MEMORANDUM

TO: Jon Foley, Director, Institute on the Environment
FROM: Professors Hari Osofsky & Alexandra Klass
RE: Application for Spring 2012 Mini Grants
DATE: March 9, 2012

We are requesting a $3000 Mini Grant to support the University of Minnesota’s participation in a new, national collaboration organized by UCLA School of Law’s Emmett Center to study public utility commissions’ (PUCs) work on climate change, renewable energy, energy efficiency, and energy transition. Institute on the Environment fellows Alexandra Klass and Hari Osofsky are participating in the initial convening meeting of this research group at UCLA on March 9, 2012 (which was funded by UCLA), and these mini-grant funds would help support the next step in this collaboration, a summer 2012 second scoping workshop in Boulder, Colorado. This workshop will help to frame the research collaboration further and provide the basis for major grant applications. The funds would help to support the expenses of bringing leading scholars and practitioners to this scoping workshop who would expand the knowledge of the group; Alexandra Klass and Hari Osofsky will use their Institute on the Environment fellowship funds to support their own travel expenses for the workshop.

This project represents a major opportunity for the University of Minnesota, and the Institute of the Environment in particular, to collaborate with leading interdisciplinary energy scholars around the country and influence the law and policy dialogue on energy in important ways. Current participants in this collaboration include: Ann Carlson, UCLA School of Law; William Boyd, University of Colorado School of Law; Bill Buzbee, Emory Law School; Joel Eisen, University of Richmond Law School; Miriam Fischlein, UCLA Institute of the Environment; Alexandra Klass, University of Minnesota Law School; Franz Litz, Pace Law School; Jon Michaels, UCLA School of Law; Patrick Murray, Research Assistant, UCLA School of Law; Hari Osofsky, University of Minnesota Law School; David Spence, University of Texas McCombs School of Business; Shelley Welton, Columbia Law School; Barry Rabe, University of Michigan, Ford School of Public Policy; Michael Dworkin, University of Vermont Law School; Michael Gerard, Columbia Law School; Jim Rossi, Florida State University College of Law, soon to be Vanderbilt Law School; and Jonathan Zasloff, UCLA School of Law. An Institute on the Environment mini-grant to support this scoping workshop will help to support University of Minnesota as a full partner in this endeavor and seed further funding.

The U.S. approach to energy law and policy is broken, particularly at its intersection with environmental law and policy. We cannot upgrade our aging energy grid because we lack adequate federal legislation and inter-state cooperation, and as a result, are unable to transport the huge supply of wind energy from the Midwestern plains to where it is needed. The Obama Administration’s national program to integrate regulation of fuel efficiency (energy law) and vehicle emissions (environmental law) represents one of the few instances in which interrelated energy and environmental law have been brought together. In the aftermath of the BP Deepwater Horizon oil spill, over 40% of the collected oil spill waste was disposed of in municipal and county landfills of low-income communities of color, despite stated recognition of environmental justice concerns, due in part to exemptions for oil companies in how they store waste and to the unequal siting of environmental hazards.

PUCs play a critical role in both what is broken in our energy law and policy and what might be fixed. Although the federal government lacks a national climate policy, a significant
amount of activity in setting energy policy -- some of it quite progressive -- seems to be occurring at the state administrative level. In particular, PUCs across the country have set renewable portfolio standards, developed energy efficiency programs, encouraged transmission line siting and built or are building smart grids. Yet state PUCs are, by and large, an un- or at least under-explored administrative venue in the legal and policy literature. While there are particular studies that have been done and are being done on PUCs by public policy scholars, none of them focus on the legal nuance in a manner critical to progress. The relative lack of attention paid to PUCs is not surprising given that a comprehensive understanding of all fifty of them is quite difficult.

Our project aims to fill the gap by gathering together scholars from around the country to develop a collective research project. We plan to as a group to study a representative number of PUCs to figure out the role they are playing (or failing to play) in moving toward a less carbon intensive energy system. We have a number of questions we would like to see addressed in the research, including many descriptive ones: who sits on the PUCs? What kind of staff exists? Do they have an environmental unit? How do they deal with siting? How do they interact with ISOs? How do they coordinate with each other when necessary? What environmental policies have they set? How are those policies enforced? What are they doing about smart grid technology, standards and so forth? What energy efficiency programs exist and how well do they work? Out of that descriptive material, we are confident that there are interesting lessons to be drawn about successes, failures, gaps and barriers to success, etc.

We anticipate that this scoping workshop and the project will result in more collaborative research outputs with significant policy benefits, which might potentially include publications in leading journals or an edited volume, blogs, webinars, live streaming of events, and podcasts. Because all of the scholars involved are working on cutting-edge policy questions, these new synergies have the potential to improve the quality of each scholar’s work and help them craft collective strategies that would not otherwise have arisen. We also plan to tie those scholarly exchanges in with regular meetings with local, state, national, and international practitioners and policymakers to disseminate the knowledge produced and ensure that our work has relevance beyond the academy. In particular, we plan to work with public utility commissioners and other key participants in the energy industry in both the framing and dissemination stages of this project.

We anticipate that the scoping workshop and project will serve as a springboard for conceptual progress and policy change. The Institute on the Environment’s support for this project would help advance one of the key goals of the mini-grants: “Facilitating the development of new partnerships between the University and outside organizations, including NGOs, businesses and government agencies.” It would help the University interact not only with leading academic institutions, but also public utility commissions and other key entities in the energy industry.