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### The Green Economy: A Marketplace of Ideas About Our Common Future

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The Bryan Cave/Edward A. Smith Symposium: The Green Economy  
Article  
Irma S. Russell<sup>al</sup>

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## THE GREEN ECONOMY: A MARKETPLACE OF IDEAS ABOUT OUR COMMON FUTURE

### Dedication and Introduction

This issue of the *UMKC Law Review* is dedicated to Professor Fred Cheever who lived an authentic life in the law and in nature, exemplifying commitment to learning about our natural environment and to protecting it through law and advocacy. Professor Cheever began his legal career with the Sierra Club Legal Defense Fund, which later became Earthjustice. Professor of Law at the University of Denver's Sturm College of Law since 1993, Cheever was the primary organizer of a conference for natural resources law professors through the Rocky Mountain Mineral Law Foundation. After returning from a gathering of this organization of law professors in Banff, Alberta last summer, Fred died while rafting with his family on the Green River in Dinosaur National Monument. Fred would have presented and written on the topic of "The Public Interest in Private Land Conservation" for this symposium. At this symposium gathering and at many more, we remember his kindness and seek to emulate his dedication to the law, to education, and to sustaining our planet.

It has been a privilege to work on the symposium with so many dedicated people. A component of the UMKC Urban Entrepreneurship Initiative, which received funding support from the UMKC Provost's Strategic Funding Initiative, the symposium is a partnership of the Edward A. Smith Chair, the Bryan Cave law firm, and The University of Missouri-Kansas City (UMKC) Law Review. The symposium would not have been possible without the support of Irv Belzer, Tony Luppino, and many other professors from UMKC and other universities. The student editors and staff of the Law Review helped from the planning stage through the symposium edition. Special thanks to Annette Griffin and Zachary Parker, the symposium editors. The entrepreneurial initiative, organized principally by Professor Tony Luppino of the UMKC School of Law and Dr. James DeLisle of the Department of Global Entrepreneurship and the Lewis White Real Estate Center in the Bloch School of Management, includes a focus on fostering economic activity that advances environmental values. This symposium is an example of collaboration with the legal community and lawyers of the Bryan Cave law firm to explore legal and entrepreneurial efforts to address environmental challenges. Kansas City is well-known for business and community innovation such as charging stations for electric vehicles and efforts to advance urban gardening and "green zones." This symposium furthered more innovation in the Kansas City tradition of uncommon good sense for both the environment and the economy.

**\*756** One of the benefits of an in-person and in-print symposium is that each medium accomplishes something that could not be accomplished by the other. The in-person symposium offered spontaneous reflections by the lawyers and scholars and interaction among all present, including the audience of students, lawyers, and members of the public. The interaction of the panelists and exchanges of ideas created the groundwork for future collaborations and future reflection in the work of many of those involved. Bob Berkebile's presentation of his work around the world in architecture and green spaces gave the scholars and the public in attendance examples of real life application of the ideas championed at the symposium presentations. Presenters and facilitators included Sly James, Barbara Bichelmeyer, Anthony Luppino, Irma Russell, Chris Muehlberger, Michael Robak, Kate Garman, Jim DeLisle, Ellen Suni, Robert R.M. Verchick, Sidney Shapiro, Julie Cheslik, Kevin Healy, Steven Poplawski, Greg Hummel, John Ragsdale, James R. May, Burke Griggs, Lewis Mills, Ed Hedges, Jason Holsman, Chris Holman, Barbara Glesner Fines, Irvin Belzer, Bob Berkebile, Tony Arnold, John Tyler, Chris Hoyt, Joan Heminway, John Dernbach, Brandon Weiss, Clara Irazabal-Zurita, Molly Davies, and Jimmy Adegoke, as well as UMKC students, including officers of the Environmental Law Society and Law Review student editors. To view the live presentation, please follow the

link below.<sup>1</sup>

The idea for this symposium on the green economy arose from observations of climate disruptions, locally and in places such as Glacier National Park and the Great Barrier Reef. The hockey stick graph introduced by climatologists and made famous by Al Gore and reports of the Intergovernmental Panel on Climate Change (IPCC) demonstrated the dramatic rise in the global mean temperature of the earth. Despite clear scientific evidence, charting regulatory action protective of the environment over the last year would reveal a dramatic downward curve. In the face of dangers of global climate disruption and environmental threats, the government seems to be looking away in disregard of its traditional role. While political accountability traditionally provides the avenue to redress government failure to act in the best interests of society, the urgency of today's environmental risks calls for an all-hands-on-deck approach. Including private markets and entrepreneurial innovation as a response to climate disruption may strike some as naïve, but history reveals that markets can provide agile responses in times of governmental inaction. Will realization of the communal need to foster sustainability on this planet produce a market response? Will economic forces seek to sustainability on earth? What legal mechanisms might contribute to this goal? The symposium authors and presenters explore these and related questions, discussing the urgent questions with fresh perspectives.

In, *Lawyering as if Tomorrow Matters*, 86 UMKC L. REV. 759 (2018), Professor John Dernbach speaks to all lawyers (not just environmental lawyers) \*757 of the unique and important role lawyers can play in protecting life on earth. Exploring the challenges facing the world today and focusing on climate change, specifically, Professor Dernbach offers seven approaches that lawyers can consider to respond constructively to climate change. The article emphasizes the urgency of this issue of climate disruption, and suggests that lawyers should do more to address the issue, regardless of who is President.

Two articles by corporate law experts Joan MacLeod Heminway and John E. Tyler III explore new forms of doing business and the considerations affecting the long-term viability of these new business forms of social enterprise entities. In her article, *Let's Not Give Up on Traditional For-Profit Corporations for Sustainable Social Enterprise*, 86 UMKC L. REV. 779 (2018), Professor Joan MacLeod Heminway explores the rapidly growing phenomenon of the social enterprise business entity in the modern marketplace. Professor Heminway surveys the recent rise of alternative corporate forms for use in social enterprise and the questions that accompany this rise relating to the place of corporations in our national economy. She considers both potential detriments and benefits of social enterprises such as the low-profit limited liability company (L3C), the social purpose corporation, and the benefit corporation over the long term. John E. Tyler III, also explores this area in his article, *Structuring for Action and Longevity in the Green Economy: Being Intentional About Committing to Social/Green Purposes, Connecting Effort and Impact, and Addressing Harm and Accountability*, 86 UMKC L. REV. 937 (2018). He considers green economy ventures, noting the importance of clear expectations and mutual understanding in the process of choosing new business forms. In this article, Tyler focuses on ways social enterprise entities seek to blend profits with pursuing the public good, identifying four frameworks to balance competing interests in maximizing profit and sustainability.

Two articles bring attention to constitutionalism in the area of the green economy and sustainability. Professor James R. May's article, *Sustainability Constitutionalism and the Green Energy*, 86 UMKC L. REV. 855 (2018), presents "sustainability" as an overall framework for addressing the most urgent economic, social and environmental issues of our day, including climate change, poverty, equality, and shale gas development. He explores the concept of sustainability as a central feature in a range of norms and standards, ranging from local building codes, national regulations, corporate mission statements to international accords and worldwide practice norms. The article details the incorporation of sustainability into national constitutions, particularly as a means for advancing green energy, and the growth of judicial recognition of sustainability constitutionalism. In his article, *Time Immemorial: Aboriginal Rights in the Valles Caldera, the Public Trust, and the Quest for Constitutional Sustainability*, 86 UMKC L. REV. 869 (2018), Professor John W. Ragsdale, Jr. assesses root problems in the idea of unsustainable growth, incomplete remedies and destructive competition for the commons. Connecting the concept of a collective vision of sustainability to the economic and cultural core of society, he describes the original social fabric of inhabitants of North America prior to \*758 European discovery of the new world and explains the shattering of this organized society by exponential growth and technological dominance of the European explorers. The article also suggests the principle of public trust as evidence of the fundamental constitutional basis for sustainability.

In *Inequality, Social Resilience, and the Green Economy*, 86 UMKC L. REV. 963 (2018), Professors Sydney A. Shapiro and Robert R.M. Verchick recognize the potential of a green economy to bring thousands of jobs, but they also note the possibility that a green economy may exacerbate wealth inequality in some areas of the United States. Looking to the last decades of reliance of environmental advocates on science, economics, and quantification, they suggest that distributional consequences have also broken with historically progressive values that the environmental justice movement. The authors suggest a recalibration to reunite the regulatory and social welfare states to work in concert for sustainability and social justice.

In *The Renewable Fuel Standard Reimagined: Clearing a Path for Truly Advanced Biofuels*, 86 UMKC L. REV. 805 (2018), Professor Christopher M. Holman offers a tutorial on biofuels, the Renewable Fuel Standard (RFS) program, and the reasons that, a decade after the creation of the program, its future is in question. The article describes the RFS program, by which Congress sought to reduce greenhouse gas (GHG) emissions while encouraging economic development. Its analysis describes a program that has succeeded in increasing the use of biofuels for transportation while relying heavily on cornstarch-based ethanol, a biofuel which critics contend provides little, if any, net reduction in GHG emissions. Professor Holman compares advantages and disadvantages of biofuels relative to other energy sources and also recounts problems in implementing the RFS program, unintended negative environmental consequences associated with some biofuels, and ideas for reforming the program.

My article contribution, *The Green Economy: Strategic Planning for a Future?* 86 UMKC L. REV. 913 (2018), offers a survey of the current-day green economy sector jobs and other efforts to build markets that will help sustain life on this planet. It describes natural incentives promoting an all-hands-on-deck approach to our situation and speculates about the use of *ex post* rewards for innovations to lead us toward a sustainable future.

#### Footnotes

<sup>a1</sup> Professor and Edward A. Smith Chair/Missouri Chair in Law, the Constitution, and Society, University of Missouri-Kansas City School of Law.

<sup>1</sup> <https://law.umkc.edu/greeneconomysymposium/program-schedule/>