

Spring 2017

Introduction to the 10th Marine Law Symposium

Julia B. Wyman

Roger Williams University School of Law Marine Affairs Institute

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Julia B. Wyman, Introduction to the 10th Marine Law Symposium, 22 Roger Williams U. L. Rev. 345, 351 (2017)

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Roger Williams University Law Review

Volume 22

Issue 2 *Marine Law Symposium Vol. 22: No. 2 (Spring 2017)*

Article 2

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Julia Wyman

Roger Williams University School of Law, jwyman@rwu.edu

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Wyman, Julia (2017) "Introduction to the 10th Marine Law Symposium," *Roger Williams University Law Review*: Vol. 22 : Iss. 2 , Article 2.

Available at: http://docs.rwu.edu/rwu_LR/vol22/iss2/2

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Foreword

Introduction to the 10th Marine Law Symposium

Julia B. Wyman*

“Even if you never have the chance to see or touch the ocean, the ocean touches you with every breath you take, every drop of water you drink, every bite you consume. Everyone, everywhere is inextricably connected to and utterly dependent upon the existence of the sea.” – *Dr. Sylvia Earle, oceanographer, explorer, author, and first female chief scientist for the National Oceanic and Atmospheric Administration*

The oceans sustain life on Earth. About 71% of the Earth’s surface is covered in water, and the oceans contain about 96.5% of the planet’s water.¹ The oceans are a critical part of the hydrologic cycle, supporting the Earth’s climate and all life on the planet.² More than 90% of inhabitable space on the Earth is in the oceans.³

* Director of the Marine Affairs Institute at the Roger Williams University School of Law and the Rhode Island Sea Grant Legal Program.

1. *How much water is there on, in, and above the Earth?*, U.S. GEOLOGICAL SURV., (Dec. 2, 2016, 12:51 PM), <https://water.usgs.gov/edu/earth/howmuch.html>.

2. *Water Cycle*, NAT’L AERONAUTICS AND SPACE ADMIN., <https://science.nasa.gov/earth-science/oceanography/ocean-earth-system/ocean-water-cycle> (last visited Apr. 12, 2017).

3. *Marine Science and Ecosystems*, OCEANA, <http://oceana.org/marine-life/marine-science-and-ecosystems/open-ocean> (last visited Apr. 12, 2017).

Furthermore, the oceans are the Earth's largest ecosystems. In fact, 80% of life on Earth exists in the ocean.⁴ Remarkably, the oceans provide over half of the oxygen to sustain life on land.⁵ Without the oceans, life could not exist on the Earth.

The oceans do not just sustain biological life; the oceans are responsible for supporting the civilizations humans have created on the planet. In the United States, 14% of coastal counties contribute over 45% of the nation's gross domestic product (GDP).⁶ In 2014, the ocean economy, six sectors that rely on the oceans and Great Lakes, contributed more than \$352 billion to the GDP, and supported 3.1 million jobs.⁷ Additionally, about 90% of the world's trade is transported via the shipping industry.⁸ Furthermore, in 2014, approximately 9.5 billion pounds of edible seafood products, worth about \$5.4 billion dockside, were caught in the United States.⁹ In addition to contributing greatly to the U.S. economy and international trade, the oceans are a great source of untapped potential. Scientists have already discovered numerous medical treatments from ocean resources; the oceans potentially contain the cure for numerous diseases.¹⁰ Oceans are critical to the survival of the human race and the planet, and threats to the oceans are threats to civilization. It is with that thought that the Marine Affairs Institute at Roger Williams University School of Law (MAI) and the *Roger Williams University Law Review* decided to hold the 10th Marine Law Symposium on one of the current greatest threats

4. Amanda P. Jaksha, *Biodiversity in the Ocean*, NAT'L GEOGRAPHIC (Nov. 12, 2012), <https://media.nationalgeographic.org/assets/file/one-ocean-chapter-3.pdf>.

5. *Marine organisms produce over half of the oxygen that land animals need to breathe*, NAT'L OCEANIC AND ATMOSPHERIC ADMIN., <http://oceanexplorer.noaa.gov/facts/oceanproduction.html> (last visited Apr. 12, 2017).

6. *How important is the ocean to our economy?*, NAT'L OCEAN SERV., <http://oceanservice.noaa.gov/facts/oceanecconomy.html> (last visited Apr. 12, 2017).

7. *Id.*

8. *Shipping and World Trade*, INT'L CHAMBER OF SHIPPING, <http://www.ics-shipping.org/shipping-facts/shipping-and-world-trade> (last visited Apr. 12, 2017).

9. *Overview of the U.S. Seafood Supply*, SEAFOOD HEALTH FACTS, <http://www.seafoodhealthfacts.org/seafood-choices/overview-us-seafood-supply> (last visited Apr. 12, 2017).

10. *Oceans and Coasts—Coral Reefs: Nature's Medicine Cabinet*, THE NATURE CONSERVANCY, <https://www.nature.org/ourinitiatives/habitats/oceanscoasts/explore/coral-reefs-and-medicine.xml> (last visited Apr. 12, 2017).

to the oceans: marine debris.

Marine debris is “any persistent solid material that is manufactured or processed and directly or indirectly, intentionally or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes.”¹¹ Marine debris can enter the oceans and Great Lakes through storm drains and sewers, shoreline recreational activities, shipping, cruise ships, and as abandoned or derelict fishing gear.¹² The National Oceanic and Atmospheric Administration (NOAA) Marine Debris Program notes, “Huge amounts of consumer plastics, metals, rubber, paper, textiles, derelict fishing gear, vessels, and other lost or discarded items enter the marine environment every day, making marine debris one of the most widespread pollution problems facing the world’s ocean and waterways.”¹³ The problem of marine debris is large and complex. Are the laws and policies surrounding marine debris sufficient to address its threats?

For the 10th Marine Law Symposium, *Legal and Policy Approaches to Reduce Marine Debris in New England*, held on November 4, 2016, the MAI and the *Roger Williams University Law Review* focused on potential legal and policy solutions for complex marine debris issues in New England.¹⁴ The program included national and local experts presenting on how serious the threat of marine debris is, and some innovative ways attorneys, practitioners, and educators, can begin to address that threat. Senator Sheldon Whitehouse (D-RI) provided a keynote address on his work to address marine debris in the bipartisan Senate Oceans Caucus. Dr. Sandra Whitehouse, Senior Policy Advisor for Ocean Conservancy, provided a keynote address on the science behind marine debris. The Symposium was intended to be an examination

11. *What is marine debris?*, NAT’L OCEAN SERV., <http://oceanservice.noaa.gov/facts/marinedebris.html> (last visited Apr. 12, 2017).

12. *Id.*

13. *Marine Debris Program Office of Response and Restoration*, NAT’L OCEANIC AND ATMOSPHERIC ADMIN., <https://marinedebris.noaa.gov/discover-issue> (last visited Apr. 13, 2017).

14. A video recording of the Symposium is available on YouTube. *See 10th Marine Law Symposium Part 1*, (published on Dec. 8, 2016), <https://www.youtube.com/watch?v=mOTlgPQqbJI>; *10th Marine Law Symposium Part 2*, (published on Dec. 7, 2016), <https://www.youtube.com/watch?v=DnqkBYoUUOo>; *10th Marine Law Symposium Part 3*, (published on Dec. 7, 2016), <https://www.youtube.com/watch?v=QqNR6jeZu9g>.

of just one small area of marine debris. This *Law Review* Edition is intended to be a broader look at the problem.

This Edition includes articles from speakers at the Symposium, marine debris topical areas not discussed at the Symposium, as well as student contributions related to broader marine affairs topics. It is an honor to include the first article of this Edition, authored by Senate Oceans Caucus Co-Chairs Senator Whitehouse (D-RI) and Senator Lisa Murkowski (R-AK), on Congress's role in combatting marine debris. From another Symposium presentation, Joan M. Bondareff,¹⁵ Maggie Carey,¹⁶ and Carleen Lyden-Kluss¹⁷ explore plastics in the oceans and the role of laws and policies to address this relatively new problem. Moving beyond the program, this Edition explores the role of microplastics in the N.Y./N.J. Harbor, as well as attaching domestic assets to remedy high seas pollution. This Edition also includes comments from our Roger Williams University School of Law students on: marine insurance, shellfish management, and the National Flood Insurance Program.

The MAI was established in 1996 to provide rigorous training in marine and coastal law and policy. The MAI is a partnership of the Roger Williams University School of Law, Rhode Island Sea Grant, and the University of Rhode Island. Through this partnership with Rhode Island Sea Grant, the MAI is home to the Rhode Island Sea Grant Legal Program. NOAA funds the Sea Grant College Program, and every coastal state has a Sea Grant College Program. Of the thirty-three Sea Grant programs, there are only four programs that have a dedicated legal program: The Rhode Island Sea Grant Legal Program/MAI is the only one in the northeast. This means the Rhode Island Sea Grant Legal Program/MAI has the privilege of providing legal and policy research to Sea Grant programs throughout the northeast. The partnership with Rhode Island Sea Grant enables the MAI to have the Rhode Island Sea Grant Law Fellow Program (Law Fellow Program). The Law Fellow Program matches second and third year law students with outside organizations that have questions of marine law or policy. The organizations get the research assistance

15. Joan M. Bondareff, Esquire, Blank Rome LLP; Legal Counsel, North American Marine Protection Association (NAMEPA).

25. Maggie Carey, Esquire; Oceans Advisor, Alliance of Small Island States.

26. Carleen Lyden-Kluss, Co-Founder and Executive Director of NAMEPA.

they need, and the students receive extremely valuable hands-on learning that aids them in becoming practice-ready attorneys when they graduate law school.

Through the MAI partnership with the University of Rhode Island, Roger Williams' law students can earn a Juris Doctor and Master of Marine Affairs in just three and a half years. This dual degree broadens the students' education beyond just the world of law, and exposes the students to more diverse ways of studying and working in marine affairs: incorporating extensive policy, science, and economics into their research. The joint degree creates well-rounded graduates that become practitioners that examine issues in a holistic manner.

The year 2016 was full of milestones for the MAI. First, it was the 20th Anniversary of the Institute. Second, *Legal and Policy Approaches to Reduce Marine Debris in New England* was the 10th biennial Marine Law Symposium. Third, 2016 was the 50th Anniversary of the National Sea Grant College Program. In 1966, President Lyndon Johnson signed the National Sea Grant College and Program Act into law, establishing the Sea Grant College Program.¹⁸ The Sea Grant College Program has strong ties to Rhode Island: the Act was championed by Senator Claiborne Pell of Rhode Island and John Knauss, the first dean of the University of Rhode Island Graduate School of Oceanography and former administrator of the NOAA.¹⁹ Rhode Island Sea Grant was one of the first Sea Grant programs, but today all thirty-three coastal states have a Sea Grant program.²⁰ Sea Grant is a federal-state partnership that directs 95% of its federally-appropriated funds to coastal states to solve critical problems identified by public and private sector constituents in the nation's coastal communities.²¹ On average, \$3 is leveraged in the states for every \$1 appropriated

18. *Fifty years of putting science to work for America's coastal communities*, NAT'L OCEANIC AND ATMOSPHERIC ADMIN., <http://seagrant.noaa.gov/50thAnniversary.aspx> (last visited Apr. 12, 2017).

19. Dennis Nixon, *Making wise use of the ocean*, PROVIDENCE J. (Sept. 29, 2016, 5:37 PM), <http://www.providencejournal.com/opinion/20160929/dennis-nixon-making-wise-use-of-ocean>. Fact sheet on file with Rhode Island Sea Grant.

20. Coastal states include the Great Lakes states, as well as Puerto Rico and Guam.

21. *Sea Grant Association: Function and Focus*, SEA GRANT ASS'N, <http://www.sga.seagrant.org/Portals/0/FY18%20Sea%20Grant%20Association%20request.pdf> (last visited Apr. 12, 2017).

by Congress.²² In 2015-2016, the Sea Grant College Program nationally supported: \$575 million in economic development throughout the country; 20,700 new and sustained jobs; 127,348 acres of ecosystems restored; 534 communities implementing new sustainable practices; 1,105 graduate students; and 1,300 industry partners on local, state, and regional levels.²³

Communities throughout the country rely on Sea Grant, and Rhode Island is a shining example of how well a Sea Grant program can work on a state level. In 2015-2016, Rhode Island Sea Grant created or sustained 403 jobs in the State of Rhode Island, sustained or created sixty businesses, trained 129 professionals in hazard analysis and critical control points for seafood processing, and supported twenty Law Fellow projects.²⁴ Rhode Island Sea Grant is a critical partner in coastal management in Rhode Island, including providing support to the state's coastal management program, Rhode Island Coastal Resources Management Council (CRMC). Rhode Island Sea Grant was instrumental in the Ocean Special Area Management Plan (Ocean SAMP), which assisted the siting of the Block Island Wind Farm, and the Shoreline Special Area Management Plan (Beach SAMP), which developed STORMTOOLS, an online mapping tool that identifies the coastal flooding risk for every commercial and residential address in Rhode Island.²⁵ Rhode Island Sea Grant is also beginning to address marine debris through innovative research in fiberglass boat recycling.²⁶ Sea Grant is an investment in much more than coastal communities: it is an investment in the ecosystems that support our planet, and the economy that supports our country.

The MAI looks forward to the next twenty years of training future marine law and policy professionals. As the nation continues to utilize the valuable oceans and coasts, there will continue to be a need to examine law and policy issues that arise for sustainable, multi-use ocean and coastal areas. The MAI, Roger Williams University School of Law, Rhode Island Sea Grant, and the University of Rhode Island stand ready to examine and address these issues.

22. *Id.*

23. *Id.*

24. Fact sheet on file with Rhode Island Sea Grant.

25. Nixon, *supra* note 19. Fact sheet on file with Rhode Island Sea Grant.

26. Meredith Haas, *Fiberglass Boats Pose New Recycling Challenge*, R.I. SEA GRANT (Apr. 27, 2015), http://seagrant.gso.uri.edu/fiberglass_recycle/.