

SAM KALEN

CURRICULUM VITAE

Laramie, Wyoming

Work: 307-766-6706

Academic Employment

Professor, University of Wyoming College of Law, 2014- Present

William T. Schwartz Distinguished Professor (2020-)

Associate Dean for Academic Affairs (2017-)

Centennial Distinguished Professor (2017-2020)

Daniels Fund Ethics Initiative Faculty Fellow (2018-2021)

Winston S. Howard Distinguished Professor (2014-2017)

Founder, Center for Law & Energy Resources in the Rockies

Co-Director, Center for Law & Energy Resources in the Rockies

Recipient of University of Wyoming College of Law's 2020 Frank Trelease Award (2020)

Recipient of the College of Law Dean's Annual Merit Award (2019)

Recipient of the College of Law Dean's Third Annual Extraordinary Merit Award (2013)

Courses: Native American Law; Legislation; Administrative Law; Environmental Law; Climate Change and Energy Law and Policy; Federal Energy Law; Regulation of Fossil Fuel Development; Public Lands & Natural Resources; Environmental Aspects of Business Transactions; Environment, Energy and Natural Resources Practicum, American Legal History, Renewable Energy Resources

Committees: Chair, Law Curriculum Committee; Chair, Law Energy, Environment & Resources Committee; Chair, Marketing Committee; Member, Law Appointments Committee; served on Law Dean's Selection Committee; University Strategic Planning Committee (Fall 2022); University Calendar Committee; University Athletics Committee; 2020 University Faculty Advisory Budget Committee; University Inclusivity Pillar Team; University Centers and Institutes Task Force; Rocky Mountain Mineral Law Foundation Trustee

Associate Professor, University of Wyoming College of Law, 2011-2014

Assistant Professor, University of Wyoming College of Law, 2009-2011

Visiting Professor, University of Colorado School of Law, Fall 2021
Courses: Public Lands; Foundations of American Natural Resources Law

Visiting Robert H. McKinney Chair, Indiana University Robert H. McKinney School of Law, Spring 2021
Courses: Environmental Law; Legislation

Visiting Professor, Washington University School of Law, St. Louis, Spring 2021, Spring 2022
Courses: Online (distance education) 1 Credit Course in Energy Law & Policy

Adjunct Professor, Seattle University School of Law, Study Law in Alaska Program, Summer 2011 – 2014, Summer 2016
Courses: Alaska & Climate Change, Alaska & Energy

Visiting Assistant Professor, Penn State University School of Law, State College, PA, Spring 2009
Courses: Climate Change Law and Policy; Administrative Law

Visiting Assistant Professor, Florida State University College of Law, Tallahassee, FL, August 2007-May 2008
Courses: Climate Change Law and Policy; Land Use Law; Constitutional Law; Civil Procedure

Adjunct Professor, Washington & Lee University School of Law, Fall 2008
Course: Environmental Law

Adjunct Professor, University of Baltimore School of Law, 1995-2000
Course: Environmental Law

Employment

1984-1986, Clerk, Hon. Warren D. Welliver, Missouri Supreme Court

1986-1994, Attorney, Van Ness Feldman, Washington, D.C.

1994-1996, Special Assistant, Office of the Solicitor, Department of the Interior

1996-2009, Of Counsel and then Member, Van Ness Feldman,
Washington, D.C.

Education

Washington University School of Law, St. Louis, MO, J.D. 1984

Clark University, Worcester, Mass., B.A. 1980

University of Virginia, Charlottesville, VA, 1981-82, studied
American Legal History and American Intellectual History
(PhD Program)

Publications

Books

ENERGY FOLLIES: MISSTEPS, FIASCOS, AND SUCCESSES OF AMERICA'S
ENERGY POLICY, with Robert R. Nordhaus (Cambridge University
Press, September 2018)

Co-Author to JAMES RASBAND, JAMES SALZMAN, MARK SQUILLACE,
NATURAL RESOURCES LAW AND POLICY (Foundation Press, 3d Edition,
2016)

Co-Author with Murray Feldman, ENDANGERED SPECIES ACT: BASIC
PRACTICE SERIES (ABA 2d Edition, 2012)

CONGRESS CODIFIES ECOLOGY: THE HISTORY OF THE NATIONAL
ENVIRONMENTAL POLICY ACT FROM ITS GENESIS TO 50 YEARS LATER
(Manuscript completed)

Articles

Sam Kalen, *Refining Statutory Construction: Contextualism &
Deference*, __ U.N.H. L. REV. __ (forthcoming 2023)

Sam Kalen, *Public Land Management's Future Place: Envisioning a
Paradigm Shift*, 82 MARYLAND L. REV. 240 (2023)

Sam Kalen, *Rekindling Yellowstone's Early history: 150 Years Later*,
22 WYO. L. REV. 217 (2022)

Sam Kalen, *Mining Our Future Critical Minerals: Does Darkness Wait
Us?*, 51 ENVTL. L. REP. 11006 (2021) (featured article of the month)

Sam Kalen, with Tara Righetti, Robert B. Keiter, Jason Robison, and
Temple Stoellinger, *Unbecoming Adversaries: Natural Resources
Federalism in Wyoming*, 21 WYO. L. REV. 290 (2021) (wrote the

section on *Tribal Reserved Hunting Rights on Federal Land: From Race Horse to Herrera*)

Sam Kalen, *NEPA's Trajectory: Our Waning Environmental Charter From Nixon to Trump*, 50 ENVTL L. REP. 10398 (2020)

Sam Kalen, *A Bridge to Nowhere: Our Energy Transition and the Natural Gas Pipeline Wars?*, 9 MICH. J. OF ENVT'L & ADMIN. L. 319 (2020)

Sam Kalen, with Shi-Ling Hsu, *Natural Gas Infrastructure: Locking in Emissions?*, 34 NAT. RES. & ENVT. 3 (2020)

Sam Kalen, *Right to Water*, in MAX PLANCK ENCYCLOPEDIA OF COMPARATIVE CONSTITUTIONAL LAW (MPECCoL) (2020)

Sam Kalen, with Steven Weissman, *The Electric Grid Confronts the Dormant Commerce Clause*, 45 ECOLOGY L. CURRENTS 132 (2018)

Sam Kalen, *Historical Flow of Hydroelectric Regulation: A Brief History*, 53 IDAHO L. REV. 1 (2017)

Sam Kalen, *Policing Federal Supremacy: Preemption and Common Law Damage Claims as a Ceiling to the Clean Air Act Regulatory Floor*, 68 FLA. L. REV. 1597 (2016)

Sam Kalen, *Muddling Through Modern Energy Policy: The Dormant Commerce Clause and Unmasking the Illusion of an Attleboro Line*, 24 N.Y. U. ENVT'L. L. J. 283 (2016)

Sam Kalen, *Death of Administrative Common Law, Or the Rise of the Administrative Procedure Act*, 68 RUTGERS L. REV. 605 (2016)

Sam Kalen, *An Essay: An Aspirational Right to a Healthy Environment?*, 34 UCLA J. OF ENVT'L L. 156 (2016)

Sam Kalen, *Embedded Choices: A Resilient Energy Legal Architecture*, 52 IDAHO L. REV. 387 (2016)

Sam Kalen, *Marbury v. Madison*, in MAX PLANCK ENCYCLOPEDIA OF COMPARATIVE CONSTITUTIONAL LAW (MPECCoL), No. 557 (2016)

Sam Kalen, *Dormant Commerce Clause's Aging Burden*, 49 VAL. U. L. REV. 723 (2015)

Sam Kalen, *Landscape Shifting Paradigm for the Endangered Species Act: An Integrated Critical Habitat Recovery Program*, 55 NAT. RES. J. 47 (2014)

Sam Kalen, *Dormancy Versus Innovation: A Next Generation Dormant Commerce Clause*, 65 OKL. L. REV. 381 (2013) (Lead Article)

Sam Kalen, *Coal's Plateau and Energy Horizon*, 34 PUB. LAND & RES. L. REV. 145 (2013)

Sam Kalen, *Expanding the Federal Common Law?: From Nomos & Physis and Beyond*, 96 MARQ. L. REV. 517 (2012)

Sam Kalen, *Cruise Control & Speed Bumps What About Speed Limits for Outer Continental Shelf Leasing As Part of Our Energy Policy?*, 7 ENVT. & ENERGY LAW & POL'Y J. 155 (2012)

Sam Kalen, *Thirst for Oil and the Keystone XL Pipeline: Where's The National Energy Policy?*, 46 CREIGHTON L. REV. 1 (2012) (Lead Article)

Sam Kalen, *Federal Administrative Procedure Act Claims: The Tenth Circuit and the Wyoming District Court Should Fix the Confusion Attendant with Local Rule 83.7.2*, 11 U. WYO. L. REV. 513 (2011)

Sam Kalen, *Agriculture, Food & Environmental Policy*, 26 NAT. RES. & ENVT. 3 (2011) (Lead Article)

Sam Kalen, *Ecology Comes of Age: NEPA's Lost Mandate*, 21 DUKE ENVTL. LAW & POL'Y FORUM 113 (2010)

Sam Kalen, with Ryan M. Seidemann, James G. Wilkins, Megan K. Terrell, *Lingering Relevance of the Coastal Zone Management Act to Energy Development in Our Nation's Coastal Waters?*, 24 TUL. ENVTL. L. J. 73 (2010)

Sam Kalen, *The British Petroleum Macondo Well Exploration Plan: Wither the Coastal Zone Management Act?*, 40 ENVTL. L. REP. 1079 (Nov. 2010)

Sam Kalen, *The Devolution of NEPA: How the APA Transformed the Nation's Environmental Policy*, 33 WM. & MARY ENVTL. LAW & POL'Y REV. 483 (2009)

Sam Kalen, *The APA's Influence on the Development of the National Environmental Policy Act*, 23 NAT. RES. & ENVT. 3 (Spring 2009)

Sam Kalen, *The Transformation of Modern Administrative Law: Changing Administrations and Environmental Guidance Documents*, 35 ECOLOGY L. Q. 657 (2008)

Sam Kalen, *Changing Administrations and Environmental Guidance Documents*, 23 NAT. RES. & ENVT. 13 (Fall 2008)

Sam Kalen, *Is "Significant Nexus" Really Significant? Justice Kennedy's Concurrence in Rapanos*, NAT. RES. & ENVT. 9 (Summer 2007)

Sam Kalen, *The Coastal Zone Management Act of Today: Does Sustainability Have a Chance?*, 15 SOUTHEASTERN ENVT'L J. 191 (2006)

Sam Kalen, *Replacing a National Energy Policy with a National Resource Policy*, NAT. RES. & ENVT. 9 (Winter 2005)

Sam Kalen, *An 1872 Mining Law for the New Millennium*, 71 U. COLO. L. REV. 343 (2000)

Sam Kalen, with Paul Turner, *Takings and Beyond: Implications for Regulation*, 19 ENERGY L. J. 25 (1998)

Sam Kalen, *Standing on its Last Legs: Bennett v. Spear and the Past and Future of Standing in Environmental Cases*, 13 J. LAND USE & ENVT'L L. 1 (1997) (Lead Article)

Sam Kalen, *Where Do We Go From Here?: The Federal Coal Leasing Amendments Act – Past, Present, and Future*, 98 W. VA. L. REV. 1023 (1996)

Sam Kalen, *Commerce to Conservation: The Call for a National Water Policy and the Evolution of Federal Jurisdiction Over Wetlands*, 69 N.D. L. REV. 873 (1993) (Cited and Quoted in Supreme Court Opinion)

Sam Kalen, *Reawakening the Dormant Commerce Clause in its First Century*, 13 U. DAYTON L. REV. 417 (1988)

Sam Kalen, *Comment, Durational Residency Requirements and the Equal Protection Clause: Zobel v. Williams*, 25 WASH. U. J. URB. & CONTEMP. LAW 329 (1983)

Other Publications

Sam Kalen, with Mark Squillace, *Climate Change and Public Natural Resources*, in GLOBAL CLIMATE CHANGE AND U.S. LAW (M. Gerrard, Jody Freeman, and Michael Burger eds. 3d Ed. 2023)

Sam Kalen, with David B. Wright, Sharon Mascher, *Public Hearings in Impact Assessment: Building on Basics with Deliberative Participation and Alternative Dispute Resolution*, in HANDBOOK ON PUBLIC PARTICIPATION IN IMPACT ASSESSMENT (forthcoming 2023)

Sam Kalen, *The Deceptively Complex Concept of Final Agency Action*, Written Paper, ROCKY MOUNTAIN MINERAL LAW FOUNDATION SPECIAL INSTITUTE, Westminster, CO (Sept. 2016)

Sam Kalen, *Book Review* of “Nature’s Trust: Environmental Law for a New Ecological Age,” LAW & POLITICS BOOK REVIEW (American Political Science Ass’n) (2014)

Sam Kalen, *Book Review* of “The U.S. Supreme Court and New Federalism: From the Rehnquist Court to the Roberts Court,” PERSPECTIVES ON POLITICS (American Political Science Ass’n) (2014)

Sam Kalen, *Guidance Documents and the Courts*, 57 ROCKY MOUNTAIN MINERAL LAW INSTITUTE 5-1 (2012)

Sam Kalen, *The Dormant Commerce Clause and the Environment*, in PRINCIPLES OF CONSTITUTIONAL ENVIRONMENTAL LAW (J. May ed., ABA/ELI) (2011)

Sam Kalen, with Steven Weissman, *Where Next, For National Renewable Energy Policy?*, ABA Newsletter (2011)

Sam Kalen, *Note on Sosna v. Iowa*, 419 U.S. 393 (1975), in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (2008)

Sam Kalen, *An Overview of Section 10*, reprinted in ENDANGERED SPECIES ACT: LAW, POLICY AND PERSPECTIVE (Baur & Irvin, Eds., 2002) [2010 Edition, co-author Adam Pan]

Sam Kalen, with Jonathan Simon, *No Relief for Landowners: 7th Circuit Bars Recovery of Cleanup Costs Incurred After Filing RCRA Suit*, LEGAL TIMES, S32, (May 24, 1999)

Sam Kalen, *Passive Migration: A Limit to Liability*, 14 ENVT’L COMPL. & LIT. STRATEGY 4 (1998)

Sam Kalen, with Jonathan Simon, *No-Standing Zone Deters Citizen Suits*, NAT. L. J. (DEC. 1998)

Sam Kalen, *The Endangered Species Act: Unlawful Takings and an Incidental Take Permit*, reprinted in VOL. 1 WATERPOWER '93, at 420 (1993)

Selected Presentations

Testimony, *Reforming the Mining Law of 1872, as it relates to H.R. 7580, the Clean Energy Minerals Reform Act of 2022*, Before the Subcommittee on Energy and Mineral Resources, U.S. House Natural Resources Committee, on H.R. 7580, May 12, 2022 (Washington, D.C. 2022)

Solar Power in Indiana, Indianapolis Bar Association, Oct. 20, 2021
Short Update on NEPA in the Biden Administration, Natural Resources Law Professors Conference, Rocky Mountain Mineral Foundation (June 2021)

Endangered Species Act Overview and Update, for Public Lands class at the Elisabeth Haub School of Law at Pace University (June 2021)

Energy Policy in America: What Will Keep the Lights On?, Vital Interests, Online Forum (Blog from the Center on National Security at Fordham Law) (April, 2021)

The Future of the Federal Coal Program, Conference on Public Lands and Energy Transitions, GW Law School, Washington, D.C. (March 2020)

The National Environmental Policy Act, Colorado Water Congress 2020 Annual Convention, Westminster, CO (Jan. 2020)

Energy Follies, University of Miami School of Law (Jan. 2018)

The Fate of Chevron Deference, Federal Bar Association Tri-State Conference, Jackson Hole, Wyoming (Oct. 2017)

The Deceptively Complex Concept of Final Agency Action, Rocky Mountain Mineral Law Institute, Special Institute, Westminster, CO (Sept. 2016)

Workshop, *Policing Federal Supremacy*, DU Law School (March 2016)

Energy Policy, Legal Institutions, and Technology: A Dysfunctional Triad, Emerging Issues at the Intersection of Energy and Natural Resources Symposia, LSU Law Center (March 2016)

Post-Paris Carbon Policy Forum, University of Wyoming (Feb. 2016)

Embedded Choices, Energy in the West Symposium, University of Idaho (Nov. 2015)

Energy Planning, 2014 J.B. and Maurice C. Shapiro Environmental Law Symposium: The Role of Planning in Federal Land Management, GWU Law School (March 2014)

Landscape Shifting Paradigm: Critical Habitat & the Endangered Species Act, 2013 Annual Env'tl. Law Colloquium, Vermont Law School (Oct. 2013)

Coal's Energy Horizon, ABA Public Land Law Symposium and The Public Land & Resources Law Review, University of Montana School of Law (April 2013)

Coal Exports, Environmental Section of the Washington State Bar Ass'n, Washington State (Spring 2013)

The Future of Coal, Wyoming Continuing Legal Education Program, Laramie, WY (Oct. 2012)

Moderator, Fracking Panel Discussion, U. Wyoming College of Law, Laramie, WY (Oct. 2012)

Food on the Environmentalist Plate, Lecture Series, Animal Sciences & Molecular Biology, U. Wyoming, Laramie, WY (Oct. 2012)

American Energy Independence: An 'All of the Above' Strategy for Our Energy Policy: Oil and OCS Leasing, Annual EEPLJ Symposium on Energy and Environmental Law, University of Houston Law School, Houston, TX (March 2012)

Agency Guidance Documents, Rocky Mountain Mineral Law Institute, Annual Conference, Santa Fe, N.M. (July 2011)

Food, The Environment & the Law School, Law, Culture & Humanities, Annual Conference, Las Vegas, NV (March 2011)

Moderator, 9th Annual Conference for Water & Energy in Wyoming, Cheyenne, WY (April 2011)

The Dormant Commerce Clause in the Modern Era of Environmental Law, Southeastern Association of Law Schools, Palm Beach, Florida (July 2010)

Legal Developments in the Regulation and Promotion of Carbon, Capture and Sequestration, 8th Annual Conference for Water & Energy in Wyoming, Cheyenne, WY (April 2010)

Bar Associations

Vice-Chair, Book Publications Board, for the American Bar Association, Section on Energy, Environment & Resources

Past Chair: Book Publications Committee, and the Public Lands Committee, for the American Bar Association, Section on Energy, Environment & Resources

Past Vice-Chair: Strategic Planning Committee, and the Endangered Species Act Committee, for the American Bar Association, Section on Energy, Environment & Resources

Member: D.C. Bar Association; Illinois State Bar Association