

40TH ANNIVERSARY REMARKS

The *Energy Law Journal* would not exist—much less have claim to its impressive 40-year history—without the time and attention of legions of volunteers. Time is our most precious commodity as energy industry professionals, and we sincerely appreciate the priceless donation of time of all of our editors, authors, contributors, advisors, fundraisers, champions, and friends. On the occasion of the *Journal*'s 40th Anniversary, Harvey and I solicited remarks from various individuals who played prominent and instrumental roles in the *Journal*'s history and have helped contribute to its success and shaped its future. These remarks follow (in alphabetical order). – *Kat Gamache, Executive Editor*

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The following are remarks from Donna M. Attanasio, Senior Advisor for Energy Law Programs and Professorial Lecturer in Law, The George Washington University Law School, former President of EBA, and former FELJ Board member (as well as a former colleague and one of the most impactful mentors I have had the privilege to claim!):

On this 40th anniversary, I offer my congratulations and thanks to the extraordinary editors, staff, authors, and students who made the *Energy Law Journal* into a prized jewel of the Energy Bar Association. Congratulations and thanks, too, to those who have served as members of the board of the Foundation of the *Energy Law Journal* for their work in keeping ELJ financially healthy.

There are many ways in which ELJ enriches the Energy Bar Association:

- ELJ furthers the Energy Bar Association's educational mission. Not only does it support our community with the dissemination of articles, notes, committee reports, and book reviews, but in addition, through its long association with the University of Tulsa College of Law, and more recent work with students of George Washington University Law School, the ELJ editors and staff annually initiate of a new wave of students into the world of energy law.
- ELJ brings an important perspective to the literature that is distinctive from both student-run academic journals and the commercial press. ELJ is peer-reviewed and peer-managed, which assures that articles are selected and reviewed with a practitioner's perspective, sharpened with years of experience and a pragmatic understanding of the industry.
- ELJ strengthens our community. FELJ annually honors our distinguished body of FERC Administrative Law Judges by hosting a reception, which is always a social highlight for our community. ELJ is also the place in which outstanding members of our community are memorialized and honored with *In Memoriam* tributes. And the boards of ELJ and the EBA jointly founded our other jewel, the Charitable Foundation of the Energy Bar Association.

Above all else, ELJ is the intellectual heart of the Energy Bar. It is the virtual salon in which thought leaders in the energy bar come together to address and debate the issues of the day. Remarkably, aside from the administrative support it receives from the Energy Bar Association staff, it is run entirely by volunteers. Countless hours are donated to selecting, reviewing and editing the content, overseeing the business side of the operation, and working with the student editors to assure the highest quality articles are available to the community. This commitment to intellectual excellence exemplifies the very best of our Bar and is essential to the mission of the Energy Bar Association.

Congratulations, ELJ, on your 40th anniversary!

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*This next note is from **Dean Lyn Entzeroth** and ELJ Faculty Advisor, **Prof. Robert Butkin**, of the University of Tulsa College of Law. We sincerely appreciate the invaluable support of the Journal and the excellent training and guidance they provide to our talented and dedicated student editors.*

On the occasion of the fortieth anniversary of the *Energy Law Journal*, the faculty, administration, and students of the University of Tulsa College of Law wish to express our appreciation for the support, mentorship, and dedication shown to our students by the Energy Bar Association and the ELJ professional board. For more than two decades, student editors at our law school have edited the ELJ on behalf of its professional board. Our close working relationship with the EBA has instilled a culture of professionalism and accountability among our students, exposed our students to cutting edge issues in energy, environmental, and regulatory law, and provided our students the opportunity to be published in the world's leading journal in its field. In the last decade alone, twenty-three student papers have been published or selected for publication by the ELJ, providing our students exposure to a reading audience consisting of thousands of leaders in their fields, but just as importantly, giving our students the opportunity to work closely with their professional editors to meet the rigorous standards of the ELJ professional board.

The investment made by the EBA in our students has paid immeasurable dividends, not just in their experience while students at the law school, but in their careers following graduation. Our past ELJ editors are working as counsel to small independent oil companies and in the legal departments of the world's largest integrated energy companies. They serve the public as consumer representatives in utility rate cases, and as general counsels of major state environmental protection agencies. They serve as counsel to major national energy-related trade groups and to leading environmental advocacy groups. In each case, our students' ability to make a contribution to their respective fields derives in large part from their ELJ experience.

We look forward to working closely with the EBA for many years to come.

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***Robert Fleishman**, Partner at Kirkland & Ellis, LLP, and immediate past-Editor-in-Chief of the Energy Law Journal (not to mention the innumerable and invaluable other ways in which he has served the Energy Bar) wrote the following:*

It was my honor to serve as Editor-in-Chief, and previous to that, as Executive Editor of the *Energy Law Journal*, from 2004-2019. In my first Editor-in-Chief Page in 2006, I began by quoting one of the many memorable statements of President Lincoln, “Fellow citizens, we cannot escape history.” I declared that we were at a truly historical time in the annals of energy law in the United States as Congress had just passed the Energy Policy Act of 2005, the most sweeping changes to the Federal Power Act and the electricity industry since the New Deal.

The 60th year of the Energy Bar Association (formerly the Federal Power Bar Association and the Federal Energy Bar Association) found the ELJ in the midst of its second leadership transition. After setting the “gold standard” as the *Journal’s* Editor-in-Chief for more than 25 years, Bill Mogel passed the reins to Clint Vince. Soon thereafter, they were passed to me. I pledged to continue in the fine tradition of those who preceded me, and looked with excitement to the future and what history the Journal could help illuminate.

I really couldn’t anticipate how exciting and rewarding it would be to steer the *Journal’s* ship for the next 27 volumes. When I stepped down as Editor-In-Chief and passed the baton to Harvey Reiter (my dear colleague), I declared that it was a good run—and that it was time.

Time is so, so precious. The terror and pain of the pandemic have opened many (but unfortunately not all) peoples’ eyes to this eternal truth. One of the special duties I took on as Editor-in-Chief was publishing the In Memoriams for distinguished members of the association, and all the related love and tears that flowed in developing the tributes as “consoler-in-chief.”

In the time I served, the *Energy Law Journal* published: 181 articles (by close to 280 authors); 154 committee reports; 28 book reviews; 35 student notes or comments; and 11 transcripts of significant EBA panels or speeches. In total, we published over 11,200 pages of new content. This was approximately the same number of pages of new content published in the ELJ’s first 23 years. I’m proud that the materials published addressed a range of domestic and international energy issues as well as important matters at the intersection of energy, the environment, and climate change.

The *Journal* is the Association’s crown jewel. Serving as the last FEBA President and first EBA President 20 years ago was an honor and, I believe, impactful. Over the long haul, however, I believe my years as Editor-in-Chief may be the most valuable service I rendered to the association.

At EBA in November 2005, after assuming the Editor-in-Chief position and becoming the next keeper of the crown jewel, I spoke about the *Energy Law Journal* being a great American institution, like baseball. I recognized two baseball icons—Lou Gehrig and Cal Ripken—who worked hard, played hard, and did their best, day in and day out. I declared that was what I planned to do for the Journal.

I put in whatever time was necessary to make each article, each committee report, each student note or comment, each book review, and each In Memoriam the very best it could be. I am grateful to the terrific Editorial Board and the Foundation of the *Energy Law Journal* for their tremendous support as we en-

deavored collectively to publish the best product possible and for allowing me to serve as one of the keepers of EBA's crown jewel.

I am pleased deeply to see that the tradition of excellence has continued.

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*The following remarks are from **Sue Kelly**, recently retired President and CEO of the American Public Power Association, and former EBA President. Sue is also a contributing author of *Time for a Day 1.5 Market: A Proposal to Reform RTO-Run Centralized Wholesale Electricity Markets* (available at: https://www.eba-net.org/assets/1/6/10-491-_day_market-clean_final_print_11-2-08.pdf).*

Congratulations to the *Energy Law Journal* on its 40th Anniversary! The *Journal* started up at almost the same time I joined the Federal Energy Bar Association back in 1980. We have both grown up, and we both have benefited greatly from our close association with what was once the FEBA and is now the EBA.

The *Journal* is one of the prime reasons why the EBA continues to serve as the “one stop shop” for energy lawyers. As a practitioner, I was always thrilled when I could find an article or note relevant to a case or legal issue I was working on—I knew it would save me (and my client) hours of original research, and quickly get me up to speed on the subject. The Committee reports, while a heavy lift for the Committees tasked with writing them, provided all of us a great synopsis of recent developments in a particular practice area.

But I frankly never appreciated how much work goes into producing the *Journal* until Harvey Reiter in early 2008 convinced me to co-author an article. I naively said yes. Every holiday weekend for most of that year disappeared into the ether, as I worked first on writing and then on revising draft after draft. It was a humbling experience to say the least. But in the end, the article made it to publication and I was glad I did it. (You can find “Time for A Day 1.5 Market: A Proposal to Reform RTO-Run Centralized Wholesale Electricity Markets” in Volume 29, No. 2!) It gave me a whole new appreciation for how much hard work goes into each issue of the *Journal* by the editors, students, and individual authors. It is a true collective scholarly labor of energy law love.

So, as you review this issue, either on-line or in print, take a moment to think about the very hard work that so many people put in to get the issue to you. Please give them a mental hat tip. And please take a moment to thank those who had the foresight to found the *Journal* and those who have nurtured it over 40 years to get it to this point. May it see publication for many more years.

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*We are particularly indebted to the following commentator, **William A. Mogel**. The ELJ was Bill's brain child. As the first and longest serving Editor-in-Chief, Bill laid a foundation of excellence upon which we continue to build. Bill not only served as Editor-in-Chief, he was also President of the Charitable Foundation of the Energy Law Journal and was the co-author of a 1983 Journal article that was cited by the Supreme Court, *Mogel & Gregg, Appropriateness of Imposing Common Carrier Status on Interstate Natural Gas Pipelines*, 4 *Energy L.J.* 155 (1983), cited in *General Motors Corp. v. Tracy*, 519 U.S. 278, 117 S.Ct.*

811, 136 L.Ed.2d 761 (1997). *He continues to contribute with his insightful book reviews, the most recent of which appears in this edition of the Journal.*

More than 40 years ago when I entered private practice, there was no FERC. Its predecessor, the Federal Power Commission (FPC), was housed on several floors of the GAO building on 4th Street. At that time, The FPC primarily was engaged in natural gas matters.

Unlike today's practice before FERC, paper was King at the FPC. If information was needed on a particular case or docket, one had to travel to the FPC, and enter its Charles Dickens' like reference room. Once inside the cavernous room, one had to request a file, usually several inches thick, and then wait for a clerk to bring it up. No files could leave the building. Limited copying was permitted on the Commission's copier. The foregoing process provided little comfort as a basis for rendering advice. No compendium of court cases existed. Researching the few law review articles did not fill in gaps as to issues affecting energy regulation.

Based on my experience, I approached our Board with a proposal to fund a professional journal that would discuss cases at the FPC, state commissions, courts, and law reviews. It also would provide our Association with an opportunity to communicate with the membership. At first, the Board was negative—"there is nothing to write about" and "no one would want to write." Notwithstanding, I persuaded the Board to authorize \$10,000 for the printing costs for two trial issues of the *Journal* which would be provided to the members at no cost. The Board voted "yes". We were off and running!

A final word. The *Journal's* success is not the product of one person's efforts but the sustained efforts of many talented and committed members of our Bar, as well as the faculty and students at the University of Tulsa Law School.

HAPPY ANNIVERSARY AND BEST WISHES FOR AT LEAST 40 MORE YEARS OF PUBLICATION!

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The following remarks are from Jane Rueger, the current President of EBA, past-Treasurer of EBA, and past-President of CFEBA. Jane was also the Chair of the EBA Young Lawyers' Committee (many) years ago and I and numerous others have her to thank for introducing us to EBA!

I have heard repeatedly since joining EBA that the *Energy Law Journal* is the "crown jewel" of the organization. I don't often pause to think about what that phrase "crown jewel" really means or conveys. It's not just that the *Journal* is an authoritative compendium of scholarly work in the energy field, or that it has been cited numerous times by the United States Supreme Court. Nor is it simply the culmination of countless hours of volunteer work to publish, though the loving care of many is obvious in its pages. Crown jewels also represent the passing down of history and knowledge across generations. You can spend many happy hours exploring past issues of the *Journal*, sometimes finding articles that make you realize how much the energy industry has changed and sometimes finding articles that show how frustratingly intractable some issues are. But always you find material that makes you think, connect, and grow.

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*The following remarks are from **Jonathan Schneider**, Partner, Stinson LLP. Jon is the immediate past president of the EBA and long-time Senior Book Review Editor of the ELJ. He has also personally contributed several Book Reviews to the Journal (including in this edition!), as well as the article What We Talk About When We Talk About Resilience in volume 39 of the ELJ (available here: https://www.eba-net.org/assets/1/6/17-353-400-Schneider_%5bFINAL%5d.pdf).*

On its fortieth anniversary, *The Energy Law Journal* (ELJ) gives the Energy Bar Association (EBA) much of which it can be proud. In a revealing piece for the New York Times in 2013, legal journalist Adam Liptak put his finger on what is often wrong with law journals, and by implication what is right with the ELJ. See: <https://www.nytimes.com/2013/10/22/us/law-scholarships-lackcluster-reviews.html>. Where most journals deputize law students (bright but inexperienced) to serve as principal editors, the ELJ is peer-reviewed, and benefits enormously from the dedication and experience of practiced professionals. Where most law journals publish pieces aimed at an academic audience, with pieces designed to build resumes for academic professionals, the ELJ focuses on energy issues of the day, exploring with the luxury of space and academic rigor topics that are often before the Federal Energy Regulatory Commission, state commissions, and the courts in real time. Liptak quotes Chief Justice John G. Roberts Jr. on the subject of law reviews as having said this: “Pick up a copy of any law review that you see and the first article is likely to be, you know, the influence of Immanuel Kant on evidentiary approaches in 18th-century Bulgaria, or something, which I’m sure was of great interest to the academic that wrote it, but isn’t of much help to the bar.”

For the Energy Bar, the ELJ is the answer to this critique. Edited by the most dedicated professionals in EBA, and with a staff of editors that combines the diverse contributions of attorneys in private, governmental, and corporate practices, the ELJ does for EBA what the New England Journal of Medicine does for physicians: It provides quality, timely, peer-reviewed scholarship to professionals who aim to practice their craft at the highest levels.

None of this is an accident. EBA has William Mogel to thank for the ELJ as initially conceived, and long-standing and dedicated service by ensuing Editors-in-Chief, including Clint Vince, Robert Fleishman, and now Harvey Reiter, to thank for providing the stewardship and vision that makes the ELJ what it is today. Bill, Clint, Bob, and Harvey have been ably and selflessly assisted by the many articles editors and contributors in EBA, and of course by the able student editors at University of Tulsa, who together produce a journal of the highest quality.

So, three cheers for the ELJ! Happy fortieth Birthday, and best wishes for forty more.

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*The following remarks are from **Molly Suda**, Associate General Counsel of Duke Energy. Molly has the distinction of serving as President of the FELJ during one of the most challenging years in its history.*

Congratulations to the *Energy Law Journal* on its 40th anniversary edition! I am honored to serve as President of the Foundation of the *Energy Law Journal* during this momentous year.

The *Energy Law Journal* has been, and I am sure will continue to be, the “crown jewel” of the Energy Bar Association, a preeminent source of legal scholarship, and an invaluable resource for energy law practitioners and all other energy professionals. The *Journal*’s staying power is a testament to the hard work and dedication of the many individuals who have served on the ELJ Editorial Board and the student editors from the University of Tulsa College of Law.

The 40th anniversary falls during a time of significant transformation within the energy industry. I have no doubt that the *Energy Law Journal* will continue to be an important platform for the thought leadership and innovative ideas that will power this transformation and fuel further industry evolution during the next 40 years and beyond.

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The final remarks are from Clinton A. Vince, a Partner and Chair of the US Energy Practice at Dentons. Clint was the inaugural President of the Foundation of the Energy Law Journal and a past Editor-in-Chief of the Journal.

As Paulo Coelho wrote in “The Alchemist,” it is the possibility of having a dream come true that makes life interesting. It has been wonderful to see the evolution of the *Energy Law Journal* from the dream of early energy bar members such as Bill Mogel to the nationally and internationally acclaimed *Journal* that it has become. The *Journal* truly is one of the gems of the Energy Bar.

My personal experience with the *Journal* began as an author of articles reflecting cases that my team had handled. Then, unexpectedly, I was asked to serve as the President of the ELJ Foundation. We created an exceptional Board and made the important decision to take the funds of the Foundation out of CD’s and retain a professional financial advisor to assist us with investment. The decision was initially controversial, but we were fortunate to catch the front end of a bull market. When our funds doubled, I thought it was a good time to pass the baton to a new President.

Then, after 25 years of remarkable stewardship by founding Editor-in-Chief Bill Mogel, I was asked by Bill and the leadership of the Energy Bar to take over as Editor-in-Chief. I agreed to do so on a transitional basis for 2 years. My principal role was to take the amazing ELJ “know how” that Bill contained in his over-sized brain and develop sustainable systems that would allow the legacy that Bill and the early editorial board had created to be formalized going forward.

I was blessed to have Robert Fleishman, who had served as our extraordinarily talented Deputy Editor, take over after my transitional service. It has been exciting to see Bob, and now Harvey Reiter, take the *Journal* to even higher levels of excellence as we approach the 40th Birthday of this cherished publication.

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