

# ENVIRONMENTAL LAW

## Lewis & Clark Law School

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### SYMPOSIUM

#### GREENING THE GRID: BUILDING A LEGAL FRAMEWORK FOR CARBON NEUTRALITY

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### SYMPOSIUM ARTICLES

“Steel in the Ground”: Greening the Grid with the iUtility.....	931
<i>Joseph P. Tomain</i>	

While the electricity industry is significantly challenged by climate change, climate change also presents a significant opportunity for the industry to restructure itself. Central to a successful restructuring is the construction of a smart grid, which promises greater energy and economic efficiency, increased use of renewable resources, and a reduction of carbon emissions. This Article argues that the technology exists for the construction of a successful smart grid, and now federal and state regulators must support those efforts through a renegotiated regulatory compact.

Restructuring a Green Grid: Legal Challenges to Accommodate New Renewable Energy Infrastructure .....	977
<i>Steven Ferrey</i>	

Traveling across the legal, regulatory, and physical frontiers of the new “smarter” grid, this Article fathoms the complexities of the new legal architecture of the American “smarter” grid. There is much more to the transmission grid than just poles and wires: Modern society depends on speed-of-light movement of electrons over thousands of miles in a system that is the last of the regulated industries in America. As we move toward using more wind and solar power, there are concerns that these technologies are intermittent resources, which on an hourly basis ebb and flow in only partly predictable manners. In this Article, the heretofore largely hidden issue of whether the grid has the backup, quick-start power resources to deal with this intermittency is examined—it doesn’t. This has profound social and financial consequences on the power future. The author analyzes the move to renewable power, the implications for the “smarter” grid, and the resultant legal and regulatory issues confronting the system.

The Trojan Horse of Electric Power Transmission Line Siting Authority .....	1015
<i>Jim Rossi</i>	

This Article highlights legal barriers to the development of renewable energy projects but takes a skeptical approach to Congress' expansion of federal siting jurisdiction as a solution to the problem. Over-attention to transmission line siting authority is a Trojan horse in the climate change debate—masking fundamental issues that could harm the climate and keeping reformers from focusing on the more serious barriers faced by the large-scale development of renewable resources. Reforms must also focus on how the costs and benefits of transmission projects are assessed by regulators and how transmission will be priced in wholesale power markets.

Streamlining NEPA to Combat Global Climate Change: Heresy or Necessity? .....	1049
<i>Irma S. Russell</i>	

This Article discusses the impact of the National Environmental Policy Act (NEPA) on the development of non-carbon energy sources. Preparing an EIS results in delays to energy projects, whether they are traditional or innovative green energy projects. Currently some fossil fuel energy sources receive a streamlined NEPA process, as a result of either legislation or regulations. While streamlining NEPA might serve to advance clean energy resources, this avenue for green energy has not developed. Debate on the issue could promote the public good.

Rough Seas Ahead: Confronting Challenges to Jump-Start Wave Energy .....	1073
<i>Rachael E. Salcido</i>	

This Article examines various challenges to the goal of accelerating wave energy development within the sustainable development framework. Three recommendations for paving the road ahead are to 1) establish the role of ocean renewables within the larger energy policy, 2) prioritize research that will prove the “green credentials” of wave energy, and 3) move forward with ecosystem-based zoning to facilitate restoration and sustainable, long-term management of our oceans.

The Rising Tide of Climate Change: What America's Flood Cities Can Teach Us About Energy Policy, and Why We Should Be Worried.....	1109
<i>Joshua P. Fershee</i>	

To provide a model for assessing the current and likely responses to climate change risks, this Article considers two of worst flood disasters in American history and applies the same rationale for addressing those disasters to critical climate change issues facing the nation today. The Article discusses the exorbitant potential costs of climate change and argues that policies to address such issues are needed because of the potential gains in terms of national security and job creation.

## SYMPOSIUM ESSAY

Greening the Grid and Climate Justice.....	1143
<i>Alice Kaswan</i>	

Professor Kaswan argues that environmental and economic justice considerations are central to debates about whether, and how, to green the grid. She surveys the collateral environmental and economic benefits and risks presented by a transition to renewable energy, and argues that integrating such concerns into climate policy would further, rather than hinder, the political prospects for greening the grid.

## COMMENTS

Wave New World: Promoting Ocean Wave Energy Development Through Federal-State Coordination and Streamlined Licensing ....	1161
<i>Mark Sherman</i>	

Global warming has impacts that will be, and are, catastrophic. Efforts to slow the effects of global warming are present at the state level. Global warming initiatives include a carbon sequestration component that is based on carbon cycling science. It is crucial to understand the adequacy of the science and the interplay between the science and the overall policies of the initiatives.

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