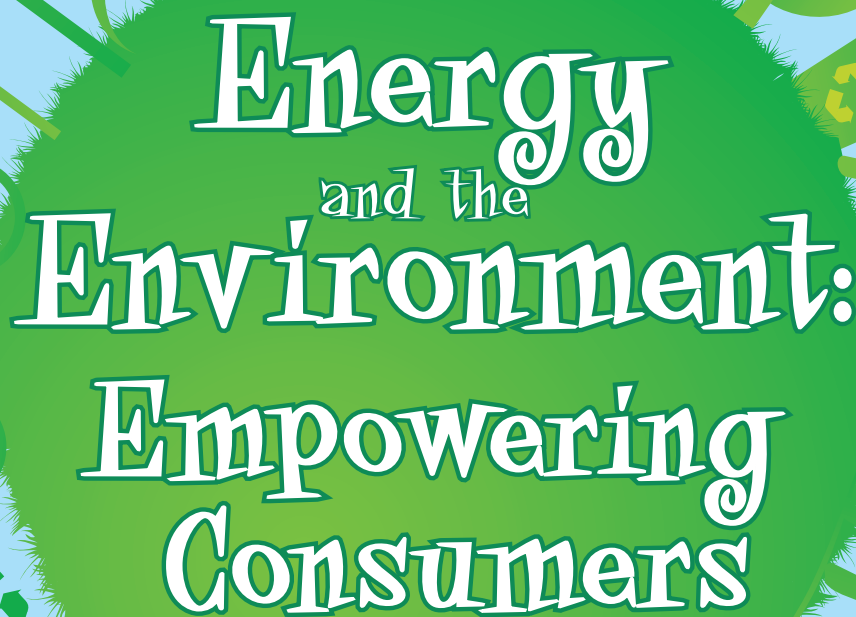


# Hofstra Law School

welcomes you to

Conference Program



Energy  
and the  
Environment:  
Empowering  
Consumers

March 19 & 20, 2009

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# Energy and the Environment: Empowering Consumers

**A**rguably, the most important 21<sup>st</sup> Century player in the energy - environment equation is the consumer. Consumers - individuals, small businesses, large industries, and all levels of government - consume not only energy, but also the environmental “goods” that energy policies can imperil. 

It has become increasingly clear that energy consumption, long understood as a crucial component of a society's economic wealth, also plays a large role in determining a society's environmental health. Today's consumers continue to desire ever more energy at the lowest possible price, yet also increasingly insist upon living in a clean environment. At the same time, science increasingly reveals a fundamental and complex tension between traditional energy policies (and consumption) and a clean and healthy environment at all levels (local, regional and global).

This interdisciplinary conference focuses on the rights and duties of consumers, the consequences of their energy consumption choices, and the implications of their environmental demands and responsibilities. The Conference examines some of the most important legal, factual, political and ethical considerations in the evolving role of the energy and environment consumer.

## SCHEDULE

### THURSDAY, MARCH 19, 2009

- |   |  |                       |
|---|--|-----------------------|
| 12 – 1:00 p.m.  | <b>REGISTRATION AND LIGHT BUFFET LUNCH</b>   | <b>FACULTY LOUNGE</b> |
| 1 – 1:45 p.m.   | <b>Introduction and Keynote Speaker</b><br>Introductory Remarks by Hofstra Law School Dean Nora V. Demleitner and William J. Fishlinger, Chairman and CEO of WRM America<br>Keynote Address by Hon. James L. Larocca, Commissioner, New York State Public Service Commission   | <b>ROOM 308</b>       |
| <b>PART I: THE CENTRAL ROLE OF ENERGY-ENVIRONMENT CONSUMERS</b> |  |                       |
| 2 – 3:30 p.m.   | <b>Opening Plenary Session</b><br><br>Energy policies that damage the environment can imperil environmental “goods” valued by consumers; energy policies that protect the environment can expose consumers to higher costs. Consumers are, however, in a unique position to influence energy policy through their political, behavioral and consumption choices to prevent environmental harms and protect other consumer interests. The opening plenary session will define the connection between energy and the environment and establish the vital role of energy-environment consumers, in particular individuals and their local governments, who both consume energy and experience the energy and environmental effects of that consumption.<br><br>Moderator: <b>Katrina Fischer Kuh</b> , Associate Professor of Law, Hofstra University<br>Panelists: <b>Steve Levy</b> , Suffolk County Executive<br><b>Sharon Nelson</b> , Former Chair, Consumers Union Board of Directors<br><b>Joseph A. Siegel</b> , Senior Attorney, Environmental Protection Agency<br><b>Thomas Suozzi</b> , Nassau County Executive   | <b>ROOM 308</b>       |
| 3:45 – 5:15 p.m.  | <b>Consumer Pocketbooks, Energy Policy and Carbon Control</b><br><br>Consumers will experience many negative impacts from climate change and its related adaptation costs – everything from increased risks of flooding (and higher insurance costs) to increases in taxes as government undertakes necessary adaptation measures. However, strategies for reducing greenhouse gas emissions (such as a carbon tax or cap and trade system) may impose costs and hardship on consumers as well. And low income and minority consumers are likely disproportionately vulnerable to both the negative impacts of climate change and policies to avoid climate change. This panel will consider how consumers (and in particular the most vulnerable consumers) will be affected by climate change, adaptation, and the carbon control strategies adopted or proposed to mitigate climate change.<br><br>Moderator: <b>Serge Martinez</b> , Associate Clinical Professor of Law, Hofstra University<br>Panelists: <b>Maxine Burkett</b> , Associate Professor of Law, University of Hawaii<br><b>Dr. Mark Toney</b> , Executive Director, The Utility Reform Network<br><b>Anhthu Hoang</b> , General Counsel, WE ACT for Environmental Justice, Inc. | <b>ROOM 205</b>       |
|   | <b>Identifying the Consumer: Who Consumes How Much Energy and Why?</b><br><br>Energy consumption and greenhouse gas emissions vary widely between individuals, regionally in the US, and internationally. This panel will identify and discuss these differences in energy consumption and emissions and assess the types of individual behaviors, municipal practices, government policies, and other factors that affect consumption and emission levels.<br><br>Moderator: <b>James E. Hickey Jr.</b> , Professor of Law, Hofstra University<br>Panelists: <b>Christopher M. Jones</b> , Staff Research Associate, Berkeley Institute of the Environment at the University of California at Berkeley<br><b>Kevin Tuerff</b> , President, EnviroMedia Social Marketing   | <b>ROOM 206</b>       |

CONCURRENT PANELS



**FRIDAY, MARCH 20, 2009**

**PART II: THE POWER OF ENERGY-ENVIRONMENT CONSUMERS**

**8 – 8:45 a.m. CONTINENTAL BREAKFAST FACULTY LOUNGE**

**8:45 – 10:15 a.m. *The Communication of Science and Consumer Empowerment* ROOM 206**

**CONCURRENT PANELS**

Many would argue that appreciation of the connection between energy policy and deleterious environmental effects, such as climate change, is a necessary predicate for changes in consumer behavior and demands. Climate science in the US has been vociferously contested and attitudes about the need to mitigate climate change remain divided. This panel will consider factors that shape individual and institutional beliefs about environmental science, generally, and climate science in particular and explore the relationship between scientific understanding and consumer support for environment-friendly behaviors and energy policies.

- Moderator: **Cynthia Bogard**, Associate Professor, Department of Sociology, Hofstra University  
 Panelists: **Eric Biber**, Acting Professor of Law, University of California at Berkeley  
**Paul Kellstedt**, Associate Professor & Director of the American Politics Program, Texas A&M University  
**Aaron M. McCright**, Assistant Professor, Michigan State University  
**Douglas Kysar**, Professor of Law, Yale Law School  
**Christine Overdevest**, Assistant Professor, Department of Sociology at the University of Florida

***Empowering Consumers as Investors: SEC Disclosure of Climate Risk* ROOM 205**

This panel will explore disclosure of climate risk. Is disclosure of climate risk required under existing securities laws? Should the securities laws be revised or supplemented with respect to climate risk? Does it matter to the investor and would disclosure influence investor or corporate behavior? What is the state of voluntary disclosure?

- Moderator: **Douglas J. Hayden**, Executive Vice President, WRM America  
 Panelists: **Kerry Dukes**, Chief Executive Officer, Ardour Capital Investments  
**Daniel Sangeap**, Assistant Attorney General, NY Attorney General's Office, Investor Protection Bureau  
**Jeffrey A. Smith**, Partner, Cravath, Swaine & Moore LLP  
**Trisha L. Smith**, Counsel, Thacher Proffitt & Wood LLP  
**Ariane Van Buren**, Director, Investor Engagement, CERES

**10:30 a.m. – Noon *Municipalities: Empowering Consumers by Creating Energy Options and Implementing Local Conservation Measures* ROOM 206**

**CONCURRENT PANELS**

Municipalities are major consumers of goods and energy and can also adopt policies that influence the energy consumption and greenhouse gas emissions of their citizens and the regulated community. This panel will consider how municipalities can influence energy policy, consumption, and greenhouse gas emissions — through energy and product procurement policies, forward-looking energy conservation programs, and other initiatives — and assess the role of municipalities as the US moves to reduce greenhouse gas emissions.

- Moderator: **Richard C. Hsia**, Executive Vice President and General Counsel, WRM America  
 Panelists: **Wayne R. Horsley**, Suffolk County Legislator  
**David Kincaid**, Engineering/Construction Consultant, Great Neck School District  
**Katherine Trisolini**, Environmental Law Fellow, University of California at Los Angeles

***Consumers as Regulatory Targets: The Power of Consumer Behavior and Choice* ROOM 205**

Consumers are in a unique position to influence energy policy, conserve energy, and reduce individual greenhouse gas emissions through their political, behavioral, and consumption choices. This panel will assess the role of individual consumer choice in addressing environmental problems such as climate change and consider strategies for motivating consumers to make “green” choices.

- Moderator: **Norman Silber**, Professor of Law, Hofstra University  
 Panelists: **Hope Babcock**, Professor of Law, Georgetown University  
**John C. Dernbach**, Distinguished Professor of Law, Widener University  
**Sean Hecht**, Executive Director of Environmental Law Center, University of California at Los Angeles

**Noon – 1 p.m. LUNCH & PRESENTATION OF STUDENT WRITING COMPETITION WINNER ATRIUM**

**1 – 2:30 p.m. *Over-empowered Consumers? NIMBY and Alternative Energy* ROOM 206**

**CONCURRENT PANELS**

Even residents and municipalities generally supportive of environmental goals may hesitate when faced with proposals to develop alternative energy projects (such as wind farms) locally because of aesthetic and other concerns. This panel will consider how communities have reacted to the proposed siting of such projects and suggest solutions for resolving these conflicts.

- Moderator: **Richard V. Guardino, Jr.**, Executive Dean, Wilbur F. Breslin Center for Real Estate Studies, Hofstra University  
 Panelists: **Richard M. Kessel**, President, New York Power Authority  
**Ronald H. Rosenberg**, Professor of Law, The College of William and Mary  
**Patricia E. Salkin**, Raymond and Ella Smith Distinguished Professor of Law, Albany Law School  
**Wendy Williams**, Co-Author, Cape Wind

continued >



## SCHEDULE

1 – 2:30 p.m.

### ***The Power of Consumers as Litigants: Climate Nuisance Suits***

ROOM 205

States, municipalities, and even individuals have sued major energy companies alleging that the practices of these companies in procuring and producing energy contribute to a nuisance (climate change) by causing the release of significant amounts of greenhouse gases. This panel will survey nuisance claims that have been brought against significant emitters of GHGs and consider their merit, potential impact, and relevance as the US moves toward comprehensive legislation to regulate GHGs.

Moderator: **Daniel Greenwood**, Professor of Law, Hofstra University  
Panelists: **Phil S. Goldberg**, Associate, Shook, Hardy & Bacon LLP  
**Nancy G. Milburn**, Partner, Arnold & Porter LLP  
**Matthew F. Pawa**, President, Law Offices of Matthew F. Pawa, P.C.  
**Jonathan M. Zasloff**, Professor of Law, University of California at Los Angeles

### ***A Threat to Consumer Empowerment: Greenwashing***

ROOM 308

Advertising and other commercial claims may be inaccurate or misleading with respect to the environmental attributes of companies and their products, a practice known as “greenwashing.” This threatens the efficacy of consumer choice to achieve environmental goals, yet efforts to police greenwashing may face First Amendment limits. This panel will define and provide examples of greenwashing, consider how widespread the practice is, assess its impacts on consumer choice, and evaluate public and private efforts to police environmental claims.

Moderator: **Elizabeth Glazer**, Associate Professor of Law, Hofstra University  
Panelists: **Laura DeMartino**, Assistant Director, Enforcement Division of Federal Trade Commission  
**Rebecca Tushnet**, Professor of Law, Georgetown University  
**Katherine Farrara**, Better Business Bureau, National Advertising Division

## **PART III: THE DUTIES OF ENERGY-ENVIRONMENT CONSUMERS**

2:45 - 4:15 p.m.

### **Closing Plenary Session**

ROOM 308

Self interest may not suffice to support action to mitigate climate change. The most harmful impacts of climate change may be felt most acutely outside of the US and by later generations, legal mechanisms are not in place to prevent “freeloading” by others, and greenhouse gas reductions may be costlier to achieve in the US than in other parts of the world. Is sacrifice to reduce greenhouse gas emissions – reduced energy consumption, lifestyle changes – justified even where the benefits do not accrue to the sacrificing individual(s)? This session will critically examine rationales – including moral, ethical, and political – for individuals and municipalities in the US to take action to reduce energy consumption and greenhouse gas emissions.

Moderator: **Katrina Fischer Kuh**, Associate Professor of Law, Hofstra University  
Panelists: **Leslie Pickering Francis**, Alfred C. Emery Professor of Law, University of Utah  
**Jedediah Purdy**, Associate Professor of Law, Duke University  
**Donald A. Brown**, Associate Professor for Environmental Ethics, Science and Law, Penn State University  
**Mark Sagoff**, Senior Research Scholar, University of Maryland

Hofstra Law School, WRM America and Congdon, Flaherty, O'Callaghan, Reid, Donlon, Travis & Fishlinger are pleased to host the “Energy and the Environment: Empowering Consumers” Conference.

**Nora V. Demleitner**  
*Dean and Professor of Law,  
Hofstra Law School*

**Conference Director**  
**Katrina Fischer Kuh**  
*Associate Professor of Law,  
Hofstra Law School*

**Conference Coordinator**  
**Jeffrey A. Dodge**  
*Assistant Dean for Administration  
& Operations, Hofstra Law School*

### **Conference Planning Committee**

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*Vice President - Risk Management,  
WRM America*

**William J. Fishlinger**  
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WRM America*

**Douglas J. Hayden**  
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**Vincent A. Piazza**  
*Corporate Director of  
Security/Fraud, WRM America*

In the interest of environmental conservation, the planning committee decided to make biographies for conference speakers available online as opposed to in print. Please visit the conference Web site for a complete list of moderators and speakers.

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