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Going with the Flow: Environmental Law and Policy Clinic Takes A Pristine Creek to Heart

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Environmental Law and Policy Clinic takes a pristine creek to heart

Going with the flow

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n amazingly diverse range of plants and animals, including many rare, threatened and endangered species. Sections of old-growth forest. Long stretches untouched by roads or other human interference. Oh, and terrific sport fishing. Cattaraugus Creek, which stretches 60 miles across Western New York and empties into Lake Erie on the west, is a natural treasure. No one disputes that. But a shared vision for preserving and protecting the creek and its watershed – encompassing five counties and 40 towns and villages – has been difficult to come by.

Enter UB Law School’s Environmental Law and Policy Clinic. Working under a grant from the federal Environmental Protection Agency, the clinic has embarked on a major two-year project to create a plan for protecting the Cattaraugus Creek Watershed – the land that catches rain and snow and drains into the creek.

“We are creating a community vision for the watershed,” said Roberta A. Vallone ’96, the Law School clinical instructor who is the director of the Environmental Law and Policy Clinic. “This kind of community-based approach is the chance to contribute ideas and opinions to the strategy will encourage them to support the plan in its final form.”

Professor Barry B. Boyer, the former Law School dean, has worked on Great Lakes water quality issues for years. He now spends a substantial part of his professional time working as an advisor to the Environmental Law and Policy Clinic. “This clinic fills a real need.”

The clinic is working in partnership with New York Rivers United; the Great Lakes Water Quality Board; and UB’s National Center for Geographic Information and Analysis. Buffalo State and UB geographers will gather information about the watershed’s health – its soil, drainage pattern, land cover and topography, and compile this mass of data into a multi-layer electronic map. The legal and policy participants, including members of the Law School clinic, will gather input from citizens, economic development officials and other interested parties along the watershed.

Those parties include vegetable and dairy farmers, timber industry representatives, water quality councils, environmental groups and organizations of recreational users.

The goal is to produce a Watershed Protection Strategy – a plan providing scientific and technical tools to the people who make decisions about how to use the land, so that they can preserve the watershed and reduce the chance that the creek will become polluted, which would threaten the health of Lake Erie.

It is the opposite of a top-down approach. The hope is that giving local stakeholders the chance to contribute ideas and opinions to the strategy will encourage them to support the plan in its final form.

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“The important lesson here,” Boyer said, “is that lawyers have a lot of tools in their kit. It is not just command-and-control regulations.”

But the project incorporates more than preservation. Key economic development initiatives, such as developing the sport fishing industry and perhaps developing a network of horse trails, must be incorporated into the watershed management plan.

“The conference may take place at UB Law School in the spring semester,” Boyer said. “And we want to set up a regular biannual working group to study this.”

The conference will take place at UB Law School in the spring semester. Also, the clinic has been reviewing issues regarding the Great Lakes, involving both U.S. and Canadian participants. “There has been a lot of research in governance,” Boyer said, “and we want to set up a regular biannual working group to study this.”

At left, an issue for the Environmental Law and Policy Clinic is the preservation and protection of Cattaraugus Creek.

The public portion of the work began with focus groups in Gowanda and Sardinia, attracting community members, municipal leaders, resource agencies and businesses. A kickoff event included presentations from agencies and scientists with expertise in watershed resources, including Cattaraugus County’s Department of Economic Development, Planning and Tourism; the Nature Conservancy; and the Seneca Nation of Indians, whose land the creek crosses.

Five of the eight law students working in the Environmental Law and Policy Clinic have worked on the watershed project. Vallone said, doing such tasks as compiling contact lists and writing news releases. The students will also help to write the presentations to the community, lead focus groups and work with community leaders.

The clinic members will spend the spring semester writing the management plan, then present it to the community in a “summit” next fall before making revisions and finalizing the document by the end of 2007. Among the other initiatives getting attention in the clinic, Boyer said, is the possibility of a conference on governance issues regarding the Great Lakes, involving both U.S. and Canadian participants. “There has been a lot of research in governance,” Boyer said, “and we want to set up a regular biannual working group to study this.”

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Clinics make an impact on the community

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“We are creating a community vision for the watershed,” said Roberta A. Vallone ’96, the Law School clinical instructor who is director of the Environmental Law and Policy Clinic. “This kind of community-based planning is becoming more common across the country,” Boyer said. “It has a more holistic focus, looking at all sorts of economic and social factors.”

From a legal standpoint, Boyer said, it has been shown that “clustering” development of new housing rather than allowing sprawling subdivisions produces less impact on the watershed. One way to encourage such clustering is through tax incentives. Other tools include conservation easements, which are legal agreements between a landowner and a land trust or government that permanently limit uses of the land in order to protect its conservation values. Such easements often come with beneficial tax treatment.

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The conference will take place at UB Law School in the spring semester. Also, the clinic has been reviewing permits and applications and participating in a review of remediation work on the Buffalo River.

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