson Auditorium, USM, Portland
- **Tuesday, November 7, 5:30-6:30 p.m.:** CEC Meeting at GMRI (and via Zoom)
- **Monday, November 13, 4-5 p.m.:** EJDEI Committee Meeting
- **Tuesday, November 21, 5:30-7:30 p.m.:** Board Meeting at GMRI (and via Zoom)
- **Tuesday, December 5, 5:00-7:00 p.m.:** Donor Appreciation Event, Cumberland Club, Portland

Friends of Casco Bay's Statement on Environmental Justice, Diversity, Equity, and Inclusion

v.9

current draft as of September 5, 2023

[Please note: the links to the Strategic and Operating Plans are only for Board reference, will not be part of final document.]

Friends of Casco Bay's mission is to improve and protect the environmental health of Casco Bay. We take a holistic view of this work. The health of the Bay and the health of the communities that live here are intimately connected and interdependent upon each other. [See [Strategic Plan p.1](#)]

The greatest threats to the health of Casco Bay are climate change and pollution, which are caused by human activity. [see [Strategic Plan goals 1 &2](#)]. We recognize that vulnerable and marginalized populations are disproportionately experiencing the brunt of pollution and the effects of climate change. These environmental injustices are linked to inequities and uneven power structures in our society, including structural, systemic, and institutional racism. Those affected include, but are not limited to, indigenous communities, people of color, people living in poverty, women, children, the LGBTQI community, and the elderly.

Friends of Casco Bay's efforts to address the causes and consequences of climate change and pollution in the Bay must consider these inequities and factor them into how we act to improve and protect the health of Casco Bay and its watershed. Therefore, we endeavor to achieve environmental justice, diversity, equity, and inclusion as strategic imperatives.* We are committed to these principles and are working to implement them through the following actions:

1. **Advocating** for laws, policies, and practices that recognize environmental justice and inclusion, including working toward fair access to resources and to clean waters. We oppose efforts that deny these rights. We stand in solidarity with those who are leading the call for environmental justice and accountability. [Strategic Plan goal 5 and Operating Plan p.17]
2. **Identifying and implementing actions** with the goal of diversifying our board, staff, contractors, volunteers, collaborators, members, and supporters. Just as biodiversity is a sign of a healthy ecosystem, a diverse community with a shared passion for a healthy Bay is a sign of a healthy organization. [see [Strategic Plan goals 4 and 5 and Operating Plan pp.26-28](#)].
3. **Assessing** our approach to our communications, member activities, and community outreach with regard to environmental justice. We are working to become more inclusive. [see [Strategic Plan goals 4 and Operating Plan pp.35-36](#)]
4. **Building relationships with new partners** and communities as we work to improve and protect the health of Casco Bay. We will strive to engage, listen to, learn from, and work with underserved and underrepresented people in the Casco Bay watershed. What we learn may inform how and where we work to improve and protect water quality in the Casco Bay watershed. [see [Strategic Plan goals 4 and 5 and Operating Plan pp.26-28](#)]
5. **Reviewing our current governance structure**, decision-making processes, and organizational policies and changing them in ways that will support our efforts toward environmental justice. [see [Strategic Plan goal 5 and Operating Plan p.43](#)]
6. **Continuing to train and learn** as we work to act in ways that support environmental justice. [see [Strategic Plan goal 4 and Operating Plan p.43](#)]

We will evaluate these efforts periodically and keep the watershed community updated. While we acknowledge that these actions will take time and effort to develop, implement, and achieve, we understand they are necessary to improve and protect the environmental health of Casco Bay.

*In April 2023, the Board of Directors of Friends of Casco Bay recognized the following definitions:

Environmental justice is an equitable, safe, healthy, productive, and sustainable environment for those underserved populations who have disproportionately experienced the historic brunt of air and water pollution and the ensuing negative consequences of climate change.

Diversity is a broad demographic mix (including race, age, gender, sexual orientation, income, ethnicity, cultural background, and geography), within a group or organization, which reflects the makeup of the communities it serves.

Equity is fair access to resources and opportunities that will help ensure environmental justice for underserved and underrepresented populations.

Inclusion is the active, intentional, and continuous effort and process of creating opportunities for underserved and underrepresented populations to be heard and participate in the decision-making that affects their environmental well-being.

Board of Director Terms

As of August 2, 2023 Members Annual Meeting listed by start date

Name	Role	Started	Current term	Next term begins	Terms off ¹
Pat Ianni	Clerk ²	Jan. 2016	3 rd	n/a	2025
Peter LeBourdais ³		Jan. 2016	3 rd	n/a	2025
Malcolm Poole	Treasurer ⁴	Jan. 2017	3 rd	n/a	2026
Sandy Marsters	President ⁵	Mar. 2017	2 nd	3 rd in 2024	2027
Seb Milardo	A.L. ⁶	Oct. 2017	2 nd	3 rd in 2024	2027
David Kaufman	A.L. ⁷	March 2019	2 nd	3 rd in 2025	2027
Steve Bushey	A.L. ⁸	May 2019	2 nd	3 rd in 2026	2029
Mark Green		Jan. 2020	2 nd	3 rd in 2026	2029
Deb Debiegun ⁹		Aug. 2021	1 st	2 nd in 2025	2031
Kirsten Piacentini	V.P. ¹⁰	Nov. 2021	1 st	2 nd in 2025	2031
Ellen Grant		June 2022	1 st	2 nd in 2025	2031

Per By-Laws, Article IV, Sec. 2, allows board size of as few as eight, as many as 30. Terms are for three full years (some members are elected mid-year by the board) and each member is eligible to serve three consecutive three-year terms before having to leave the board for at least a year. Executive Committee consists of President, V.P. Vice President, Clerk, Treasurer, A.L. At Large members of Executive Committee, and Executive Director as Ex Officio non-voting member. President is Ex Officio of all committees.

¹ The date for terming-off is the annual meeting held in the **calendar** year of this column. Date assumes reelection to final term.

² This is Pat's second return to the Board. Elected Clerk in 2017. Began chair of EJDEI committee in July 2023.

³ This is Peter's second return to the Board.

⁴ This is Malcolm's second return to the Board. Former President. Elected Treasurer in 2017.

⁵ Former V.P. and CEC chair. Elected President in 2020.

⁶ Former V.P. and CEC chair. At Large Executive Committee in November 2022.

⁷ At Large Executive Committee in 2019.

⁸ At Large Executive Committee in 2023.

⁹ Deb became member of EJDEI committee in June 2023.

¹⁰ Elected Vice President and CEC Chair in November 2022.

August 30, 2023

Friends of Casco Bay
43 Slocum Drive
South Portland, Maine 04106-1641

Dear Board of Directors:

I am writing to express my interest in joining your ranks as a director on the board of Friends of Casco Bay. I am a tenured professor of environmental law at Maine Law and have been a Portland resident for roughly a decade. In my leisure time, I regularly recreate in Casco Bay and adjacent waters – sailing, fishing, surfing, and swimming. Consequently, I am both professionally and personally invested in the health of Casco Bay.

I believe that my expertise in environmental law and my experience in government and academia will benefit the organization. As an attorney, I am called to use my skills in service to my community and working with Friends of Casco Bay would be an optimal way for me to do just that. Prior to academia, I was an Attorney-Advisor in the General Counsel's Office of the U.S. Environmental Protection Agency. In that role, I worked on permitting, citizen suits, regulatory enforcement, and other administrative law matters that undoubtedly arise in your organization's work. I have previously served as a member of the City of South Portland's Clean Air Advisory Committee and thus have direct experience working with Maine authorities as well. I am confident I can provide some perspective and guidance on environmental law issues.

My personal experience with Friends of Casco Bay has convinced me that I would like to sit on your board. I have come to know and respect Ivy Frignoca, co-teaching classes with her and attending some meetings related to climate impacts. I have sent my students to serve as externs and, just recently, two graduates of Maine Law that I advised have been hired by Friends of Casco Bay. I would enjoy continuing to work with these fine people.

Regards,



Anthony Moffa
Associate Professor
University of Maine School of Law

Anthony Moffa

170 Grant Street, Portland, ME 04101 • (609) 238-5184 • anthony.moffa@maine.edu

ACADEMIC APPOINTMENTS

University of Maine School of Law, Portland, ME

Associate Professor of Law 2019-

Visiting Associate Professor of Law, 2016-2019

Law Teacher of the Year, 2018, 2021 (selected by vote of the 3L class)

EDUCATION

Yale Law School, New Haven, CT

Juris Doctor, 2012

Activities: Yale Environmental Law Association (Curriculum Coordinator), Yale Journal on Regulation (Senior Editor, Lead Editor)

Georgetown University Law Center, Washington, D.C.

Juris Doctor candidate, transferred after first year, 2009-2010

Honors: Top 1%, Dean Scholar, CALI Awards – Torts, Property, Contracts, International Law

The Wharton School, University of Pennsylvania, Philadelphia, PA

Bachelor of Science, *magna cum laude*, in Economics, May 2009

Concentration: Environmental Policy and Management Minor: Music

PUBLICATIONS

Anthony Moffa, *From Comprehensive Liability To Climate Liability: The Case For A Climate Adaptation Resilience And Liability Act (CARLA)*, 47 HARV. ENVTL. L. REV. __ (forthcoming 2023)

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) created a uniquely broad and powerful scheme of statutory liability for environmental cleanup of contaminated sites. CERCLA famously imposes strict, retroactive, joint and severable liability. One might wonder, especially through the lens of contemporary partisanship, how such a powerful, comprehensive liability scheme passed through Congress in 1980. In large part, CERCLA's passage can be attributed to historical context that may appear wholly unique at first blush. Now, the world confronts another watershed of environmental history and past actors face a potential flood of liability. Much of the situation is different in 2022 from that in 1980. However, some important legal, political, and practical elements mirror those that paved the way for CERCLA's passage. A statutory scheme for climate liability thus could serve as an important feature of climate adaptation policy as we move further into a century punctuated by the harsh realities of a changed climate. This paper not only analyzes the similarities between the eras in some detail, but uses that analysis as a base from which to launch a proposal for a Climate Adaptation Resilience and Liability Act (CARLA).

Anthony Moffa, *Private Environmental Nudges*, 127 DICK. L. REV. _ (forthcoming 2022)

An ongoing discussion in environmental law scholarly and policymaking circles examines the role for what Professor Michael Vandenberg dubbed “Private Environmental Governance” (PEG). That research has thus far focused on the efforts of some of the world’s largest corporations. But small, locally-owned businesses can contribute positively to private environmental governance, too. This paper identifies a subset of PEG rooted in Richard Thaler and Cass Sunstein’s famous behavioral economics theory of “nudges.” Their basic insight was that the way choices are presented (“choice architecture”) greatly influences the quick valuation calculations and decisions humans make. In addition to providing a typology of private environmental nudges, describing four archetypes, this work presents a case study based on empirical observation of a local business.

Anthony Moffa, *Constitutional Authority, Common Resources, and the Climate*, 2022 UTAH L. REV. 169 (2022)

This work sets out to re-examine and challenge the history of the property clause with an eye towards increased congressional reliance on it in the face of daunting threats to our natural environment. No one could seriously question the primary motivations of the Framers, but that does not foreclose the importance of searching for secondary motivations that deepen our understanding of arguably the Constitution’s most explicitly environmental provision. Eugene Gaetke’s work in the 1980’s and Peter Appel’s work twenty years later laid the groundwork for the argument here by pushing back on the originalist argument for a narrow interpretation of Congress’s power under the clause. The argument put forward in this piece completes the picture, making an affirmative case for a fuller, conservationist original understanding, one that acknowledges the historic role of the federal government in preserving the nation’s environment and natural resources.

Anthony Moffa, *Strength in Numbers (of Words)*, 23 NEV. L. J. 1 (2022)

The empirical observation of a four-decades-long trend towards longer and longer federal agency rulemakings laid the foundation for this series of studies and associated law review articles. The second in that series, this work will add necessary data, test important hypotheses, and draw new conclusions to guide policymakers. Any serious observer of the Federal Register recognizes that different sections of a rulemaking serve different purposes. And agencies have historically utilized one section in particular to insulate their rules from judicial vacation or remand – the “concise general statement of basis and purpose.” Thus, this new study will collect and analyze the word count data for this section in isolation, testing for correlations between longer statements and success in the courts. When confronted with the empirical trend of increasing Federal Register pages per rule over time, administrative law scholars invariably pointed to an explanation external to the rulemaking agency—the number of public comments. Legally, agencies must respond to significant comments in the preamble to the final rule, so logic dictates that more comments would lead to more Federal Register pages. Meanwhile in the real world, use of personal computers, access to the internet, and awareness of regulations.gov have all risen in parallel with rules getting longer and have all made commenting on rulemaking easier over time. The empirical picture would thus not be complete without examining the potential connection between the number of comments and the length of a rulemaking.

Anthony Moffa, *Environmental Indifference*, 45 HARV. ENVTL. L. REV. 333 (2021)

For decades, homeowners in the United States have feared the presence of radon gas in their residences. Industries have developed providing testing and remediation services for buyers and sellers of homes; in many areas of the country the results of such tests prove necessary to any real estate transaction. This is for good reason – epidemiological studies conducted the world over have linked radon exposure to lung cancer incidence. Millions of Americans, however, reside not in their own houses or apartments, but in state and federal penal institutions. Thousands more work in these facilities every day. Perhaps unsurprisingly, the environmental risks they face, from radon and other potential hazards, have gone largely unstudied and unpublicized. This work will begin to fill that gap. The dangers of exposure to hazardous substances has long been at the core of environmental and land use law. Toxic torts have prompted some of the largest and most famous civil awards and settlements in history. Criminal justice reform has recently risen to prominence in the American social conscience. The larger project, which this work contributes to, will combine all three topics in an effort to expose a problem and work towards a solution.

Anthony Moffa, *Uniform Climate Control*, 54 UNIV. RICH. L. REV. 993 (2020)

The efforts of subnational governments to tackle widespread environmental harms, in particular climate change, have drawn increased media and scholarly attention since the United States declared its intention to withdraw from the Paris Accord. In truth, the trend towards so-called “environmental federalism” predates the election of President Donald J. Trump. We are ushering in the next generation of environmental laws, and those laws will largely be authored not by federal legislators, but by state and local officials. Where do these lawmakers look for guidance? A growing body of model codes and ordinances could provide the answer. This work aims to draw attention to those resources, and then, importantly, to critically examine how well the uniform law paradigm fits the evolving environmental legal landscape.

Anthony Moffa, *Word Limited: An Empirical Analysis of the Relationship between the Length, Resiliency, and Impact of Environmental Regulations*, 20 NEV. L. J. 733 (2020)

Since the dawn of the administrative state, it seems that regulations have grown, and continue to grow, increasingly complex and lengthy to read, adding pages to the Federal Register at higher rates each year. This project first seeks to empirically confirm the existence of such a trend. However, that movement towards longer and more detailed regulations could be rational, and largely unproblematic. Thus, the project proceeds to empirically test two such rational explanations: (1) “the insulation hypothesis” and (2) “the socially beneficial hypothesis.” First, the insulation hypothesis posits that it makes sense for policymakers to include more detailed legal and scientific support in new regulations, and thereby increase their length relative to previous regulations, because the additional detail provides more insulation from judicial review. Second, the socially beneficial hypothesis posits that devoting relatively more time and resources to each new rule is appropriate because newer regulations produce more net social benefits. This piece will test these hypotheses, at least in the context of environmental regulations, by analyzing data compiled by the Office of the Federal Register and QuantGov; the words in the regulatory texts themselves; regulatory impact and cost benefit analyses prepared by the Environmental Protection Agency (EPA); and United States Circuit Courts of Appeal and United States Supreme Court opinions in cases reviewing EPA regulations.

Anthony L. Moffa & Sean Flaherty, *Conserving a Vision: Acadia, Katahdin, and the Pathway from Private Lands to Park Lands*, 71 MAINE L. REV. 38 (2019).

Although a century separates the official designations, the strategies required to ensure federal protection of Maine’s two National Park Service areas – Acadia National Park and Katahdin

Woods and Waters National Monument -- closely track one another. In both cases, a handful of enterprising conservationists shared the vision for conservation. Both areas depended on the private acquisition, and donation, of title to the numerous parcels that comprised them before the land could garner federal protection. Politics in the two very different eras nonetheless managed to rear its ugly head in opposition to efforts to protect Maine's wilderness early in the 20th and 21st centuries. This work tells the stories in parallel, highlighting and analyzing four strands of similarity to not only deepen our understanding of these particular areas in Maine but also to guide future conservationists aiming to convert privately held land to federally managed and protected land.

Anthony Moffa, *Environmens Rea*, 122 PENN ST. L. REV. 299 (2018).

Many policymakers remain willfully blind to the moral implications of environmental harm abetted by governmental action (or inaction) and do not adequately consider how the criminal law deals with similar immoral behavior in other contexts. Building from Lisa Heinzerling's thought-provoking essay *Knowing Killing and Environmental Law*, 14 NYU ENV'T L. J. 521 (2006), I use the lens of criminal law, specifically the concept of intent, to examine the choices we, both as individuals and as a society, make in designing environmental policy. This perspective will be informed not only by the basic principles of criminal law but also by recent developments in criminology, the law of corporate and environmental crime, and relevant historical precedent. I will then apply this theoretical framework to environmental policy decisions currently challenging our government. Ultimately, I will make the case that this mode of analysis could prove useful to policymakers and communicators.

Anthony L. Moffa, *The Oil Sands of Time: Pipelines and Promises*, 22 OCEAN & COASTAL L. J. 111 (2017) (invited piece).

The Albertan oil sands provide the battlegrounds for the most recent iteration of the centuries-old conflict between the rights of indigenous peoples and the economic priorities of colonizing Europeans in North America. In the Pacific Northwest United States, that conflict has played out in a series of federal court cases stretching back to the 1970s. In the "Culverts Case" of 2016, the Ninth Circuit Court of Appeals upheld a grant of injunctive relief against the state of Washington, which had been found to violate several tribes' treaty-protected fishing rights by constructing and maintaining culverts that impede river flow. After comparing the treatment of, and protection for, indigenous rights in the United States and Canada, I examine how the Culverts Case can provide a model for the resolution of the ongoing conflicts between indigenous rights and oil sands development in Canada.

Anthony L. Moffa, *Traditional Ecological Rulemaking*, 35 STAN. ENVTL. L. J. 102 (2016).

Finalist for selection in the 2017 *Land Use and Environmental Law Review*, a peer-selected compendium of the five best land use and environmental law articles of the year. Traditional Ecological Knowledge (TEK) passed down through generations of indigenous peoples has the potential to inform environmental governance from an entirely new perspective. In the United States, the responsibility for setting environmental policy largely falls with administrative agencies, whose actions are routinely challenged in the public forum and the court system. I analyze the opportunities presented by increased reliance on TEK by the environmental administrative state, as well as the inevitable challenges to TEK-based actions, both practical and legal. Not only do I examine where Chevron deference would provide agencies with discretion to consider TEK, but I also consider whether reliance on TEK might render an agency action vulnerable to "arbitrary and capricious" review under the Administrative Procedure Act or constitutional invalidation under the Establishment Clause.

Anthony L. Moffa & Stephanie L. Safdi, *Freedom from the Costs of Trade: A Principled Argument Against Dormant Commerce Clause Scrutiny of Goods Movement Policies*, 20 NYU ENVTL. L. J. 344 (2014).

Two of the fastest growing theoretical camps in the environmental movement – environmental federalism and environmental justice – bolster creative, sub-national goods movement policies that aim to reduce emissions to combat global warming and improve public health. However, the Dormant Commerce Clause threatens to cripple that promising area of environmental policy innovation. We argue that Dormant Commerce Clause doctrine, in its contemporary iterations, fails to account for, and requires reexamination in light of, the gross environmental and social externalities now known to be associated with contemporary goods movement. Although the Supreme Court’s creative jurisprudence has managed to protect certain regulations from Dormant Commerce Clause strictures, it has underscored rather than resolved the incoherence of the doctrine. Scholars have drawn out two motivating principles behind the doctrine – (i) protection of political process and federal stability, and (ii) promotion of unfettered free trade – yet, we find, the Dormant Commerce Clause is an inappropriate tool for vindicating these values in the context of state goods movement policies. As such policies grow in number and popularity, the Court’s Dormant Commerce Clause jurisprudence grows increasingly misaligned with contemporary democratic impulses and with the social, economic, and environmental exigencies that they respond to. Lacking a coherent operative principle, the Dormant Commerce Clause should give way to state policies that encourage diverse local economies and protect social and environmental interests jeopardized by the mass movement of goods.

Anthony L. I. Moffa, *Wasting the Planet: What a Storied Doctrine of Property Brings to Bear on Environmental Law and Climate Change*, 27 J. ENVTL. L. & LITIG. 459 (2012).

To many, sustainability is nothing more than another legally ineffectual buzz word manufactured by the modern environmental movement. However, such a narrow view of the concept ignores a tremendous amount of historical precedent and jurisprudence underlying it. Specifically, the doctrine of waste in Anglo-American property law has long been a vehicle for those with an interest in the future to restrict resource-depleting activities in the present, rendering it the manifestation of sustainability as a concrete legal obligation. It is through this doctrine, then, that the rich concept of sustainability as it applies to climate change policymaking can be best understood. I explore the early history and development of the doctrine of waste in England and the United States, as well as the philosophical discourse surrounding equitable obligations to future generations, to provide much-needed non-partisan legal and moral grounding for environmental policymaking.

Daniel C. Esty & Anthony L. Moffa, *Why Climate Change Collective Action has Failed and What Needs to be Done Within and Without the Trade Regime*, 15 J. INT’L ECON. L. 777 (2012).

It has become quite evident that more effective global environmental governance will be needed to adequately address climate change. The devil lies in the details. A new environmental regime must be constructed with institutional capacities designed to respond to global-scale collective action problems in general and the specific challenges of climate change in particular. To begin to define exactly what those capacities would look like, we provide a diagnostic profile of the current environmental regime’s failure. We group the elements of institutional failure into three categories: (i) political economy considerations, (ii)

negotiation roadblocks, and (iii) structural deficiencies with regards to ensuring adherence to shared commitments (i.e. lack of discipline on free riding). Ultimately, we propose a robust, yet lean, Global Environmental Organization (GEO) that would function with support from other international bodies, most notably the World Trade Organization (WTO).

Anthony L. I. Moffa, *Two Competing Models of Activism, One Goal: A Case Study of Anti-Whaling Campaigns in the Southern Ocean*, 37 YALE J. INT'L L. 201 (2012).

In the Southern Ocean, two types of environmental campaigns have targeted the whaling industry. One approach, which exemplifies what I define as “protest” activism, utilizes consumer boycotts and protests to encourage divestment from the industry. The other approach, which exemplifies what I define as “interventionist” activism, uses a fleet of ships to directly intervene in and obstruct whaling operations in the Southern Ocean. Through the case study method, I demonstrate that the lawmaking function of activism and the effect it has on international behavioral norms change depending on the model employed. I conclude that, despite serious drawbacks, there are certain circumstances under which interventionist activism should be used to enforce international environmental law.

Esther F. Lardent & Anthony L. Moffa, *In-House Counsel: The New Face of Pro Bono*, in PRO BONO SERVICE BY IN-HOUSE COUNSEL (David P. Hackett, ed., 2010).

An increasing percentage of pro bono legal services are being provided by in-house corporate attorneys. Drawing on the literature concerning areas of need and the experience of innovators in this line of pro bono work, we provide principled guidance to corporate attorneys looking to give back.

OTHER PUBLICATIONS

David Reidmiller and Anthony Moffa, *Supreme Court decision raises stakes for local climate action*, PORTLAND PRESS HERALD, July 1, 2022, <https://www.centralmaine.com/2022/07/01/commentary-supreme-court-decision-raises-stakes-for-local-climate-action/>

Anthony Moffa, *How businesses can “nudge” us towards positive environmental practices*, Maine Law Faculty Research Blog, May 24, 2022, <https://mainelaw.maine.edu/faculty/how-businesses-can-nudge-us-towards-positive-environmental-practices/>

Anthony Moffa, *Deliberate Indifference*, PRISON LEGAL NEWS, Dec. 1, 2021, page 1, <https://www.prisonlegalnews.org/news/2021/dec/1/environmental-indifference/>

Anthony Moffa, *Corporate polluters should pay the tab for Maine’s climate damages*, PORTLAND PRESS HERALD, July 27, 2021, <https://www.pressherald.com/2021/07/27/maine-voices-corporate-polluters-should-pay-the-tab-for-maines-climate-damages/>

Anthony Moffa, *Reminder to Law Students and Regulators: “Work Smarter, Not Harder”* Maine Law Faculty Research Blog, April 30, 2021, <https://mainelaw.maine.edu/faculty/reminder-to-law-students-and-regulators-work-smarter-not-harder/>

Anthony Moffa, *Cruel Exposure in Unusual Times: COVID-19 and the Eighth Amendment*, NW. U. L. REV. OF NOTE, May 22, 2020, <https://blog.northwesternlaw.review/?p=1424>.

Anthony Moffa, *The Statehouse, not the White House, for COVID-19 and Climate Leadership*, Maine Law Faculty Research Blog, May 11, 2020, <https://mainelaw.maine.edu/faculty/the-statehouse-not-the-white-house-for-covid-and-climate-leadership/>

Anthony Moffa, Greta Swanson, Minnie Degawan, & Kathy Hodgson-Smith, *Traditional Ecological Knowledge in Environmental Decisionmaking*, 49 ENV. L. REP. 10309 (2019).

Anthony Moffa, Op-Ed, *Monument remains under threat*, BANGOR DAILY NEWS, Dec. 4, 2018, at A5.

Anthony Moffa, *Building a climate-resilient Puerto Rico 'from scratch'*, THE HILL, Oct. 12, 2017, <http://thehill.com/opinion/energy-environment/355196-building-a-climate-resilient-puerto-rico-from-scratch>

Anthony Moffa, Robert B. Keiter, Sarah Schindler & Syma A. Ebbin, *Shrinking and altering national monuments: Experts assess Interior Secretary Zinke's proposals*, THE CHICAGO TRIBUNE, SAN FRANCISCO CHRONICLE, Sep. 28, 2017.

Anthony Moffa, *How the Traditional Knowledge of Native Americans Can Inform Environmental Policy*, SCHOLARS STRATEGY NETWORK (Sep. 19, 2017), <http://www.scholarsstrategynetwork.org/brief/how-traditional-knowledge-native-americans-can-inform-environmental-policy>

Anthony Moffa & Sarah Schindler, Op-Ed, *Zinke has only one legal option for Katahdin Woods and Waters: retain its monument status*, BANGOR DAILY NEWS, Aug. 16, 2017, at A7.

Anthony Moffa, *Why tax policy may be the planet's last best hope*, Maine Law Faculty Research Blog, Dec. 1, 2016, <https://mainelaw.maine.edu/faculty/tax-policy-may-planets-last-best-hope/>

COURSES TAUGHT

Climate Change Policy (fall 2016)
Criminal Procedure: Investigations (fall 2016; spring 2019)
Trusts and Estates (spring 2017, 2018, 2019, 2020, 2021)
Constitutional Law (spring 2020)
Corporate Social Responsibility and the Environment (fall 2020)

Natural Resources (spring 2017; fall 2017; fall 2019; spring 2022)
Environmental Law (fall 2017; fall 2018; fall 2019; fall 2020; fall 2021; fall 2022)
Torts (spring 2018, fall 2018; spring 2021; fall 2021; fall 2022)
Water Law Practicum (spring 2019, 2020, 2021, 2022)

OTHER TEACHING & RESEARCH INTERESTS

Environmental Litigation
Land Use
International Law
Torts

Administrative Law
Environmental Law
International Environmental Law

PRESENTATIONS, PANELS, & SCHOLARLY ACTIVITIES

Vermont Law School, Colloquium on Environmental Scholarship, September 24, 2022, *From Comprehensive Liability to Climate Liability: The Case for a Climate Adaptation Resilience and Liability Act (CARLA)*

Natural Resources Law Teacher's Institute, Lightning Round Works-in-Progress, June 1, 2022, *From Comprehensive Liability to Climate Liability: The Case for a Climate Adaptation Resilience and Liability Act (CARLA)*

Arizona State University, Sandra Day O'Connor College of Law, SRP Sustainability Conference of American Legal Educators, May 13, 2022, *Private Environmental Nudges*

Online Workshop for Environmental Scholarship, March 28, 2022, *From Comprehensive Liability to Climate Liability: The Case for a Climate Adaptation Resilience and Liability Act (CARLA)*

Mercer Law School, Virtual Environmental Law Guest Speaker, February 2022, *Environmental Indifference: Toxics Exposure in Prisons*

Vermont Law School, Colloquium on Environmental Scholarship, September 25, 2021, *Private Environmental Nudges*

Online Workshop for Environmental Scholarship, September 16, 2021, *Private Environmental Nudges*

Harvard Environmental Law Review Environmental Justice Symposium, April 15, 2021, *Environmental Indifference*

AALS Annual Conference, Environmental Law and Natural Resources Law Sections Works-in-Progress, January 7, 2021, *Constitutional Conservatism*

Online Workshop for Environmental Scholarship, Oct. 19, 2020, *Constitutional Conservatism*

University of Maryland Francis King Carey School of Law and Elisabeth Haub School of Law at Pace University, *Seminar: Climate Change: Emerging Issues*, Guest Speaker, Oct. 5, 2020, *Constitutional Conservatism*

Vermont Law School, Colloquium on Environmental Scholarship, September 26, 2020, *Constitutional Conservatism*

University of Denver Sturm College of Law, Rocky Mountain Land Use Institute Western Places/Western Spaces Conference, Cheever Scholarly Workshop, March 6, 2020, *Private Environmental Nudges*

Yale Law School and Yale School of Forestry & Environmental Studies, New Directions in Environmental Law, *Subnational Climate Policymaking* (with Stephanie Safdi), Feb. 7, 2020

Vermont Law School, Colloquium on Environmental Scholarship, September 20, 2019, *Uniform Climate Control*

WMPG 90.9FM, Appearance on the Blunt Youth Radio Project, Aug. 13, 2019, *EPA Rule Changes*

University of Maine School of Law, Constitution Day Lecture/Debate (with Dmitry Bam), Sep. 17, 2019, *A Second Constitutional Convention?*

Vega v. Semple, No. 18-3176-pr (2d Cir.), Brief *Amicus Curiae* of the Human Rights Defense Center, in Support of Plaintiffs-Appellees, filed July 2, 2019

Cardozo School of Law, Moot Second Circuit Oral Argument for *Vega v. Semple*, Judge (with John Boston, Kate Levine, and Alex Reinert), Oct. 29, 2019

University of Maine School of Law, Juvenile Justice Panel: *AI v. State of Maine*, Moderator, Nov. 5, 2019

Environmental and Energy Law Society of the University of Maine School of Law, League of Conservation Voters, and Planned Parenthood, “*Brews and The Bench*”: *A discussion about the future of our federal courts, and what’s at stake*, Panelist (with Anisha Singh, Jamesa Drake, and Lena Zwarenstejn), Nov. 14, 2019

University of Denver Sturm College of Law, Rocky Mountain Land Use Institute Western Places/Western Spaces Conference, Scholarly Workshop, March 8, 2019, *America’s Gas Chambers: An Investigation of Environmental Hazards in Prisons*

Environmental Law Institute, Expert Panel on Traditional Ecological Knowledge (with Greta Swanson, Minnie Degawan, & Kathy Hodgson-Smith), October 31, 2018.

Columbia Law School, Sixth Annual Sabin Colloquium on Innovative Environmental Law Scholarship, May 31, 2018, *Word Limited*

Arizona State University, Sandra Day O’Connor College of Law, Fourth Annual Sustainability Conference of American Legal Educators, May 10, 2018, *The Sustainability of Traditional Ecological Knowledge*

University of Denver Sturm College of Law, Rocky Mountain Land Use Institute Western Places/Western Spaces Conference, Scholarly Workshop, March 9, 2018, *Word Limited*

Columbia Law School, Fifth Annual Sabin Colloquium on Innovative Environmental Law Scholarship, May 5, 2017, *Environmens Rea*

University of Maine School of Law, Panel, Nov. 15, 2016, *Election 2016: Implications & Impact*

EXPERIENCE

United States Environmental Protection Agency, Office of the General Counsel, Washington, DC
Attorney Advisor, 2014-2016

Provide legal guidance to program offices drafting new regulation and assist the Department of Justice in defending lawsuits against the agency.

The Honorable Kermit Lipez, U.S. Court of Appeals for the First Circuit
Law Clerk, 2013-2014

The Honorable F. Dennis Saylor IV, U.S. District Court for the District of Massachusetts
Law Clerk, 2012-2013

Yale Environmental Protection Clinic

Student Attorney, 2011-2012

Assisted my client in drafting and filing a complaint with the European Commission in regards to the salvage of a cruise ship wreck. Assisted in negotiating and crafting a Memorandum of Understanding between local government, fishermen, and my client establishing a Fisheries Protected Area in the Aegean Sea.

Yale LGBT Rights Litigation Clinic

Student Attorney, 2011

Researched and compiled information for public dissemination on funerary rights for same-sex partners in various states across the country.

Foley Hoag LLP, Boston, MA

Summer Associate, Summer 2011

Researched, advised clients and wrote memoranda on environmental and health regulatory matters.

Professor Daniel Esty, Yale Law School, New Haven, CT

Research Assistant, 2010 - 2013

Performed research on global environmental governance and co-authored a law review article on that topic.

Professor Joseph Page, Georgetown University Law Center, Washington, DC

Research Assistant, Summer 2010

Continued work on a proposed co-authored article tentatively entitled *The Elderly and the Hand Formula: What Nursing-Home Liability Rules Tell Us About the Standard of Care in Negligence Cases*.

Womadz, LLC, Washington, DC

Co-creator and Counsel, 2010-2012

Part of a team that conceived and launched a competition-based crowdsourcing platform for creative advertising content. Drafted legal documents related to competition rules, IP rights, and privacy.

BAR ADMISSIONS

Commonwealth of Massachusetts

United States District Court for the District of Massachusetts

Janna K. Rearick
131 Oakwood Drive
Yarmouth, ME 04096

August 21, 2023

Mr. Andrew Marsters - President, Board of Directors
Friends of Casco Bay
43 Slocum Drive
South Portland, ME 04106

Sent via email: andrewmarsters@me.com

RE: Letter of Interest in Board Membership

Dear Board of Directors,

I'm writing to formally express my interest in serving on the Board of Directors for Friends of Casco Bay. Through conversations with Sandy, Will, and Kirsten, I've learned more about the Friends mission and approach and I am enthusiastic about the potential to bring my experience and energy to help support the organization. The science-backed advocacy of Friends, coupled with your collaborative, community-focused approach, checks all the boxes for me and I have great respect for what you've been able to achieve and optimism for what the future holds for the organization.

A little bit about my background: Since 2019, I have worked as an in-house lawyer at Unum, where I currently serve as Assistant Vice President and Lead Regulatory Counsel. In this role, I am primarily responsible for advising on regulatory risk areas and potential compliance issues, and representing and advocating for the company in interactions with our state and federal regulators. Prior to joining Unum, I held a similar role at MetLife, and I began my legal career as a litigator at O'Melveny & Myers LLP, in the firm's New York office. Pro bono and volunteer work has been a constant throughout my legal career and helps provide needed balance in the high-pressure corporate environment.

In addition to what you'll see in my resume (attached), my experience relevant to the Friends' mission includes:

- Study abroad experience studying coastal ecology in Zanzibar, including issues like ocean warming, coral bleaching, and pollution;
- Internship with an environmental law firm litigating water contamination issues in Michigan;
- Co-chairing my law firm's environmental committee and work on environmental pro bono cases, including a successful lawsuit on behalf of Oceana to compel the National Oceanic and Atmospheric Administration (NOAA) to enact stricter regulations protecting New England groundfish from overfishing.

While my education and job path took me out of Maine for many years, my roots in Maine run deep. I was born Down East, in Washington County, and spent most of my childhood in Western Maine where my parents had an organic sheep and vegetable farm. Growing up, the environment around me was always a focus, and as a student I participated in activities like water testing on New England lakes and summer programs studying the intertidal environment in the Gulf of Maine. Now as a parent, I am

Janna K. Rearick
131 Oakwood Drive
Yarmouth, ME 04096

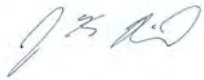
thrilled to be back in Maine with easy proximity to nature, where my husband Kevin and I can take our girls (ages five and two) to hike around the estuaries near Yarmouth and paddleboarding at the beach. Like so many parents, I fervently want to protect our gorgeous environment so our girls can grow up loving and enjoying the natural world.

I am grateful to live in a state where environmental activism and policy issues can get good traction, but I am also well aware of how much continued work there is to do. I am at a point in my career and family life where I am ready to start devoting more energy to local causes and organizations that I'm passionate about, and joining Friends of Casco Bay aligns well with that goal.

Core qualities and skills that I would bring to this Board position include a strong work ethic, curiosity and willingness to learn, the confidence to ask questions and delve into issues, a background in advocacy, and a strong and growing network.

Thank you for your consideration. If you have any questions about my application, background, or fit for a board position, please don't hesitate to reach out.

Sincerely,



Janna Rearick
734.308.5961
jannarearick@gmail.com

cc: Will Everitt, Executive Director (willeveritt@cascobay.org)
Kirsten Piacentini, Vice President, Board of Directors (kpiacentini@llbean.com)

Janna K. Rearick

Portland, ME • jannarearick@gmail.com • 734.308.5961
www.linkedin.com/in/janna-rearick

PROFESSIONAL EXPERIENCE

Unum Group, Portland, ME July 2019 – Present
Assistant Vice President, Lead Regulatory Counsel (August 2023 – present); AVP, Legal Counsel & Manager (Sept. 2020 – August 2023); AVP, Legal Counsel (July 2019 – August 2020)

- Provide legal counsel and advocacy on a broad array of legal and regulatory issues relating to the Company's products, services and enterprise strategy.
- Enforce and defend the Company's interests in disputed regulatory matters.
- Deliver regular updates to senior management and Board on emerging and ongoing regulatory risk issues.
- Coordinate and facilitate communications with Unum Group's domestic regulators.
- Serve as legal subject matter expert for dental/vision business, including compliance with new laws, provider network issues, claims questions, COBRA, and DHMO matters.
- Support long term care closed block of business through advice on pilot programs to reduce risk exposure.

Metropolitan Life Insurance Company (MetLife), New York, NY Sept. 2013 – July 2019
Senior Counsel (August 2016 – July 2019); Corporate Counsel (Sept. 2013 – July 2016)

- Served as lead attorney for MetLife's group dental, vision, and accident and health insurance business.
- Advised on privacy breach responses and substantive privacy issues, including HIPAA, Gramm Leach Bliley, and GDPR; participated in tabletop cybersecurity breach exercises.
- Drafted and negotiated master services agreements and other contracts with customers, brokers, and vendors, including privacy and data security agreements. Provided subject matter expertise on federal government contracting issues, including Federal Acquisition Regulation requirements.
- Counseled National Accounts sales team and advised on RFP responses, claims issues, marketing material.
- Supported business in development of new products and distribution channels.

O'Melveny & Myers LLP, New York, NY Dec. 2009 – July 2013
Litigation Associate (Dec. 2009 – July 2013); Summer Associate (June 2008 – August 2008)

- Practiced in the areas of securities law, complex commercial litigation, and white collar criminal defense.

Human Rights Watch, Washington, DC June 2009 – Nov. 2009
Legal Fellow: Program in Refugee and Asylum Law

- Researched and published report on legal status of resettled refugees in U.S. immigration detention.

United States Peace Corps, Bukoba, Tanzania August 2003- Dec. 2005
Peace Corps Volunteer

- Taught secondary school biology; obtained grants for community development; led girls' empowerment activities.

Rosbash Laboratory, Brandeis University, Waltham, MA Dec. 2002-July 2003
Laboratory Technician

- Supported genetic research on circadian rhythms in fruit flies, *Drosophila melanogaster*.

EDUCATION

University of Michigan Law School, Ann Arbor, MI
Juris Doctor Degree, Class of 2009
Awards & Activities: Honors in Legal Writing; Campbell Moot Court; Program in Refugee & Asylum Law Fellow

Williams College, Williamstown, MA
Bachelor of Arts Degree in Biology, Class of 2002

PUBLICATIONS & ADMISSIONS

Publications: *Jailing Refugees: Arbitrary Detention of Refugees in the US Who Fail to Adjust to Permanent Resident Status*, Human Rights Watch, December 29, 2009.

Admitted to Practice: New York, 2010