



WHAT CAN ANIMAL LAW LEARN FROM ENVIRONMENTAL LAW?

EDITED BY RANDALL S. ABATE

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Praise for *What Can Animal Law Learn From Environmental Law?*

Professor Abate's book provides a thoughtful and compelling answer to the question the title poses: a great deal. The book exhaustively surveys a wide range of connections between environmental law and animal law, from ethics to standing to trade in wildlife, and the chapters are both readable and provocative. The book will be an excellent resource for students and practitioners alike.

—John Dernbach

Distinguished Professor of Law; Director, Environmental Law and Sustainability Center, Widener Law School

Always up for a challenge, Professor Abate has gathered together an impressive group of Animal Law experts and asked them to climb a very steep mountain—the one that has long stood between animal law and environmental law. For the novice, this text provides valuable basic material to introduce one to both fields. For the scholar or law teacher, it goes so much further, delving into the sources and consequences of this long-standing divide and seeking opportunities for collaboration. This is an important collection of insights whether for interested readers or as a secondary text for animal law courses.

—Kalyani Robbins

Associate Professor of Law, Florida International University College of Law

This book contains a valuable, well-written, and incisive collection of essays by outstanding experts in the fields of environmental and animal law. It deserves a place on the bookshelves of all animal rights and environmental law attorneys and anyone else who believes that our natural surroundings, and the living creatures which inhabit it, deserve to be valued and protected.

—Joel Mintz

Professor of Law, Nova Southeastern University Law Center

Randall Abate has assembled an impressive collection of experts to discuss the many facets of Animal and Environmental Law. I have discussed the interrelationship between Animal and Environmental Law for several years in my Animal Law classes. I look forward to using "What Can Animal Law Learn from Environmental Law?" to bring new insights and topics of conversation to my future classes. Job well done!

—Alan S. Nemeth

Founder & Executive Director, Vegan Trade Council; Adjunct Professor of Law at American University Washington College of Law and University of Baltimore School of Law

Professor Abate's book is an extremely valuable contribution. It's an excellent compendium of environmental laws and treaties pertinent to animal welfare, as well as lessons that the more developed field of environmental law may present for the emerging field of animal law.

—Dr. Wil Burns

Co-Executive Director, Forum for Climate Engineering Assessment, A Scholarly Initiative of the School of International Service, American University

Environmental law and animal law are, in the grand scheme of things, both relatively new fields of study and practice. That said, they continue to be rapidly developed and advanced by dedicated lawyers committed to improving the situation for our voiceless co-inhabitants of the Earth, and for the Earth itself. Professor Abate's latest effort successfully bridges the gap between environmental law and animal law and explores the synergies that may help expedite the progression of both disciplines. Ultimately and powerfully, this work leaves the reader questioning the merits of keeping environmental law and animal law distinct given the state of our natural world.

—Cameron Jefferies

Assistant Professor of Law, Borden Ladner Gervais Energy Law Fellow,
University of Alberta Faculty of Law

This collection facilitates scholarly collaboration between the fields of environmental law and animal law—a worthy, necessary, and timely endeavour. Although the book's primary focus is on U.S. domestic law, it is relevant for all jurisdictions grappling with the complicated issues surrounding protection of the natural environment and our evolutionary friends. Whilst conflicts may arise between the two fields, both share the common challenge of using the law to protect entities that are unable to directly speak for themselves. It is contributions like this collection that will enable animal and environmental lawyers to commence a rich conversation on how to best achieve justice in their respective contexts.

—Dr. Jeffrey McGee

Senior Lecturer in Climate Change, Marine and Antarctic Law,
University of Tasmania, Australia

This comprehensive and thoughtful text represents a much needed treatise providing an effective means by which to conceptualize a path forward in the field of animal law. The far ranging collection of essays considers the many facets that affect the field providing discussion of the rights of all animals, including endangered species and those raised for food production. This book is a must read for anyone studying animal law or using the law to advocate for animal rights.

—Laurie Beyranevand

Associate Professor of Law, Associate Director of the Center for Agriculture and Food Systems at Vermont Law School

For Alek, the “voracious vegan,” whose commitment to environmental stewardship and uncompromising passion for animal welfare and rights propelled me to undertake this book project.

Editor and Contributor Biographies

Editor

Randall S. Abate is a professor of law, director of the Center for International Law and Justice, and project director of the Environment, Development & Justice Program at Florida A&M University College of Law in Orlando, Florida. At Florida A&M, Professor Abate teaches Environmental Law, International Environmental Law, Environmental Justice, Climate Change Law and Indigenous Peoples Seminar, Ocean and Coastal Law Seminar, Public International Law, Constitutional Law I and II, and Animal Law. Professor Abate joined the Florida A&M College of Law faculty in 2009 with 15 years of full-time law teaching experience at Vermont Law School, Widener Law School–Harrisburg, Rutgers School of Law–Camden, Florida Coastal School of Law, and Florida State College of Law. He has taught international and comparative environmental law courses in study abroad programs in Kenya, Canada, India, Argentina, and the Cayman Islands.

Professor Abate has published and presented widely on environmental law topics, with a recent emphasis on climate change law and justice. His articles on climate change law and justice have appeared in the *Stanford Environmental Law Journal*, *Cornell Journal of Law and Public Policy*, *Connecticut Law Review*, *Duke Environmental Law and Policy Forum*, *Washington Law Review*, *William and Mary Environmental Law and Policy Review*, *Tulane Journal of International and Comparative Law*, *Seattle Journal of Environmental Law*, *Ottawa Law Review*, *Tulane Environmental Law Journal*, and *Fordham Environmental Law Review*. He is the editor of *CLIMATE CHANGE IMPACTS ON OCEAN AND COASTAL LAW: U.S. AND INTERNATIONAL PERSPECTIVES* (2015) and co-editor of *CLIMATE CHANGE AND INDIGENOUS PEOPLES: THE SEARCH FOR LEGAL REMEDIES* (2013). Professor Abate taught a Climate Change Law and Justice course at National Law Academy in Odessa, Ukraine, in 2013 on a Fulbright Specialists grant, and taught a Climate Change Adaptation Law and Justice course in the inaugural Summer Environmental Law Program at China University of Political Science and Law in 2014. In June 2015, he taught a Comparative Animal Law course in a study abroad program in Granada, Spain. Early in his career, Professor Abate handled environmen-

tal law matters at two law firms in Manhattan. He holds a B.A. from the University of Rochester and a J.D. and M.S.E.L. (Environmental Law and Policy) from Vermont Law School.

Contributing Authors

Dr. Keely Boom is a research associate with the Institute for Sustainable Futures at the University of Technology, Sydney, and a research fellow at the University of Wollongong. She combines expertise in animal law and environmental law. Dr. Boom is a founding member of the Centre for Compassionate Conservation, based in Australia. She has taught Animal Law and has previously worked at THINKK, the kangaroo think tank. Dr. Boom has a Ph.D. in international climate change law and is executive officer of the Climate Justice Programme. She was the first intern to be taken on with the animal protection institute Voiceless, and served as an intern with the legal unit of Greenpeace International in Amsterdam.

Linda Breggin is a senior attorney with the Environmental Law Institute (ELI) where she works on a wide range of environmental law and policy issues. She co-directs the Institute's Industrial Agriculture Law and Policy Center. Her work also includes research and convenings on programs under several of the major federal environmental laws, including the Comprehensive Environmental, Response, Compensation, and Liability Act and the Clean Water Act. Recent agriculture-related publications include (co-authored with Bruce Myers): *It's Time to Put a Price Tag on the Environmental Impacts of Commodity Crop Agriculture*, 43 ELR 10130 (Feb. 2013) (also with Meredith Wilensky); and *Subsidies With Responsibilities: Placing Stewardship and Disclosure Conditions on Government Payments to Large-Scale Commodity Crop Operations*, 37 HARV. ENVTL. L. REV. 487 (2013). She also writes the "Around the States" column for *The Environmental Forum*, ELI's award-winning policy journal. Column topics have included urban agriculture and animal feed operations. Prior to joining ELI in 1997, Ms. Breggin served as an associate director in the White House Office on Environmental Policy and as a special assistant to the Assistant Administrator for Enforcement at the U.S. Environmental Protection Agency. She also served as counsel to the Committee on Energy and Commerce, Subcommittee on Transportation and Hazardous Materials of the U.S. House of Representatives. In addition, Ms. Breggin was in private practice in Washington, D.C. She received her J.D. from the University of Chicago Law School.

Sabine Brels is a French lawyer and a Ph.D. candidate at Laval University in Quebec. Since 2014, she has been the manager of the Global Animal Law (GAL) project, www.globalanimallaw.org. Her fields of research and work are mainly animal welfare and biodiversity conservation, with a specific background in international and comparative animal law. She holds an LL.M. (Masters in International Environmental Law) from Laval University, Quebec, and is currently completing her Ph.D. in International Animal Law at the same university. She was awarded the prestigious Vanier Canada Graduate Scholarship for her doctorate studies. During the past 10 years, she has worked as a consultant on animal protection for various international organizations, such as the Convention on Biological Diversity (UNEP), the World Wildlife Fund (WWF), and scientific research centers. More recently, she has taught animal law at Stetson University College of Law and has participated in various conferences on animal law around the world. Her work is regularly published in French, English, and Spanish in animal law reviews. In June 2015, Ms. Brels taught a Global Animal Law course in a study abroad program in Granada, Spain.

Ralph A. DeMeo is a shareholder in the law firm of Hopping Green & Sams, P.A. in Tallahassee, Florida, where he practices environmental, land use, administrative, health and safety, real estate, and animal law, and civil and administrative litigation. He received his B.A. in 1976 and M.A. in 1980 with honors in English from Stetson University, and his J.D. with honors in 1984 from Florida State University College of Law. He is an adjunct professor of Legal Studies and Political Science at Tallahassee Community College; an adjunct professor of Environmental Regulation and Policy at Florida A&M University; and a frequent lecturer and author. He is chair of the Florida Bar Animal Law Committee; past chair of the Florida Bar Environmental and Land Use Law Section (ELULS); and past managing editor of the ELULS Treatise on Environmental and Land Use Law. He has served on a number of community and charitable boards, particularly with respect to animals: Pets Ad Litem (founder, CEO); Tallahassee Animal Shelter Community Advisory Board; Tallahassee Animal Shelter Foundation (co-founder); and St. Francis Wildlife Association. He is highly rated in *Chambers USA America's Leading Business Lawyers* for environmental law, *Florida Super Lawyers* for environmental law, *Martindale-Hubbell A-V 5.0 Preeminent Lawyer* for environmental law, *Best Lawyers in America* for environmental law, and *Who's Who Legal in Florida* for environmental law.

Dr. Teresa Giménez-Candela is a professor of law; director and founder of the postgraduate Animals, Law, and Society Program; and director of the Masters in Animal Law and Society at the Universitat Autònoma de Barcelona in Spain. She has the distinction of being the first law professor in Spain to teach a course on animal law. Dr. Giménez-Candela is the director of the Research Group *Animales, Derecho y Sociedad* (ADS), which was awarded official recognition by the autonomous government of Catalonia. She is founder and editor of the website www.derechoanimal.info, the first database on animal policy and case law in Spain. She is founder and director of the collection *ANIMALS AND THE LAW*, printed by Tirant Lo Blanch Publishing House in Valencia. She is also founder of the European Group of Animal Law Studies (EGALS). Dr. Giménez-Candela has more than 25 years of experience teaching law at universities on four continents, including Universidad de Navarra; Universidad de Valencia; Universitat de les Illes Balears; University of Köln; Fukuoka; UNAM of Mexico; Mayor de S. Simón; Università di Tor Vergata; Università Federico II di Napoli; and New York University. She has received multiple fellowships from the Alexander-von-Humboldt-Stiftung, which enabled her to conduct research at the German Universities of München and Heidelberg, in addition to the University of Rome La Sapienza, the manuscript section of the Vatican Library, and the Maruccelliana Library. She has worked in the *Thesaurus Linguae Latinae* in München, and in the Department of Papyrology of the Ashmolean Museum in Oxford. Dr. Giménez-Candela was trained in Roman Law and Latin Legal Epigraphy and holds an LL.B. and Ph.D. in Law with the Special Prize for Merit from the Universidad de Navarra in Pamplona.

Stacey L. Gordon is director of the Law Library and associate professor of law at the Alexander Blewett III School of Law at the University of Montana. She teaches Animal Law and legal research courses, including Environmental Law Research, and advises the Student Animal Legal Defense Fund. Gordon is the chair of the Humane Society of Western Montana Legislative & Advocacy Committee, which advocates for companion animal welfare through education and legislation. She is the author of an article on "right to hunt" amendments in state constitutions published in the *Public Land and Resources Law Review*. Professor Gordon received her M. Libr. from the University of Washington and J.D. from the University of Montana School of Law. She is a member of the Montana bar.

Elizabeth Hallinan is the director of public policy at Compassion Over Killing, an animal protection nonprofit in Washington, D.C. Previously, she was a litigation fellow at the Animal Legal Defense Fund, and has worked on environmental and animal law for Meyer Glitzenstein and Crystal. She received her J.D. from New York University School of Law, where she focused on animal, administrative, and environmental law. A published author of several psychological papers, Ms. Hallinan holds a master's degree in Psychology from Queen's University and a bachelor's degree in Biology from Harvard University.

Eric V. Hull is an associate professor of law at Florida Coastal School of Law. Professor Hull has published on environmental and maritime law topics, with an emphasis on the impact of pollution on ocean and coastal systems, human health, and the environment. Most recently, his scholarship has been directed to legal issues arising from land use impacts on endangered species protection efforts, climate change, coastal development, ocean acidification, marine invasive species, and vessel emissions. His work has been published in the *Georgetown International Environmental Law Review*, *Duke Environmental Law and Policy Forum*, *UCLA Journal of Environmental Law and Policy*, *Temple Law Review*, *University of San Francisco Maritime Law Journal*, and others. His work on the management of marine resources in U.S. waters has been included in an international text on ocean and coastal governance. Professor Hull teaches courses in Environmental Law, Environmental and Toxic Torts, Climate Change Law and Policy, Ocean and Coastal Law, and Property. He holds an LL.M. in Environmental and Land Use Law from the University of Florida, where he graduated first in his LL.M. class and received the book award in Environmental Justice; a J.D. from Barry University, where he graduated with honors and served as the editor-in-chief of the *Barry Law Review*; an M.S. in Coastal Zone Management and an M.S. in Marine Biology from Nova Southeastern University's Oceanographic Center; and a B.S. in Biology from Providence College.

Thomas G. Kelch is a professor of law at Whittier Law School in Costa Mesa, California, and has been teaching animal law for more than 20 years. He has published a number of articles on animal law issues, including pieces on culture and animal law, the property status of animals, the role of feminist theory and the emotive in animal law, the history of animal law, and alleged First Amendment justifications for animal experimentation. Professor Kelch has also spoken at numerous conferences in the United States and

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Andrew Long is the principal of EA Long Legal PC and a research fellow with the Burleson Institute. He has published widely on protection of species and other environmental law topics in the United States and Europe. His research focuses on environmental governance, with an emphasis on developing legal responses to complex global environmental challenges. He has published more than a dozen research articles and other works. Recent and forthcoming work appears in edited volumes, such as *RESEARCH HANDBOOK ON REDD-PLUS AND INTERNATIONAL LAW* (Christina Voigt ed., Edward Elgar Publishing forthcoming 2015) and *INTERNATIONAL ENVIRONMENTAL LAW: THE PRACTITIONER'S GUIDE TO THE LAWS OF THE PLANET* (Roger Martella & Brett Grosko eds., ABA Publishing 2014), as well as journals such as *Minnesota Journal of Law, Science & Technology*, *Tropical Conservation Science*, and Oxford's *Yearbook of International Environmental Law*. He has served as a visiting associate professor of law at UMKC School of Law and as a visiting assistant professor of law at the University of Louisville Brandeis School of Law, as well as serving as associate professor at Florida Coastal School of Law, where he headed the Environmental Law Program. He is a member of

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Michelle McDonald Shaw is a campaign manager in the Wildlife Protection Department at the Humane Society of the United States, where she works on issues relating to the poisoning of wildlife by lead hunting ammunition. Prior to joining the Lead-Free Wildlife Campaign, she worked on the Fur-Free Campaign covering the issues of animal cruelty, environmental impact, and labeling requirements of animal fur usage. Ms. McDonald Shaw earned her J.D. from Florida A&M University College of Law, where she founded the 126th chapter of the Student Animal Legal Defense Fund. She also holds a master's degree and a bachelor's degree in Criminal Justice from the University of Central Florida.

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Department of Justice working on wildlife and marine resources matters, and mediated human resources disputes for the U.S. Department of Defense. In addition, he occasionally serves as special counsel to Jones Foster Johnston & Stubbs, P.A. in West Palm Beach, aiding municipalities with environmental issues. He is licensed by the Florida bar and recognized as a board-certified specialist in state and federal administrative practice, and he earned a Florida Master Naturalist certification while driving airboat tours in the Everglades. Professor Rizzardi holds a B.A. from the University of Virginia, a J.D. from the University of Florida, and an M.P.A. from Florida Atlantic University.

Joan E. Schaffner is an associate professor of law at the George Washington University Law School. She received her B.S. in Mechanical Engineering (magna cum laude) and J.D. (Order of the Coif) from the University of Southern California and her M.S. in Mechanical Engineering from the Massachusetts Institute of Technology and is a member of the California (inactive) and D.C. (active) bars. Professor Schaffner teaches Civil Procedure, Remedies, Sexuality and the Law, and directs the George Washington Animal Law Program. Her book *INTRODUCTION TO ANIMALS AND THE LAW* was published by Palgrave MacMillan in 2011 as part of their Animal Ethics Series. She is a co-author and editor of two books published by the American Bar Association: *A LAWYER'S GUIDE TO DANGEROUS DOG ISSUES* (2009) and *LITIGATING ANIMAL LAW DISPUTES: A COMPLETE GUIDE FOR LAWYERS* (2009) and is author of a number of book chapters including: *Canine Profiling*, in *GLOBAL GUIDE TO ANIMAL PROTECTION* (Univ. Illinois Press 2013), *Animal Cruelty and the Law: Permitted Conduct*, in *ANIMAL CRUELTY: A MULTIDISCIPLINARY APPROACH* (Carolina Academic Press 2013), and *Laws and Policy to Address the Link of Family Violence*, in *THE LINK BETWEEN ANIMAL ABUSE AND HUMAN VIOLENCE* (Sussex Academic Press 2009). Professor Schaffner is past chair and newsletter vice-chair of the American Bar Association Tort Trial and Insurance Practice Section's Animal Law Committee; founding chair of the Association of American Law Schools' Section on Animal Law; and a fellow at the Oxford Centre for Animal Ethics. In August 2013, Professor Schaffner received the Excellence in the Advancement of Animal Law Award from the American Bar Association, Tort Trial and Insurance Practice Section.

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Joyce Tischler is the co-founder of the Animal Legal Defense Fund and she has helped shape the emerging field of animal law. Ms. Tischler litigated some of the Animal Legal Defense Fund's earliest cases, including a 1981 lawsuit that halted the U.S. Navy's plan to kill 5,000 feral burros and a 1988 challenge to the U.S. Patent Office's rule allowing the patenting of genetically altered animals. She has lectured extensively in the United States and abroad, teaches an Introduction to Animal Law course, developed the first-ever Farmed Animal Law and Policy class, and is currently co-authoring two books related to animal law issues. Her law review articles include: *The History of Animal Law, Part II (1985- 2011)*, 5 STAN. J. ANIMAL L. & POL'Y 27 (2012) and *The History of Animal Law, Part I (1972-1987)*, 1 STAN. J. ANIMAL L. & POL'Y 1 (2008). She is a recipient of the American Bar Association TIPS Animal Law Committee's Excellence in the Advancement of Animal Law Award. Ms. Tischler was the Animal Legal Defense Fund's executive director for 25 years and now serves as the agency's general counsel. She holds a B.A. from Queens College of the City University of New York and a J.D. from the University of San Diego School of Law.

Paige M. Tomaselli is a senior attorney at the Center for Food Safety, where she works on law and policy related to genetically engineered crops,

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Lindsay Walton is licensed to practice law in Colorado and Florida and is certified as a LEED Green Associate. Prior to relocating to Colorado in 2014, Ms. Walton worked as an assistant general counsel for the Florida Department of Environmental Protection's Division of Waste Management. She currently serves as the state policy coordinator for Clean Trails, a non-profit organization dedicated to conservation and promoting litter-free wild places. Ms. Walton served as a research assistant for two book projects—*CLIMATE CHANGE AND INDIGENOUS PEOPLES: THE SEARCH FOR LEGAL REMEDIES* (Randall S. Abate & Elizabeth Ann Kronk eds., 2013) and *CLIMATE CHANGE IMPACTS ON OCEAN AND COASTAL LAW: U.S. AND INTERNATIONAL PERSPECTIVES* (Randall S. Abate ed., 2015)—and drafted a section in the latter work, *Introduction to the Magnuson-Stevens Act*. She holds a J.D. and an Environmental and Land Use Law certificate from Florida State University College of Law. As part of her certificate study, Ms. Walton completed a research project, "Planet of the Cows," which analyzed livestock methane emissions and examined the evolution of the agricultural industry in the United States and abroad. She received her B.A. from Florida State University and is a member of Phi Beta Kappa.