



BERKELEY LAW

Center For Law, Energy &
the Environment

2020 **SNAPSHOT**



THE CENTER FOR LAW, ENERGY & THE ENVIRONMENT

channels the expertise and creativity of the Berkeley Law community into pragmatic solutions to environmental and energy challenges. We work across disciplines and institutional borders to develop effective laws, policies, and implementation systems that lead to equitable and sustainable outcomes. We find solutions by producing timely, relevant, and non-partisan research, fostering robust conversation and debate on key issues, and educating the next generation of environmental and energy leaders and decision-makers.

AS

we enter into a new decade, the world's pressing need

for environmental solutions is more paramount than ever before. In light of this, communities and organizations are ramping up their efforts to tackle these intensifying issues: In response to local environmental justice efforts, the California Public Utilities Commission approved \$56 million to provide affordable and renewable energy to disadvantaged communities; California established a Safe and Affordable Drinking Water Fund to address water contamination across the state; costs have plummeted across key climate technological solutions such as onshore wind, solar PV, and lithium-ion batteries.

At CLEE, we believe we can use this momentum to find pragmatic solutions to the greatest environmental and energy problems our planet faces. We conduct research to pinpoint optimal paths towards implementation of environmental

policy, regulation, technology, and innovation. Housed within Berkeley Law, CLEE sits in a unique position to bring together critical stakeholders—from industry professionals, policy makers, scientists, to activists. We focus on climate and energy, water, oceans, and land use.

In addition to conducting law and policy research, CLEE supports Berkeley Law students in their quest to become the next generation of environmental leaders. Our Environmental Law program tied for #1 by US News and World Reports. We offer research positions and grant certificates of specialization in environmental law and energy law to mark those students who dedicate their legal education to these fields.

We extend our thanks to all of you in our community of supporters, colleagues, and friends, for your help meeting the tremendous challenges facing our state, region, and planet.



Jordan Diamond
EXECUTIVE DIRECTOR



Daniel Farber
FACULTY DIRECTOR



CLIMATE

CLEE's climate program worked closely with California policy makers in 2019 to help advance the state's groundbreaking climate policies, including on energy retrofits for low-income residents, insurance-based options to mitigate climate risks, and global electric vehicle deployment sustainable battery supply chains. Our climate program continues to drive innovative policy solutions to address the increasing complexity of California's climate challenge.

“The next decade will call for increasingly collaborative climate solutions, and CLEE has a special ability to identify and make the case for those solutions.”

—California Energy Commissioner
Andrew McAllister



INCREASING ENERGY EFFICIENCY IN LOW-INCOME HOUSING

- In Low Income, High Efficiency, we address the key barriers limiting low-income Californians' access to energy efficiency incentives and programs, and recommend a suite of reforms to drive deep decarbonization.

FIGHTING CLIMATE CHANGE THROUGH INSURANCE

- At our California Climate Risk symposium, state and global leaders discussed how insurance can help California fight climate change, protect communities, and develop a greener economy.
- In 2020, we are partnering with the Department of Insurance to research the potential for innovative insurance products to drive proactive mitigation of climate risks like extreme urban heat.

SCALING BACK FOSSIL FUEL PRODUCTION IN CALIFORNIA

- In a forthcoming report, we detail the law and policy tools currently available to manage a reduction in California's oil and gas production—currently seventh in the nation—and identify legislative and regulatory reforms to accelerate the process.

SUPPORTING WORLDWIDE ELECTRIC VEHICLE ADOPTION

- At our Electric Vehicles and Global Urban Adoption conference, leaders from France and California shared insight on the regulatory, technological, and market barriers and opportunities facing the most challenging environment for global electric vehicle adoption.
- At a stakeholder convening, we brought together vehicle makers, battery manufacturers, mining companies, and human rights experts to map the key needs for sustainability in international electric vehicle battery supplies, to be memorialized in a forthcoming report.

CRAFTING CLIMATE POLICY UNDER NEW LEADERSHIP IN SACRAMENTO

- In 2020, we are beginning a new series of stakeholder convenings focusing on California's most pressing climate change policy needs, from building an electrical grid that is equally clean and resilient in the face of wildfires and shutoffs to mapping needs for a phaseout of natural gas in buildings.

“CLEE’s work has been extremely valuable as we develop innovative insurance-based pathways to mitigate climate risks in California.”

—California Insurance Commissioner
Ricardo Lara

Climate Risk Initiative Highlights

CONVENING CONTINENTAL LEADERS IN SUSTAINABLE FINANCE

At our conference From Brussels to the Bay, Climate Risk Initiative Director Dave Jones convened experts from the European Commission, the California State Controller, and leading public and private entities to share insights from the forefront of sustainable investment and economic decarbonization.

BUILDING A SUSTAINABLE FINANCE ROADMAP FOR CALIFORNIA

In 2020, we will work with United Nations' Principles for Responsible Investment to develop a set of ambitious recommendations for public and private financial sector entities in California to fully integrate environmental and sustainability considerations into their investment practices.

Launching the California-China Climate Institute

CLEE, in partnership with UC Berkeley's College of Natural Resources, Tsinghua University, and UCLA, has launched the California-China Climate Institute (CCCI). Led by former governor Jerry Brown and Xie Zhenhua, China's Special Representative for Climate Change Affairs, the institute was established to spur further climate action through joint research, training and dialogue in California and China. CCCI will inform national policy makers, foster dialogue and cooperation, and promote the implementation of climate solutions at all levels. In September 2019, we welcomed officials from California and China to Climate Week NYC to celebrate CCCI's launch.





“I am excited about this collaboration to tackle the world’s most urgent problem, climate change. This working relationship between California and China taps the tremendous strength of UC Berkeley in the area of environmental protection in the Law School’s Center for Law, Energy & Environment and in the College of Natural Resources. My hope is that this unique endeavor will make a real difference.”

—Berkeley Law Dean
Erwin Chemerinsky



WATER

As water management challenges intensify, CLEE's water program maps forward progress on critical water issues. We are increasingly sought after for our unique blend of legal, policy, and technical expertise, as well as our robust analysis and actionable policy recommendations that directly inform decision making.

“[M]arkets are never a panacea. If not implemented with care and deliberation, market missteps can generate harmful unintended consequences that could reverberate far into the future.”

—Neil Green Nylen and Michael Kiparsky,
Trust in Water Markets Must Be Earned,
The Source Magazine



SUSTAINABLY MANAGING GROUNDWATER

- An article in the top journal Environmental Research Letters articulates the limitations of legislation in integrating California groundwater and surface water management, and offers a new way of understanding the relationship between science and policy.
- In invited commentary for the International Water Association, we argue that trust in water markets must be earned—markets need careful and inclusive design to address risks and avoid negative externalities.
- We continue to evaluate and advance Recharge Net Metering, a novel means of incentivizing groundwater recharge, by supporting an ongoing pilot project and analyzing the ingredients needed to expand the concept's use to other areas.
- We produced a series of detailed case studies on the institutional elements of groundwater recharge. These studies can inform local entities seeking to implement recharge projects amid different combinations of physical, legal, and geographic constraints.
- Our manuscript about governance under California's Sustainable Groundwater Management Act was featured by the California Water Commission.

DATA AND DECISION MAKING

- Building on our previous analysis of streamflow data, we published an op-ed supporting efforts to address information gaps and submitted comments to a California senate committee considering a response (SB 19, Dodd, 2019).

- We interviewed thought leaders about the implementation of open water data systems in California and wrote an issue brief arguing that civic engagement is crucial to make such systems useful and useable for decision makers.
- In 2020, we are publishing a report to help California evaluate its options for a modernized water rights information system.

DROUGHT PLANNING AND PREPARATION

- We published a blog series articulating how California can proactively prepare for future droughts, and why doing so is critical to the state's future.
- We advised the Department of Water Resources as it developed methods for identifying small drinking water suppliers and rural communities at risk of drought and water shortage and, in parallel, recommendations to the legislature for addressing related contingency planning needs.

WATER INNOVATION AND RESILIENCE

- In 2020, we are publishing several articles from a U.S. EPA-funded study of how regulation affects wastewater utilities' use of innovative technologies. The work is based on case studies and a first-of-its-kind survey of regulators and utility managers.
- CLEE's comments on Governor Newsom's water resilience portfolio argued for an emphasis on "governance infrastructure" in the state's water planning and investment—pouring concrete alone will not address the impacts of climate change on California water.



“During 36 years in state service, Alex has operated outside the warmth of the spotlight, and he is far from a household name. But insiders say he may be the most consequential environmental authority California has ever known.”

—Julie Cart, “Meet Ken Alex, Gov. Jerry Brown’s climate concierge”, CalMatters



Project Climate

In 2019, we were ecstatic to welcome Ken Alex to launch Project Climate, an initiative to move the most promising climate solutions more quickly to policy and scale. Among its first actions, Project Climate is creating “BearCorps,” an AmeriCorps program that will send recent graduates to farm and forest communities to work on regenerative agriculture and forest resilience. Other projects include integrating sustainability and climate criteria into how institutions worldwide procure goods and services, devising policy mechanisms for reducing petrochemicals in plastics, and developing large-scale strategies for methane emissions reduction and capture. Ken comes to CLEE with over 35 years in California government, including eight years as senior policy advisor to Governor Jerry Brown.



Ken Alex
DIRECTOR, PROJECT CLIMATE



OCEANS

A healthy ocean is essential to a sustainable future. Yet the ocean is in a cycle of decline, increasingly stressed by climate change and other human impacts. The Law of the Sea Institute synthesizes legal and scientific expertise to strengthen ocean governance, tackle the most pressing marine issues, and facilitate sustainable management of ocean resources for current and future generations.

OCEAN SCIENCE & OCEAN LAW

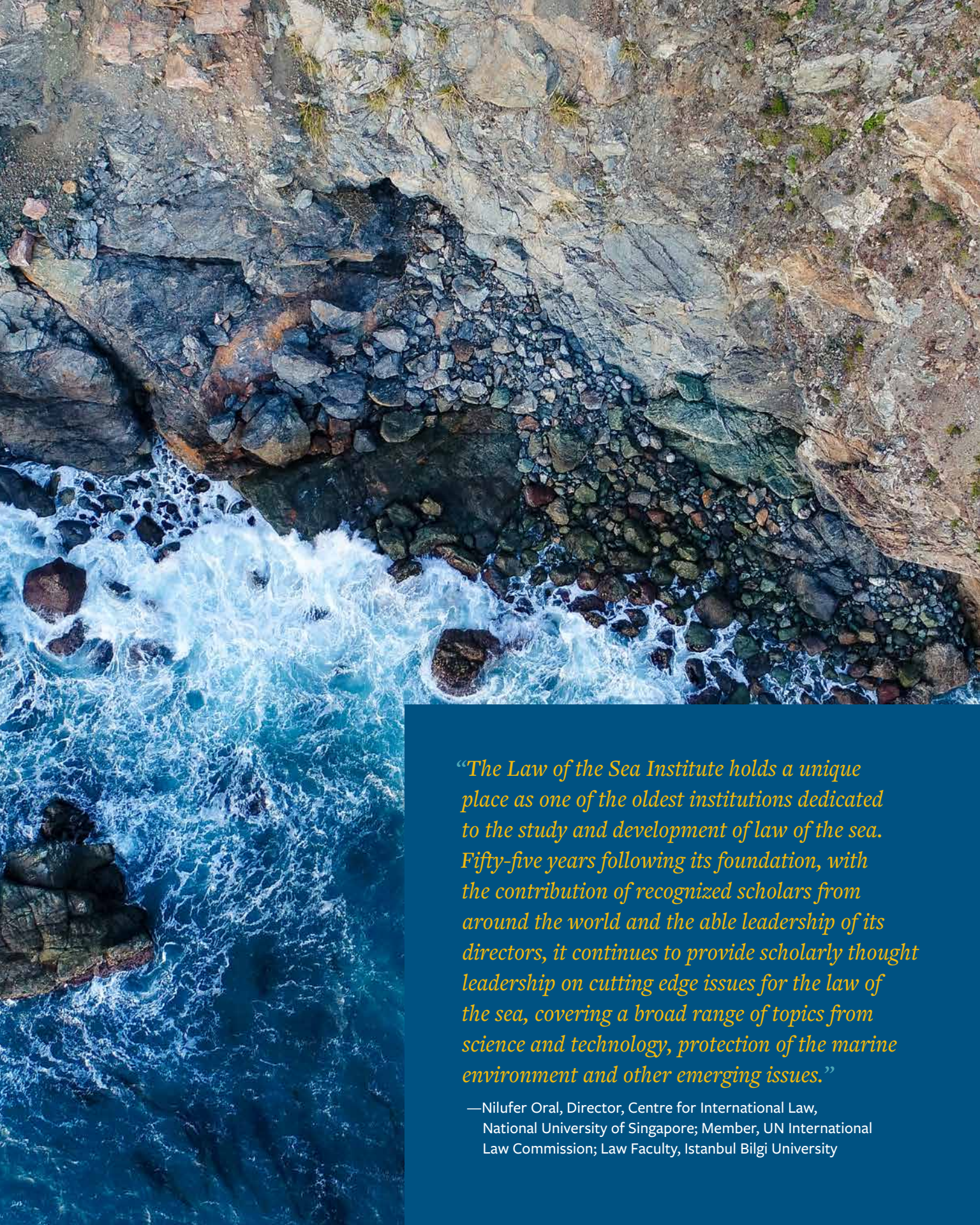
- In early 2019 we welcomed Judge Joan Donoghue of the International Court of Justice to give the Harry & Jane Scheiber Lecture in Ocean Law & Policy, speaking about the treatment of science in law of the sea adjudication.
- In summer 2019, we partnered with the Korea Institute of Ocean Science & Technology to host a conference in Busan, South Korea focused on international governance of marine scientific research. Legal and scientific experts engaged in interdisciplinary dialogue, identified current challenges, and discussed pathways forward.
- In 2020, we are releasing a report building upon the conference conversations that will suggest interventions to support the U.N. Decade of Ocean Science for Sustainable Development.

GOVERNING THE OCEAN COMMONS

- In 2020, we are releasing “Common Currents,” a collected volume that assesses current efforts at governing the ocean as a commons and provides recommendations toward more sustainable management.

PATHWAYS TO SUSTAINABLE OFFSHORE ENERGY IN CALIFORNIA

- In 2020, we are releasing a report focused on the planning process for offshore wind energy in California. With offshore wind new to the state, we have a unique opportunity to facilitate development that is responsible, sustainable, and inclusive.
- We are facilitating a joint industry-NGO working group, which aims to promote environmentally responsible development of offshore wind through rigorous scientific research.



“The Law of the Sea Institute holds a unique place as one of the oldest institutions dedicated to the study and development of law of the sea. Fifty-five years following its foundation, with the contribution of recognized scholars from around the world and the able leadership of its directors, it continues to provide scholarly thought leadership on cutting edge issues for the law of the sea, covering a broad range of topics from science and technology, protection of the marine environment and other emerging issues.”

—Nilufer Oral, Director, Centre for International Law,
National University of Singapore; Member, UN International
Law Commission; Law Faculty, Istanbul Bilgi University



SUSTAINABLE LAND USE

Sustainable land use is central to achieving our long-term environmental goals, as well as improving quality-of-life and economic outcomes. Our work focuses on finding solutions that encourage sustainable and affordable housing in California, which has a history of suburban sprawl.

EXAMINING ENTITLEMENT TO UNDERSTAND POLICY AND PROCESS

- Land use law is significantly shaped by local policy. In 2019, Berkeley Law Professor Eric Biber, CLEE Senior Research Fellow Moira O'Neill, and Giulia Gualco-Nelson examined entitlement processes across California to understand the constraints of housing development. We also published a complementary policy brief that details current entitlement data accessibility, and provides recommendations on how to improve local data reporting.

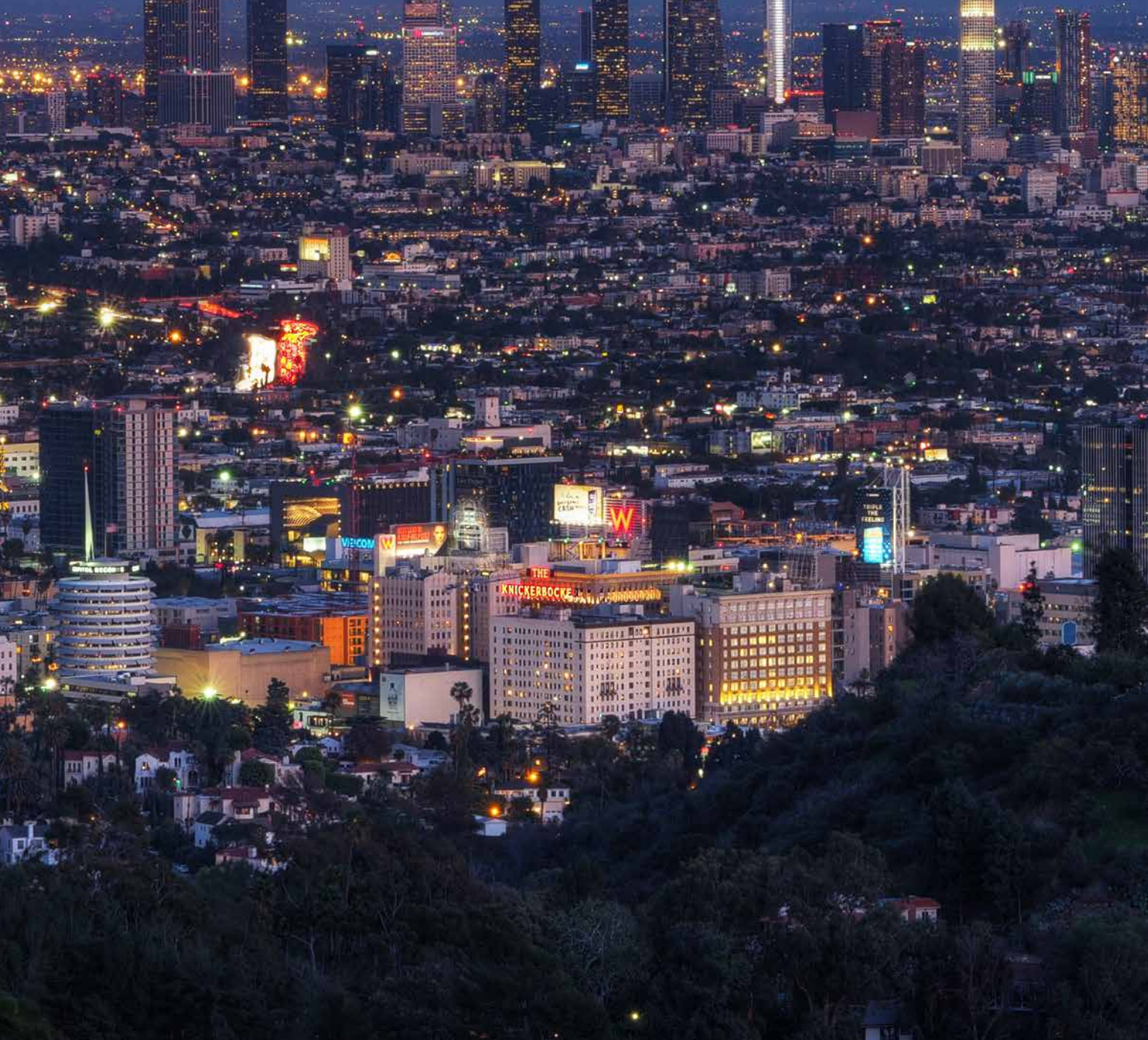
DEVELOPING MECHANISMS TO REDUCE VEHICLE MILES TRAVELED

- Our March 2019 legal education conference, in partnership with Portland State University and held at the Southern California Association

of Governments headquarters in Los Angeles, brought together developers, transportation planners, and local governments to discuss options for implementing new state guidelines on reducing vehicle travel as part of new land use and property development.

INCREASING AWARENESS

- We organized and presented at conferences on land use, transportation, wildfire, and climate issues including the Caltrans California Transportation Planning Conference in San Diego, the California Lawyers Association Environmental Law Conference at Yosemite, and the CEQA SuperConference in San Francisco.



“As in most states, land-use decisions in California ultimately fall to local governments, where law-makers face pressure from developers and home-seekers. There’s still a lot of money to be made by so-called leapfrog development, building communities away from existing cities.”

– Ethan Elkind, quoted in Bloomberg Business



Boosting Electric Vehicle Deployment in California and France

California and France have taken leading steps in supporting the transition to electric vehicles (EVs), but urban environments in both jurisdictions present major hurdles to deployment, from shared parking infrastructure to competing uses of street space. To explore these questions, CLEE organized a conference at UC Berkeley on electric vehicles and global urban adoption, co-sponsored by CentraleSupélec and Florence School of Regulation (FSR) in France. The event featured off-site tours of the Tesla factory in Fremont and EV and microgrid deployments in Berkeley and Alameda County, as well as speakers from the California Governor's Office, leading EV companies, and French experts and grid operators.



Holding State-Owned Oil Companies Accountable

CLEE Visiting Fellow Patrick Heller led the creation of the [National Oil Company Database](#), which was launched in 2019 by the Natural Resource Governance Institute. The database aims to bridge the information gap regarding National Oil Companies, which have a history of opacity and lack of public data. The database includes more than 80,000 data points on operations, finance and performance of 71 companies.

STUDENTS

CLEE's students are the next wave of leaders in environmental and energy law. We help them add to their law school experience with research positions, specialized curricular tracks, funding, networking opportunities, and more.

Student Researchers & Assistants

Ben Allen '21	Justin Lagera '20 *
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Sadie Frank '20 **	Megan Raymond '20
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Ian Kelly '22	Emily Yen '21*

* UC Berkeley Undergraduate

** UC Berkeley College of Natural Resources

Environmental & Energy Law Certificates

Berkeley Law offers two certificates of specialization in the fields of environmental and energy law. The certificate programs ensure that students develop a broad background in fundamental areas of law while receiving advanced training in these areas of specialization. In 2019, we were delighted to award a certificate in Environmental Law and/or in Energy and Clean Technology Law to 34 dedicated students.



Student Organizations

ANIMAL LAW SOCIETY (ALS) is a student chapter of the Animal Legal Defense Fund. They are dedicated to educating the law school community about forms of institutionalized animal abuse and fostering awareness of legal avenues for addressing animal rights issues

BERC LAW, the Law School chapter of the Berkeley Energy & Resources Collaborative, connects law students to opportunities in the energy field, both across the Berkeley campus and in the professional sphere.

ECOLOGY LAW QUARTERLY (ELQ) has served as the hub of environmental scholarship at Berkeley Law since 1971. ELQ is among the oldest and most prestigious journals, publishing preeminent scholarship on groundbreaking environmental law topics.

ENVIRONMENTAL LAW SOCIETY (ELS) promotes public interest environmental law and engages with students and the community by hosting and co-sponsoring activities throughout the year. ELS generates dialogue within the student community at Berkeley Law about emerging environmental issues.

ENVIRONMENTAL CONSERVATION OUTREACH (ECO) is a student-led legal clinic that performs pro bono legal research on environmental law. Students have the opportunity to work with clients on environmental issues and improve their legal research and writing skills.

SUSTAINABILITY TEAM @ BERKELEY LAW (STB) strives to help students, staff, faculty, and all the law school's visitors divert waste from landfills and empower the law school community to reduce our impact on ecosystems and communities.

STUDENTS FOR ECONOMIC AND ENVIRONMENTAL JUSTICE (SEEJ) is an affinity group of law students interested in environmental justice issues and advocacy. Committed to the equitable distribution of environmental and economic benefits and burdens, SEEJ investigates the strategic use of legal tools to strengthen grassroots organizing and build community power.

OUR TEAM



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“California has the political will and resources to demonstrate that the country, and indeed the world, can decarbonize the energy sector in an equitable and economically positive manner. I am excited to join CLEE’s Board to help ensure that it continues to be a forum for the creation of concrete and meaningful policy solutions that can turn California’s pioneering vision into reality.”

—Sky Stanfield

GIVING



THE SAMUEL COLE '63 ENDOWMENT FOR ENVIRONMENTAL LAW AND POLICY

Sam Cole's interest in the natural world was sparked by early encounters with the Appalachian Trail and the Civilian Conservation Corps in his home state of Maryland. His commitment to environmental well-being was strengthened by the "Battle

for the Bay" in the early 1960s, when three wives of prominent UC Berkeley faculty members catalyzed a grassroots movement to stop the egregious destruction of San Francisco Bay.

After graduating from Berkeley Law, Sam spent 26 years lawyering at Lawrence Berkeley Labs. Then, in 1986, he shifted his focus to real estate work. "I was in the perfect place at the right time," said Sam in retrospect.

Over the course of several years, Sam translated his real estate success into a number of charitable gift annuities totaling over \$3 million for the establishment of an endowed fund at Berkeley Law. After Sam passed away last year, the remainder of his annuity transferred to provide a robust and reliable foundation of unrestricted support for Berkeley Law's environmental law program and CLEE in perpetuity. "Having seen all that's happened to our land over the years, supporting institutions that pursue environmental solutions is important to me," Sam said when he established his first planned gift.

We were deeply saddened by Sam's passing, and extraordinarily grateful for his thoughtfulness and generosity. We will use his gift to create a stable bedrock upon which CLEE can respond more nimbly to immediate environmental law and policy needs, and focus more intently on issues of environmental justice. We are honored to be able to build on his legacy, and to share its impact with his family and the world.

Charitable Gift Annuities are a contract between a donor and a charity that provide fixed payments to the donor for life. They also allow the donor to receive an income tax charitable deduction for cash or property. Then, when the contract ends, the remainder of the annuity is used towards whatever program the giver designates. To learn more about the benefits of making a charitable gift annuity for CLEE, please contact Gift Planning Officer Rebecca De Kalb, J.D. at (510) 642-6300 / rdekalb@berkeley.edu.

Thank you to our donors in 2019

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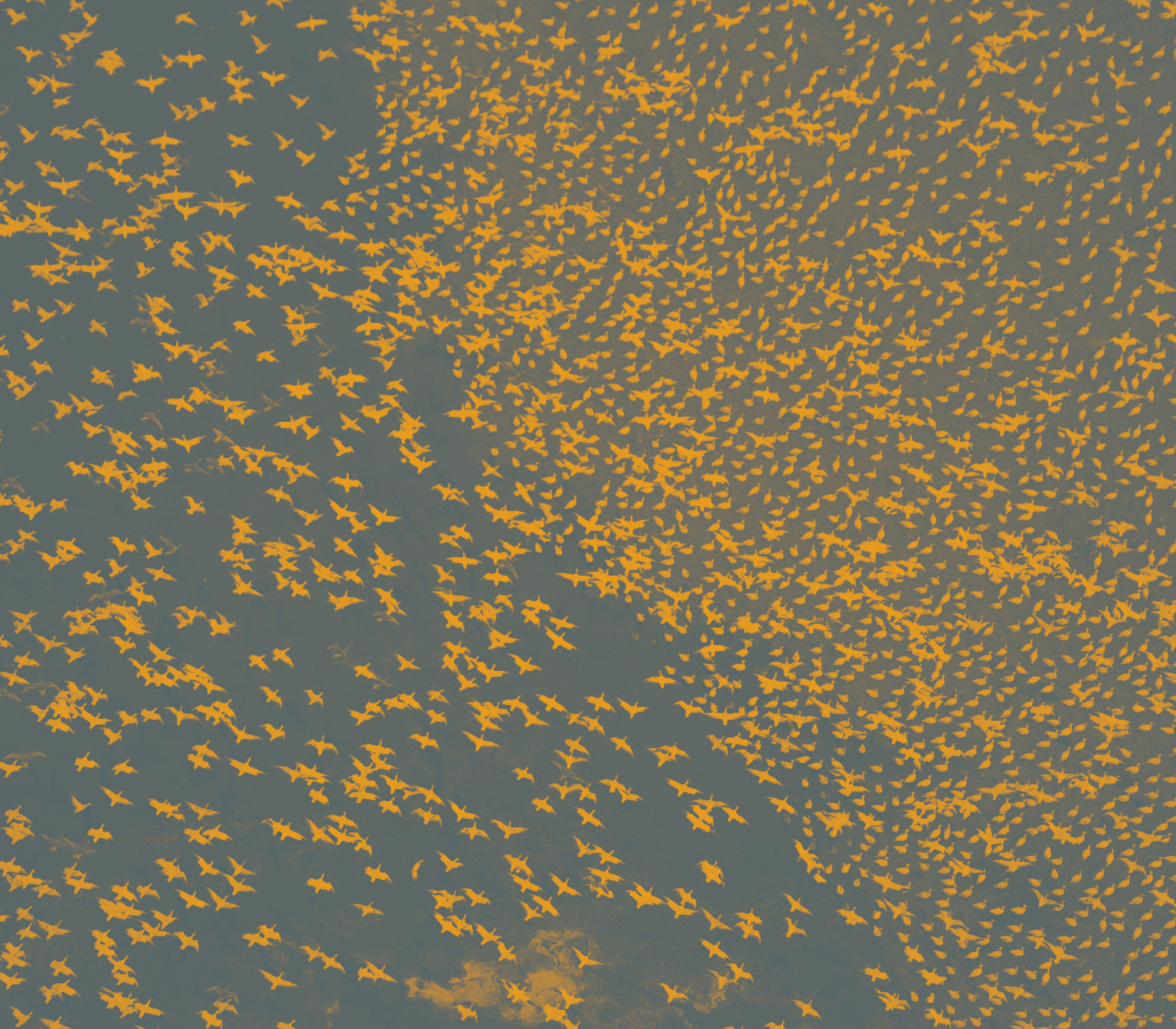


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