

**PATRICK CHARLES MCGINLEY**  
**Judge Charles H. Haden II Professor of Law**  
**West Virginia University College of Law**  
**P.O. Box 6130 College of Law, Morgantown, WV 26506**  
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### **EDUCATION**

J.D. Duke University School of Law, (1971) Honors: Editorial Board, Duke Law Journal

A.B. Dickinson College, Carlisle, Pennsylvania (History, 1968).

### **BAR ADMISSIONS**

Supreme Court of Appeals of West Virginia; Supreme Court of Pennsylvania; United States Courts of Appeal for The Third and Fourth Circuits; United States District Courts: Western District of Pennsylvania; Northern and Southern Districts of West Virginia

### **LAW TEACHING**

Professor of Law, West Virginia University College of Law (1975-Present)

Visiting Professor of Law, Lewis and Clark law School (Summer 2009)

Visiting Professor of Law, University of Oregon (Spring 1989 & Spring 2002)

Visiting Professor of Law, Indiana University (Indianapolis) (Summer 1989)

### **EMPLOYMENT**

Special Assistant Attorney General, Commonwealth of Pennsylvania, Department of Environmental Resources (1972-75). (Responsibilities: Enforcement of state coal mine safety regulations and coal mining and reclamation laws, environmental laws and regulations; administrative adjudications, civil and criminal trial and appellate litigation.

Law Clerk, Justice Thomas W. Pomeroy, Jr., Supreme Court of Pennsylvania (1971-72).

### **SERVICE/ACTIVITIES**

Counsel & Investigator, Governor's Independent Investigation Panel, Investigation of Performance Coal Company, Upper Big Branch (WV) Mine Disaster (2010-2011).

Counsel & Investigator, Governor's Independent Investigation of Sago (WV) Mine Disaster (2006-2007).

Member, West Virginia University Faculty Senate (2001 to 2004; 2006 to 2009); Chair, Public Service Grants Committee (2002-2003).

Counsel, Daily Athenaeum (West Virginia University Student Newspaper) 2005-present.

Chair, Association of American Law Schools, Section on Environmental Law (1993-94).

Trial and appellate litigation and consultation involving administrative, environmental, FOIA and mineral law issues in Ohio, West Virginia and Pennsylvania; United States District Courts and the United States Courts of Appeal for the Third, Fourth, Sixth and District of Columbia Circuits. Representative clients include, *The Associated Press*; United Mine Workers of America; West Virginia Education Association; AFL-CIO (West Virginia); *West Virginia The Charleston Gazette*; Sierra Club; Audubon Society; Pennsylvania Federation of Sportsmen's Clubs (National Wildlife Federation affiliate); New River Parkway Authority; West Virginia Highlands Conservancy; Western Pennsylvania Conservancy; Council of Senior West Virginians; West Virginia Wildlife Federation; City of Fairmont; City of Morgantown; coal companies, and mineral (coal, oil, and gas) owners; and numerous landowners, community organizations. Significant part of representation *pro bono publico*.

Consultant, Office of the Attorney General (West Virginia) (1994); Consultant, West Virginia Water Resources Board (State Agency charged with promulgating regulations under the West Virginia Water Pollution Control Act; Drafted N.P.D.E.S. regulations for Water Resources Board (1979-80).

Member, Department of Energy Advisory Board, West Virginia Division of Energy (Reconstituted as West Virginia Division of Environmental Protection Advisory Board, (1990-1994)) (Gubernatorial appointment).

Member, Ad Hoc Mining Legislation Committee, Pennsylvania Department Environmental Resources (1977-81). Committee drafted major amendments to Pennsylvania environmental and mining laws and regulations. Legislation enacted unanimously by Pennsylvania General Assembly.

Member, Research Committee Water Research Institute, Center for Appalachian Studies and Development, West Virginia University (1976-1980; 1986-1991).

Member, Coal Mining Advisory Committee, Pennsylvania Department Environmental Resources (1982-1984).

Chair, ABA--American Law Institute Course of Study, "Legal Issues in the Coal Industry" (1978-80).

Member of Board of Directors, Northern West Virginia Legal Aid Society (1979).

Member of Executive Committee, and Vice-President (Publications) Eastern Mineral Law Foundation (1981-1990, 1992 to 1994).

Trustee, Energy & Mineral Law Foundation (formerly Eastern Mineral Law Foundation) (1981-2002).

Co-Editor, Volumes 1-11 of *Eastern Mineral Law Institute* (1980-1990).

Editorial Board, *Kentucky Mineral Law Journal* (1984-1991).

Editorial Board, *Journal of Natural Resources and Environmental Law* (University of Kentucky College of Law, 1991-1996).

Advisory Board, National Coal Issue, *West Virginia Law Review* (1979-2005).

Advisory Board, Environmental Public Advocacy Project, American Bar Association Central & Eastern European Law Initiative (CEELI) (1995-1999).

Advisor, ECO-PRAVO LVIV (Public Interest Environmental Advocacy Organization, Lviv, Ukraine (1995 -2004).

### **AWARDS**

Trial Lawyers for Public Justice Foundation:

2000 Public Justice Achievement Award for winning exceptional victories for the public interest.

Oregon Public Interest Environmental Law Conference:

Cary Rydberg Award for Public Interest Advocacy. (1997) is presented annually to an advocate who embodies Oregon alum Kerry Rydberg's courage, self-reliance, commitment, talent, and dedication to representing citizens at the grassroots level in environmental matters.

Oregon Public Interest Environmental Law Conference:

The David Brower Lifetime Achievement Award. The award is presented to attorneys who exemplify David Brower's spirit and accomplishments. The students of Land, Air, Water - the nation's oldest and largest environmental law society established the David Brower Lifetime Achievement Award in 1997. The honor is presented annually during the Public Interest Environmental Law Conference (PIELC) in Eugene, Oregon.

West Virginia University College of Law:

College of Law Scholar Award for distinguished scholarship (1986 & 2007).

Environmental Policy Institute:

"To Patrick C. McGinley for your tireless efforts to promote and uphold the rights of the land, the people of America's coalfields and the law protecting them." (1987).

*Morgantown* (West Virginia) *Dominion Post*:

One Hundred Most Influential People in Morgantown, WV community (2001).

### **OTHER PUBLIC SERVICE & PUBLIC INTEREST ACTIVITIES**

Chair, first continuing legal education program televised nationally to remote sites (ALI-ABA Course of Study: Legal Issues in the Eastern Coal Industry) (1980).

Faculty Advisor, National Coal Issue of The West Virginia Law Review (1978-2000).

Chair, first national continuing legal education program on Legal Issues in the Coal Industry.

Founder Eastern Mineral Law Foundation (now Energy and Mineral Law Foundation).

Co-Editor, Coal Law & Regulation (Mathew Bender & Company 1984) (five Vol. Treatise).

Counsel *Bragg v. Robertson*, 54 F.Supp.2d 653 (S.D.W.Va. 1999), first case to force significant changes in permitting of mountaintop removal coal strip mines.

Counsel in *Adkins v. Paige*, case settlement forced significant changes in the manner reserve coal holdings taxed in West Virginia.

Chair, Environmental Law Section, Assn. of American Law Schools Annual Meeting: First National Legal Education Conference Addressing Environmental Justice Issues.

Counsel, *Daily Gazette Co., Inc. v. West Virginia Development Office*, 482 S.E.2d 180 (W.Va.1996), landmark West Virginia case setting standards for State Government disclosure of information pursuant to West Virginia Freedom of Information Act.

Counsel, *West Virginia Highlands Conservancy v. Norton*, 137 F.Supp.2d 687 (S.D.W.Va. 2001). Case forced State Legislature to enact legislation generating tens of millions of dollars for abandoned coal mine reclamation.

Board of Directors, OUR CHILDREN'S TRUST (2011- Present). Our Children's Trust seeks to

elevate the voice of youth to secure the legal right to a healthy atmosphere and stable climate for the benefit of all present and future generations. Through its programs, youth participate in advocacy, public education and civic engagement to ensure the viability of all natural systems in accordance with science. Its mission is to protect earth's atmosphere and natural systems for present and future generations. It leads a legal campaign seeking systemic, science-based emissions and climate recovery policy at all levels of government.

Advisory Board, *Friends of Blackwater* (Since 2000)(Tucker County, W Va.). Friends of Blackwater was formed in 2000 to protect the Blackwater Canyon, West Virginia's scenic "Crown Jewel" and to move 3,000 acres threatened with logging and development into protected private ownership. It is the only group in West Virginia dedicated to protecting our rare and endangered species. It has expanded its work to clean streams in the Blackwater watershed degraded by acid mine drainage, working to restore trout to headwater streams in the Monongahela National Forest and protecting the rare ecology of its million acres of public land from threats to its unique ecology.

Board of Directors, ENVIRONMENT-PEOPLE-LAW ("EPL") (Public Interest NGO law firm engaged in public education about environmental rights and litigating environmental law issues in Ukraine (2012-Present).

Elder and Member of Session, First Presbyterian Church of Morgantown (W.Va.) (2009-2015).

#### **CONTINUING LEGAL EDUCATION**

Chair, American Law Institute - American Bar Association Course of Study: *Legal Issues in the Coal Industry*, (Washington, D.C., May, 1978).

Chair, American Law Institute - American Bar Association Course of Study: *Legal Issues in the Coal Industry*, (Arlington, Va., June, 1979).

Co-Chair, American Law Institute - American Bar Association Course of Study: *Legal Issues in the Eastern Coal Industry*, (Lexington, Ky., June, 1980). FIRST CONTINUING LEGAL EDUCATION PROGRAM TELEVISION BROADCAST NATION-WIDE TO REMOTE CITIES.

Co-Chair, American Law Institute - American Bar Association Course of Study: *Legal Issues in the Western Coal Industry*, (Denver, CO., March, 1980).

Chair, Eastern Mineral Law Foundation, *Oil and Gas Special Institute*, (November, 1981).

Program Chair, WVU College of Law: *A Discussion of Public Corruption*, (1990).

Chair, American Association of Law Schools Annual Meeting, Section of Environmental Law, *Environmental Justice in the Classroom and Courtroom*, (Orlando, Florida, January, 1992).

Co-Chair, Environmental Justice/Racism Workshop, Society of American Law Teachers Annual Meeting (University of Minnesota, Minneapolis, MN, September, 1994).

## **INTERNATIONAL EXPERIENCE**

Consultations with Ecological Section, U.S.S.R. Institute of State and Law (1989).

Lecturer, Mining and Environmental Law, Donetsk State University, Donetsk, Republic of Ukraine (1991).

Invited Expert, Regulation of Environmental Impact of Coal Mining; United Nations Interregional Symposium on "Management of the Economic and Environmental Aspects in the Coal Industry" (Prague, Czechoslovakia) (October, 1991).

American Bar Association - Central and Eastern European Law Initiative (CEELI) Environmental Public Advocacy Workshop For Community lawyers, Guta, Ukraine (June, 1996).

Environmental Law Workshop for Eastern European Public Interest Lawyers, American Bar Association- Central and Eastern European Law Initiative (ABA-CEELI), (Matrahaza, Hungary, 1997)

Invited Participant and Facilitator, USEPA International Conference on Environmental Enforcement, Chaing Mai, Thailand. (1997).

Conference, Environmental Law Advocates Worldwide (ELAW), Arusha, Tanzania. (2000).

Conference Environmental Law Advocates Worldwide (ELAW) (Lavske, Lviv Region, Ukraine, May, 2004).

Conference, Environmental Law Advocates Worldwide (ELAW), Valparaiso, Chile (October, 2006).

Conference, Environmental Law Advocates Worldwide (ELAW), Mombasa, Kenya (August 2008).

*Human Rights and the Environment: Procedural and Substantive Dimensions*, University of the West Indies Faculty of Law Lecture, (Cave Hill Campus, Barbados, October 15, 2012);

*Environmental Impact Assessments*, Annual Judicial Conference of the Eastern Caribbean Supreme Court, (Castries, St. Lucia, October 19, 2012).

*Corporations, Crime & Corruption & The Rule of Law*, Symposium on Human Rights & The Environment In The New Ukraine, (Lviv National University, Lviv, Ukraine (September 20, 2014).

Committee of Law faculty designing panel topics and presentations for 2015 ASSOCIATION OF AMERICAN LAW SCHOOLS ANNUAL CONFERENCE ON LEGAL EDUCATION, *Leading the New Normal: Clinical Education at the Forefront of Change*, Rancho Mirage, California (May 2015). (With Law Faculty Members from: Vanderbilt University, the University of Tennessee and the University of Arizona.)

## PUBLICATIONS

### Editor:

Editor, 3<sup>rd</sup> -11<sup>th</sup> Volumes: ANNUAL INSTITUTES, Eastern Mineral Law Foundation (1982-1990) (Fox).

Editor, SECOND ANNUAL INSTITUTE, Eastern Mineral Law Foundation (1981) (with Fox and Friedberg.).

Editor, FIRST ANNUAL INSTITUTE, Eastern Mineral Law Foundation (1980) (with Fox.).

Editor, COAL LAW & REGULATION (5 Volume Treatise, Matthew Bender & Co. 1983) (with Vish).

### Articles and Book Chapters

"Coal", ENERGY CHOICES: HOW TO POWER THE FUTURE, Chap. 3, Robin Morris Collin & Robert W. Collin, eds., (September, 2014) (Praeger Publishers Inc, ISBN 9780313397196). (the first comprehensive book to discuss the energy choices that we face from a broad perspective including supply, demand, distribution choices, environmental consequences, sustainability, environmental justice, and national security).

*Collateral Damage: Turning A Blind Eye To Environmental And Social Injustice In The Coalfields*, 19 J. Envtl. & Sustainability L. 305 (2013).

*Climate Change and the Public Trust Doctrine*, 65 Planning & Envtl L 7 (Issue 8) (August, 2013).

*Climate Change And The War On Coal: Exploring The Dark Side*, 13 Vermont J. Env. L. 256-331 (2012)

*Climate Change And Coal: Exploring The Dark Side*, in THE CLIMATE CHANGE READER (CAROLINA ACADEMIC PRESS, 2011) (pp. 596-627).

*Regulatory Takings in the Shale Gas Patch*, 19 *Penn. St. Envtl. L. Rev.* 193 (2011).

*Bundled Rights and Reasonable Expectations: Applying The Lucas Categorical Taking Rule to Severed Mineral Property Interests*, 11 *Vermont J. Env. L* 1 (2010).

*Open Government Guide: West Virginia*, in: OPEN GOVERNMENT GUIDE IN THE 50 STATES AND DISTRICT OF COLUMBIA, (The Reporters Committee on Freedom of the Press) (6<sup>th</sup> Ed. 2011).

*West Virginia Water Law*, Chapter, 6 WATER AND WATER RIGHTS, (2005).

*Environmental Justice in the Coalfields: From Pick and Shovel to Mountaintop Removal*, 34 *ENTL LAW* 21 (2004). (Reprinted in *LAND USE AND ENVIRONMENTAL LAW REVIEW* (2005-2006) ).

*Separation Of Powers, State Constitutions, And The Attorney General: Who Represents The State?* 99 *W.V.L.Rev.* 722-768 (1997).

*The Surface Mining Control and Reclamation Act of 1977: new Era of Federal-State Cooperation or Prologue to Future Controversy?* 16 *EASTERN MINERAL LAW FOUNDATION INSTITUTE*, Chapter 11 (pp. 1-42 (1996) (with D. Michael Miller and G. Milton McCarthy).

*Environmental Justice and Racism: Making the Connection in Classrooms and Courtrooms*, 96 *W.Va.L.Rev.* 1017-1023 (1994).

*Universal Statutes and Planetary Programs: How EPA Has Diluted The Clean Water Act*, 8 *J. Envtl. L. & Litig.* 253 (1993).

*Trashing the Constitution: Judicial Activism, the Dormant Commerce Clause, and the Federalism Mantra*, 71 *U. OREGON L. REV.* 409 (1992).

*Regulation of the Environmental Impacts of Coal Mining in the United States: Market Economics, Cost Benefit Analysis and Mistakes of the Past*, 16 *UNITED NATIONS NATURAL RESOURCES FORUM* 261-270. (1992).

*Of Pigs and Parlors: Regulatory Takings in the Coalfields*, 5 *JOURNAL OF MINERAL LAW AND POLICY* 473-527 (1990).

*DEFENDING OUR NATIONAL PARKS*, (Island Press, 1988) (Chapter 18, pp 465-498). Chapter examines mining laws' impact on National Parks and citizens rights under federal law to seek protection for the Parks.



*Regulation of Oil and Natural Gas Exploration, Development, and Production Wastes Under the Resource Conservation and Recovery Act*, 8 EASTERN MIN. L. INST., Ch. 17 (1987).

*Pandora in the Coal Fields: Environmental Liabilities in the Acquisition and Disposition of Coal Properties*, 87 W. VA. L. REV. 665-685 (1985).

*Does the Right to Mine Coal Under Lease or Deed Include the Right to Extract by Longwall Mining Methods?* 5 EASTERN MIN. L. INST. CH. 5 (1985).

*Regulatory "Takings": The Remarkable Resurrection of Economic Substantive Due Process Analysis in Constitutional Law*, 17 ENVTL. L. REPR. 10369 (September 1987). Reprinted in: 1988 Zoning and Planning Law Handbook at 337-369 (Clark Boardman Company).

*Federalism Lives! Reflections on the Vitality of the Federal System in the Context of Natural Resource Regulation*, 32 U. KAN. L. REV. 147 (1983).

*Pennsylvania Coal Company v. Mahon" Revisited: Is the Federal Surface Mining Act a Valid Exercise of the Police Power or an Unconstitutional Taking?* 16 TULSA L. REV. 418-452 (1981).

*The Commerce Clause and the Tenth Amendment at Odds: Can the Federal Surface Mining Act Survive* National League of Cities, 8 N. KEN. L. REV. 107-119 (1981).

*Recent Developments in Oil and Gas Law*, 2 EAST. MIN. L. INST., Chap. 17 (1981).

*Acid Coal Mine Drainage: Past Pollution and Current Regulation*, 17 DUQ. L. REV. 67-97 (1979). Reprinted in 16 THE PUBLIC LAND AND RESOURCES LAW DIGEST, 319-345 (1979).

*"Vermont Yankee" & the Evolution of Administrative Procedure*, 1 MISS. COLL. L. REV. 257-270 (1979).

*Legal Problems Relating to Ownership of Gas Found in Coal Deposits*, 80 W. VA. L. REV. 369-395 (1978). Reprinted in 16 THE PUBLIC LAND AND RESOURCES LAW DIGEST, 288-318 (1979).

*The "Four Corners" Requirement: A Constitutional Prerequisite to Search Warrant Validity*, 31 OKLA. L. REV. 289-317 (1978).

*Prohibition of Surface Mining in West Virginia*, 78 W. VA. L. REV. 445-474 (1976).

*West Virginia Rights in Potomac Waters*, LEGAL RIGHTS IN POTOMAC WATERS, 132-168 (Interstate Commission on the Potomac River Basin 1976).

## Miscellaneous Publications

Book Review, ENVIRONMENTAL REGULATION OF COAL MINING - SMCRA'S SECOND DECADE, 3 Virginia Coal and Energy Journal 119-124, (June 1991).

Book Review, 89 W. VA. L. REV. 795 (1987) (*reviewing*, D. Short & R. Thomas eds., KENTUCKY MINERAL LAW (1986)).

Book Review, THE IMPEACHMENT AND TRIAL OF ANDREW JACKSON, 12 DUQ. L. REV. 722-730 (1974).

*Is Section 1981 Modified by Title VII of the Civil Rights Act of 1964?* 1970 DUKE L. J. 1223-1238.

*Federal Administrative Law Developments*, 1969, 1970 DUKE L. J. 177-187.

*United States v. Martin Linen Supply Co.*, PREVIEW OF UNITED STATES SUPREME COURT CASES, 1976-1977 Term, (American Association of Law Schools/ALI-ABA Committee on Continuing Legal Education) (March 1977).

*What is the Scope of Judicial Review of Administrative Agency Action at the Frontiers of Science? Analyzing: Vermont Yankee Nuclear Power Corporation v. Natural Resources Defense Council, Inc.* 1978-79 SUPREME COURT PREVIEW. (American Association of Law schools/ALI-ABA Committee on Continuing Legal Education) (October 1977).

*Whether the Carey Act Requires the Secretary of the Interior to Indefinitely Reserve from Appropriation for Other Public or Private Uses Approximately 2.4 Million Acres of Desert Land in Idaho Subject to the State's Eventual Selection of Any or All of That Acreage for Irrigation and Reclamation Pursuant to the Act?* PREVIEW OF UNITED STATES SUPREME COURT CASES, 1979-1980 Term. (American Association of Law schools/ALI-ABA Committee on Continuing Legal Education) (February 1980).

*To Defer or Not to Defer: When Must a Court Honor an Administrative Agency's Interpretation of Its Own Regulations? Analyzing Donna E. Shalala, Secretary of Health and Human Services v. Guernsey Memorial Hospital*, 1994-95 SUPREME COURT PREVIEW 54. (Am. Bar Assn. Division for Public Education) (October 21 1994).

*Does an Administrator's General Interest in Fulfilling Her Duties Meet the Constitution's Requirements for Seeking Judicial Review of a Decision She Doesn't Like? Analyzing Director, Office of Workers' Compensation Programs, U.S. Department of Labor v. Newport News Shipbuilding and Dry Dock Co.*, 1994-95 SUPREME COURT PREVIEW 152 (Am. Bar Assn. Division for Public Ed.) (December 22 1994).

*Land Use Regulation and the Takings Clause: How Much Use Must an Owner Lose Before Being Entitled to Compensation Because the Government Has Taken the Property? analyzing Bernadine Suitum v. Tahoe Regional Planning Agency 1996-97 SUPREME COURT PREVIEW 335 (Am. Bar Assn. Division for Public Education) (February 6, 1997).*

*MSHA 20 psi Seal Standard / Report of Investigation 7581, SAGO MINE DISASTER REPORT (Wheeling Jesuit University June 2006), <http://www.wju.edu/sago/>).*

*Thinking Outside-the-Box: The Proposed Blended Duty of Care and Safety Case Model for Regulation in the Coal Mining Industry of Australia, (Wheeling Jesuit University, July 2006) (Prepared for: THE SAGO MINE DISASTER REPORT, <http://www.wju.edu/sago/>).*

### **SELECTED PUBLIC PRESENTATIONS**

*West Virginia Rights in Potomac Waters, Conference on Water Law in the Potomac River Basin, Interstate Commission on the Potomac River Basin (Harper's Ferry, W.Va. 1976).*

*Legal Problems in Perspective, University of Pittsburgh, School of Engineering, Seminar on The Surface Mining Control and Reclamation Act of 1977 (Pittsburgh, Pa. December 1977).*

*Legal Problems Relating to Ownership of Gas Found in Coal Deposits, ALI-ABA Course of Study, Legal Issue in the Coal Industry, pp. 77-111 (Washington, D.C. 1978).*

*Methane Gas in Coal Deposits: Legal Issues, U. of Ky. Mineral Law Symposium (October 1978).*

*Extracting Methane Gas from Coal Deposits, National Coal Association, Coal Lawyers Conference, (Scottsdale, AZ., October 1978).*

*Constitutionality of Section 522 of the Federal Surface Mining Act, Mineral Law Seminar, Univ. of Kentucky College of Law (October 1979).*

*Designation of Lands Unsuitable for Mining: A Review of the Constitutional Sources of Power to Declare Lands Unsuitable for Mining and Remedies, (Arlington, Va., June 1979).*

*Designation of Land Unsuitable for Coal Mining, 1980 ALI-ABA Course of Study, Legal Issues in the Western Coal Industry (Denver, Colo., March 1980).*

*Citizens Suits Under Selected Environment Laws, ALI-ABA Course of Study, Legal Issues in the Eastern Coal Industry, (Lexington, Ky., June 1980).*

*Designation of Lands Unsuitable for Surfacing Mining, U. of Ky., Mineral Law Symposium (Lexington, Ky., October 1980).*

*Federalism or De-federalism?* Natural Resources Law Teachers Conference, Rocky Mountain Mineral Law Foundation (Boulder, Colo. 1983).

*Environmental Considerations in Coal Mining Acquisitions and Dispositions,*" E. Min. Law Foundation Special Inst. (with Webber) (Pittsburgh, Pa., December 1983).

*The Pit and the Pendulum, Administration and Enforcement of the Federal Surface Mining Control and Reclamation Act,* Rocky Mountain Mineral Law Foundation, Natural Resource Law Teachers Conference (May, 1985).

*Constitutionality of Valid Existing Rights Provisions of SMCRA,* Symposium on Valid Existing Rights, U.S. Department of the Interior (Washington, D.C., April 1990).

*Regulations of Acid Coal Mine Drainage under the Clean water Act and the SMCRA,* Eighth Annual Current Environmental and Natural Resources Issues Seminar, University of Kentucky, Mineral Law Center (April, 1991).

*Environmental Regulation of Coal Mining in the United States,* United Nations' Interregional Symposium on Management of Economic and environmental Aspects in the Coal Mining Industry (Prague, Czechoslovakia, October 1991).

*What is Environmental Justice?* Society of Environmental Journalists, Regional Conference, (Columbus, Ohio, March 1993).

*Federal and State Laws Regulating the Generation, Transportation and Disposal of Hazardous Wastes,* University of Akron School of Law, Hazardous Waste Symposium (Akron, OH, April 1993).

*Liabilities for Hazards and Unperformed Reclamation,* Special Institute on the Federal Mining Control and Reclamation Act (SMCRA), U.S. Department of the Interior, Office of Surface Mining and the eastern Mineral law Foundation (Washington, D.C., January 1994).

*Enforcement of Environmental Laws Related to Coal Mining,* Eastern Mineral law Winter Special Institute, (Sanibel Island, Fla., February 1994).

*Mining Law and Environmental Justice,* 15th Annual Public Interest Environmental Law Conference, University of Oregon (Eugene, Oregon, March 1994).

*Environmental Justice Issues in Appalachia,* Environmental Justice\Racism Workshop, Society of American Law Teachers, University of Minnesota School of Law ( Minneapolis, MN, 1994).

*Primacy Under SMCRA: An Environmental Public Interest Perspective,* 16<sup>th</sup> Annual Mineral law Institute (Nashville, TN, June 1995).

*Using the West Virginia Freedom of Information Act*, West Virginia Press Association Seminar on Public Access to Government, Charleston, West Virginia (February 1996).

*Environmental Justice and Human Rights*, Annual Public Interest Law Conference, University of Oregon, Eugene, Oregon (March 1996).

*Environmental Justice and the SMCRA: Promises Kept & Promises Broken*, Colloquium on SMCRA: A Twenty Year Review, University of Southern Illinois, School of Law (Carbondale, IL. September 1997).

Environmental Law Advocates Worldwide (ELAW), Coastal Range Conference Center, Oregon. (March 1997).

*DEP Enforcement*, West Virginia Division of Environmental Protection, Environmental Advocate Program, West Virginia Capitol Complex, Charleston West Virginia (August 1997).

*Coalfield Citizens Rights Under The Federal Surface Mining and Reclamation Act*, United States Department of the Interior, Office of Surface Mining, Annual Regional Staff Conference, Ashland, KY. (September 1997).

*Public Participation Under the SMCRA*, Federal Coal Symposium, United States Department of the Interior, Office of Surface Mining, (Washington, D.C., January, 1998).

*Mountaintop Removal Mining and the Federal Surface Mining Control & Reclamation Act of 1977*, 16<sup>th</sup> Annual Public Interest Environmental Law Conference, University of Oregon, (March 1998).

*Ethics and Mineral Law*, Eastern Mineral Law Annual Institute (Lexington, KY, May 1998).

*Regulation of Mountaintop Removal Coal Mining*, Joint University of Kentucky\Eastern Mineral Law Annual Conference on Environmental Law (October 1998).

*Alternatives to Traditional Clinical Education in Environmental Law Teaching*, Association of American Law Schools Annual Meeting, New Orleans, LA (January 1999).

*Mountaintop Removal*, Appalachian Studies Association Conference. (Abingdon, Va., March 1999.)

*Law, Myth & Folklore of Agency Expertise & A.L.J. Credibility Findings: An Examination and Critique of Principles Guiding Judicial Deference*, National Association of Administrative Law Judges Annual Conference (Wintergreen, VA, October 2000).

*FOIA Update: Access to Public Records after 9-11 & FOIA Workshop*, Society of Environmental Journalists 13<sup>th</sup> Annual Meeting, Tulane University (New Orleans, LA, September 2003).

*Environmental Law Citizen Suits*, University of Oregon, Public Interest Environmental Law Conference, Eugene, Oregon (March 2004).

*Training Workshop on the Clean Water Act*, United States Army Corps of Engineers, Virginia Beach, Va. (June 9-14, 2003).

*Breakfast with the FOIA Lawyer*, Society of Environmental Journalists 14<sup>th</sup> Annual Meeting, University of Pittsburgh (Pittsburgh, PA, September, 2004).

*Lunch With the FOIA Lawyer*, Society of Environmental Journalists 15<sup>th</sup> Annual Meeting, University of Texas (Austin TX, October 2005).

*Mountaintop Removal Coal Mining*, Appalachian Studies Program, Morehead State University (Ky) Forum on Mountaintop Removal Mining (Morehead, Ky, April 2006).

*The Media and the Courts: Justice Black's Television Interview*, Judges and Journalists Workshop, Donald W. Reynolds National Center for the Courts and Media (Wheeling, WV, October 2006).

*Lunch with the FOIA Lawyer*, Society of Environmental Journalists 16<sup>th</sup> Annual Meeting, University of Vermont & Vermont Law School (Burlington, VT, October 2006).

*Pits and the Pendulum: Mine Safety Law Enforcement and Behavior Modification in American Coal Mines*, West Virginia University Symposium on Coal Mine Health & Safety ( THINKING OUTSIDE OF THE BOX: A POST-SAGO LOOK AT COAL MINE SAFETY) (Morgantown, West Virginia, November 2007).

*A Burning Question: Climate Change, Coal, Human Rights & Social Justice*, Vermont Law School Symposium on Climate Change (South Royalton, Vermont, February 2008).

*The Legal, Environmental, Moral and Social Implications of Mountaintop Removal Strip-Mining for Coal*, ENERGY & RESPONSIBILITY: A CONFERENCE ON ETHICS AND THE ENVIRONMENT, University of Tennessee (Knoxville, Tennessee, April 2008).

*Teaching Administrative Law to Law Students: An Interactive Discussion*, WEST VIRGINIA ASSOCIATION OF ADMINISTRATIVE LAW JUDGE ANNUAL MEETING AND SEMINAR (Charleston, West Virginia, May 2008).

*Recent Developments in Administrative Law*, W. VIRGINIA ASSOCIATION OF ADMINISTRATIVE LAW JUDGE ANNUAL MEETING AND SEMINAR (Charleston, West Virginia, June 2009).

*Enforcement & Permitting Under the Federal Surface Mining Control & Reclamation Act of 1977, COAL LAW SHORT COURSE*, Mineral & Energy Law Foundation (Morgantown, Aug. 2009).

*Bundled Rights and Great Expectations: Applying the Lucas Categorical Taking Rule to Severed Mineral Property Interests*, 12<sup>TH</sup> ANNUAL CLE CONFERENCE ON LITIGATING REGULATORY TAKINGS & OTHER LEGAL CHALLENGES TO LAND USE AND ENVIRONMENTAL REGULATION, Vermont Law School (South Royalton Vermont, November, 2009).

*Understanding FOIA and Open Meetings Laws*, Annual Meeting of *Daily Athenaeum* Editors and Reporters, (Canaan Valley, West Virginia, September 2010).

*What Reporters Should Know About The Freedom of Information Act*, Investigative Reporters and Editors Regional Conference (Charleston, WV, November 2010).

Speaker, Panelist, *Mine Safety And History Of Coal Mine Disasters In The U.S.* (Discussion of WVU Press Books: Bonnie Stewart, “No. 9” (Farmington Mine Disaster) Davitt McAteer, MONONGAH, as well as sections of the Governor's Independent Investigation Panel Report on the 2010 Upper Big Branch mine disaster. (Sponsor: WVU Press)(Morgantown WV, October 2010).

“Long-term environmental impacts of Marcellus Shale drilling and the various regulatory approaches and the political realities standing in the way,” Penn State Environmental Law Review Symposium on Marcellus Shale (State College PA, February 2011). <http://live.psu.edu/story/51390>

*The Impact of Licensing and Regulations/ The Role of Emergency Management in Mining and Drilling Disasters*, WHITHER COAL MINE SAFETY IN THE TWENTIETH FIRST CENTURY?, 2011 Symposium-Washington and Lee Journal of Energy Law, Climate and the Environment, (February 18 2011).

*Federal Surface Mining Control & Reclamation Act- Workshop for Lawyers and Activists*, Pittsburgh, PA (Citizen’s Coal Council) (July 29-31 2011).

Missouri Journal of Environmental and Sustainability Law Symposium on *Environmental Justice Issues in Sustainable Development*, University of Missouri School of Law (March 9, 2012). <http://law.missouri.edu/faculty/symposium/jesl2012/brochure.pdf>

*Practically Grounded: Engaged Scholarship Symposium*, Pace University School of Law (May 3-4, 2012). (Submitted “Reflections on Engaged Scholarship” to planning committee (April 2 2012).

*Citizen Suits Under The Clean Water Act and Surface Mining Control & Reclamation Act: An Overview*, Coal Law 2012: WVU Continuing Legal Education Mountaineer Series (August 31 2012);

*Coal Mine Reclamation Bonding*, Community Coal Lawyers Workshop (Lexington, Kentucky, September 11 2013).

*Coal and Climate Change: Exposing Coal's Externalities*, Appalachian Public Interest Environmental Law Conference (Univ. Tenn. School of Law, Oct. 27 2012).

*Excessive Regulation or Market Failure: Deconstructing the "War On Coal,"* Baker Forum on Energy & Environmental Policy, The Howard Baker Center, University of Tennessee (October 25 2012).

*Mountain Top Removal: "Coal Strip Mining On Steroids,"* 18th Annual Summit on Environmental Law & Policy (Tulane University School of Law, February 13 2013).

*Fairness in Negotiating With Disempowered Local Communities: Reflecting on Energy Resource Extraction Experiences in Central Appalachia*, Workshop: Natural Resource Agreements & Development Project on Law, Business & Human Rights (Maurer School of Law, Indiana Univ.) (March 2013).

*Climate Change and the War On Coal: Exploring the Dark Side*, Three Law School Colloquium, University of Pittsburgh, Duquesne & West Virginia Universities (Pittsburgh, Pa., April 12 2013).

*Coal: The Regulatory Environment*, West Virginia Bar Association Business & Real Estate Law Conference, (Glade Springs Resort, May 5 2013).

*Teaching Unconventional Gas and Oil Issues: Importance of Common Law Rights & Remedies*, 16th Institute for Natural Resources Law Teachers, (Flagstaff Ariz. May 30 2013).

*New Editors and Reporters Workshop on the Law Relating to Journalism*, WVU School of Journalism (October 2013).

Moderator, Panel Discussion - *Environmental Legacy of the Buffalo Creek Disaster*, (WVU College of Law, February 2014).

March 24, 2014: Presentation on environmental law enforcement at symposium, titled "***Protecting West Virginia's Water: Legislation, Litigation, and Lessons Learned for the Future of Water Regulation in West Virginia***" sponsored by the WVU Environmental Law Society and the WVU College of Law's Center for Sustainable Energy and Development. See: <http://wvutoday.wvu.edu/n/2014/03/18/wvu-college-of-law-to-host-symposium-on-water-regulation#sthash.OQhYf4mB.dpuf>



*Common Law: Environmental Claims and Common Law Torts*, West Virginia Continuing Legal Education program, March 2014) (With B. Bailey).

*"Climate Change and the Highlands: What's at Stake – What's at Risk?"* - Climate Change Impacts Initiative, Blackwater Falls State Park Lodge, Davis, WV (June 2014) (Presentation & Panel Discussion). <http://www.alleghenyclimate.org/documents/FINAL%201-10-15%20On%20the%20Chopping%20Block%20Report%20WITH%20EMBARGO%20LANGUAGE.pdf>

*Ethical Issues in Public Interest Environmental Lawyering*, Appalachian Public Interest Law Conference, University of Tennessee College of Law, Knoxville TN, With: Professors Zyg Plater (Boston College), John Bonine (University of Oregon), Dean Hill Rivkin (University of Tennessee (October 2014).

*Does State Regulation of Shale Gas Development Constitute an Unconstitutional Taking of Private Property*, Carver Colloquium, University of Denver Sturm College of Law & Rocky Mountain Land Use Institute (October 2014).

Associated Press Workshop for Legislators - The West Virginia Associated Press annual "Legislative Lookahead" - an around the state a preview of key issues and events that could impact the upcoming (2015) West Virginia legislative session. Panel discussion on WV Freedom of Information Act issues before the legislature during the 2015 session (Charleston, WV, January 12 2015).

Presentation & Panel Discussion, *Integrating Non-Clinical Faculty Into Clinic and Experiential Courses: What's the Recipe(s) for Success?* 2015 Association of American Law Schools Annual Conference on Legal Education (Rancho Mirage CA, May, 2015).

*Presentation and Panel Discussion, 2015 Amendments to the West Virginia Freedom of Information Act*, West Virginia Press Association 2015 Annual Convention (with West Virginia House of Delegates Speaker Tim Armstead, West Virginia Press Association Executive Director Donald Smith, and Robert Byers, Managing Editor Charleston Gazette-Mail (Charleston WV, August 15 2015).

Appalachian Public Interest Law Conference: *Presentation and Panel Discussion: Working with Experts: Lessons for Advocates* Presentation and Panel Discussion with Prof. Ryke Longest, Duke University School of Law (University of Tennessee School of Law, October 25, 2015);

Appalachian Public Interest Law Conference: *Presentation and Panel Discussion: Ethical Considerations in Public Interest Lawyering*, with Prof. Dean Hill Rivkin, University of Tennessee School of Law and Professor Ryke Longest, Duke University School of Law, (University of Tennessee School of Law, October 25 2015).

## TESTIMONY: LEGISLATIVE HEARINGS

Commonwealth of Pennsylvania Joint House-Senate Committee on Energy, the Environment and Natural Resources (Testimony at Hearing on Coal Mine Permitting Process) (Pittsburgh, Pa., April 1979).

Commonwealth of Pennsylvania Joint House-Senate Committee on Mining Legislation (Testimony on Proposed Amendments to Pennsylvania Clean Streams law, Bituminous Coal Surface Mining Act, Solid Waste management Act and Bituminous Coal Mine Subsidence Act) (Harrisburg, PA, September 1980).

100<sup>th</sup> Congress, United States House of Representatives, Committee on Interior and Insular Affairs, subcommittee on Energy and the Environment. (Testimony on Enforcement of Federal Surface Mining Control and Reclamation Act of 1977 in Appalachian Coal Producing States) (Washington, D.C., February 1987).

100<sup>th</sup> Congress, United States Senate, Committee on Energy and Natural Resources: Subcommittee on Mineral Resources Development and Production hearings on S. 2089, to provide for certain requirements relating to the conversion of oil shale mining claims located under the General Mining Law of 1872 to leases, and H.R. 1039, to prohibit the issuance of patents for oil shale claims after a specified date, pages D469-D477) (Bound vol. D239-D242) (April 22 1988).

112<sup>th</sup> Congress, First Session, United States Senate Committee on Energy and Natural Resources; Hearing on Secretary of the Interior's Order to Consolidate the Bureau of Land Management and the Office of Surface Mining Reclamation & Enforcement, (November 17 2011). Testimony available at:

[http://www.energy.senate.gov/public/index.cfm/files/serve?File\\_id=382d943d-0261-44f1-b2ae-3e1695341a5f](http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=382d943d-0261-44f1-b2ae-3e1695341a5f)

112<sup>th</sup> Congress, First Session, United States House of Representatives, Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, Hearing on the *Coal Miner Employment and Domestic Energy Act* (November 18 2011). Testimony available at:

<http://naturalresources.house.gov/UploadedFiles/McGinleyTestimony11.18.11.pdf>

## LAW SCHOOL COURSES

Advanced Appellate Advocacy (Seminar)	LLM Seminar (Energy & Sustainability)
Environmental Litigation (Seminar)	Contracts
Legal Issues in the Coal Industry (Seminar)	Civil Procedure
Litigation in the U.S. Supreme Court (Seminar)	Natural Resources Water Law
Environmental Justice (Seminar)	Environmental Law
Public Access to Information (Practicum)	Appellate Advocacy
Administrative Law	Land Use Planning
Constitutional Law	Local Government Law
Criminal Law	The Law of Coal
	Human Rights & The Environment

### **Patrick C. McGinley - Selected Cases Litigated**

1. *Shepherdstown Observer, Inc. v. Maghan*, 226 W.Va. 353, 700 S.E.2d 805 (2010).
2. *Associated Press v. Canterbury*, 224 W.Va. 708, 688 S.E.2d 317 (2009).
3. *West Virginia Highlands Conservancy v. Norton*, 238 F.Supp.2d 761 (S.D.W.Va.,2003); 190 F.Supp.2d 859 (S.D.W.Va.,2002); 161 F.Supp.2d 676 (S.D.W.Va., 2001); 137 F.Supp.2d 687 (S.D.W.Va., 2001).
4. *Martinka Coal Co. v. W.Va. Division of Environmental Protection & Brenda & Ralph Vincent*, 214 W.Va. 467, 590 S.E.2d 660 (2003).
5. *Lipscomb v. Grace Enterprises, Inc.*, Civil Action No. 02-C-136, (Marion Cty. Cir. Ct. 2002).
6. *Bragg v. West Virginia Coal Ass'n*. 248 F.3d 275, (4th Cir. 2001); *Bragg v. Robertson*, 83 F. Supp. 2d 713 (S.D.W.Va. 2000); *Bragg v. Robertson*, 190 F.R.D. 194 (S.D.W.Va. 1999); *Bragg v. Robertson*, 54 F.Supp.2d 635 (S.D.W.Va. 1999); *Bragg v. Robertson*, 54 F. Supp. 2d 653, (S.D.W.Va. 1999).
7. *DK Excavating, Inc. v. Miano*, 549 S.E.2d 280 (W.Va. 2001).
8. *Martinka Coal Co. v. W.Va. Dept. of Environmental Protection & Friends for the Restoration of Guyses*, 97-40-SMB (W.Va. Surface Mining Bd. 1999).
9. *Daily Gazette Co., Inc. v. West Virginia Development Office*, 521 S.E.2d 543 (W.Va. 1999).
10. *Holmes v. Board of Educ. of Berkeley County*, 526 S.E.2d 310 (W.Va. 1999).
11. *Moore v. Hobet Mining, Inc.*, Civil Action No. 97-C-266 (Logan Cty. Cir. Ct. 1998).
12. *Adkins, et al., v. Capehart*, 504 S.E.2d 923 (W.Va, 1998).
13. *State ex rel. East End Ass'n v. McCoy*, 481 S.E.2d 764 (W.Va. 1996).
14. *Daily Gazette Co., Inc. v. West Virginia Development Office*, 482 S.E.2d 180 (W.Va. 1996).
15. *Adkins, e.t al v. Paige*, Civ. Action No. 96-C-742 (Kanawha Cty. Cir. Ct. 1995).
16. *Strahin v. Lantz*, 456 S.E.2d 12 (W.Va. 1995).

17. *State ex rel. West Virginia Highlands Conservancy, Inc. v. West Virginia Division of Environmental Protection*, 458 S.E.2d 88 (W.Va. 1995).
18. *Prete v. City of Morgantown*, 456 S.E.2d 498 (W.Va. 1995).
19. *State ex rel. West Virginia Highlands Conservancy, Inc. v. West Virginia Division of Environmental Protection*, 447 S.E.2d 920 (W.Va. 1994).
20. *State ex rel. Scales v. Committee on Legal Ethics of West Virginia State Bar*, 446 S.E.2d 729 (W.Va. 1994).
21. *Eavenson v. Rundle*, 25 F.3d 1039 (4th Cir. 1994).
22. *Ammons v. Consolidation Coal Co.*, Civ. Action No. 91-P-12 (Monongalia Cty. Cir. Ct. 1993).
23. *City of Titusville v. Waycoff*, AD 588 (Crawford County, Ct. Com. Pleas, Pa. 1992).
24. *Director, West Virginia Dept. of Natural Resources v. Gwinn*, 408 S.E.2d 21 (W.Va. 1991).
25. *Wetzel County Solid Waste Authority v. West Virginia Div. of Natural Resources*, 401 S.E.2d 227 (W.Va. 1990).
26. *Canestraro v. Faerber*, 374 S.E.2d 319 (W.Va. 1988).
27. *4-H Road Association v. Gentile*, Civ. Action No. 88-0028-CK (N.D. W.Va.) (1988).
28. *Four-H Road Comm. Assoc. v. Chief, Div. of Water Resources*, 355 S.E.2d 624 (W.Va. 1987).
29. *George v. Com., Dept. of Environmental Resources*, 517 A.2d 578 (Pa. Cmwlt. Ct. 1986).
30. *Sharon Steel Corp. v. City of Fairmont*, 334 S.E.2d 616, (W.Va., 1985).
31. *Brookover v. Consolidation Coal Co.*, Civ. Action No. 84-C-3890 (Kanawha County Cir. Ct., W.Va. 1985).
32. *Marsh v. Consolidation Coal Co. & W.Va. Department of Natural Resources*, Civil Action Civ. Action No. \_\_, (Kanawha County Cir. Ct., W.Va. 1984).
33. *McGrath v. Municipality of Penn Hills*, 440 A.2d 1279, (Pa. Cmwlt. Ct. 1982).

34. *Pennsylvania Coal Min. Ass'n v. Com., Dept. of Environmental Resources*, 453 A.2d 694, (Pa. Cmwlt. Ct. 1982).
35. *West Virginia Highlands Conservancy v. Watt*, Civ. Action No. 82-0051 (N.D. W.Va. 1982).
36. *Pennsylvania Federation of Sportsmen's Clubs v. Com. Department of Environmental Resources*, 446 A.2d 599 (Pa. Supreme Ct. 1982).
37. *Pennsylvania Coal Min. Ass'n v. Com., Dept. of Environmental Res.* 444 A.2d 637 (Pa. Supreme Ct. 1982).
38. *Shavers Fork Watershed Unsuitability Designation* (IBMSA No. 81-64 1981).
39. *Com. of Pa., Dept. of Environmental Resources v. E.P.A.*, 618 F.2d 991 (3rd. Cir. 1980).
40. *Leisure v. Last*, (Civ. Action No. 80-1745) (3<sup>rd</sup> Cir. 1980).
41. *Consolidation Coal Co. v. Costle*, 604 F.2d 239 (4<sup>th</sup> Cir., 1979).
42. *Preston County Coal & Coke v. King*, Civil Action No. 84-C-156 (Cir. Ct. of Preston County, 1979).
43. *West Virginia Highlands Conservancy v. Mumme, Supervisor Monongahela National Forest*, Civ. Action No. 79-0153 (S.D. W.Va. 1977).
44. *Com., Dept. of Environmental Resources v. Mill Service, Inc.*, 347 A.2d 503 (Pa. Cmwlt. Ct. 1975).
45. *Com. Dept. of Environmental Resources v. Westmoreland-Fayette Municipal Sewage Authority*, 336 A.2d 704 (Pa. Cmwlt. Ct. 1975).
46. *Com. v. Peggs Run Coal Co.*, 334 A.2d 713 (Pa. Super. 1975).

**REFERENCES AVAILABLE UPON REQUEST**