

# JESS PHELPS

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## PROFESSIONAL EXPERIENCE

**THE LYME TIMBER COMPANY LP**  
Associate General Counsel

July 2019- Present  
Hanover, N.H.

**DINSE KNAPP McANDREW PC**  
Attorney: Real Estate & Environmental Practice Groups

July 2017 - July 2019  
Burlington, Vt.

**UNITED STATES DEPARTMENT OF AGRICULTURE, OFFICE OF GENERAL COUNSEL**  
Attorney: Natural Resources and Environment Division

July 2014 - July 2017  
Washington, D.C.

**HISTORIC NEW ENGLAND**  
Team Leader for Preservation Services

January 2011 - July 2014  
Boston, Mass.

**FAEGRE AND BENSON LLP**  
Associate: Food and Agriculture Industry Team

August 2009 - January 2011  
Des Moines, Iowa

**UNITED STATES COURT OF INTERNATIONAL TRADE**  
Clerk to the Honorable Richard W. Goldberg

August 2007 - August 2009  
New York, New York

## EDUCATION

**DRAKE UNIVERSITY LAW SCHOOL**  
Editor in Chief, 55 DRAKE LAW REVIEW (2006-2007)

*J.D.*

**IOWA STATE UNIVERSITY B.S., *Agricultural Business, Economics, History, and International Agriculture***

## PUBLICATIONS

### Law Review/Journal Articles

- *Iowa's Lost National Forests*, 47 COLUMBIA JOURNAL OF ENVIRONMENTAL LAW \_\_ (forthcoming Spring 2021).
- *Federal Land Conservation in Rural Areas*, 86 BROOKLYN LAW REVIEW \_\_ (forthcoming 2020) (with Jessica Owley, University of Miami School of Law).
- *Private Confederate Monuments*, 25 LEWIS & CLARK LAW REVIEW 252 (2020) (with Jessica Owley and Sean Hughes, University of Miami School of Law).
- *The Life and Death of Confederate Monuments*, 68 BUFFALO LAW REVIEW 1393 (2020) (with Jessica Owley, University of Miami School of Law).
- *Subdivision and Conserved Farmland*, 86 TENNESSEE LAW REVIEW 737 (2019).
- *California Carbon Offsets and Working Forest Conservation Easements*, 38 UCLA JOURNAL OF ENVIRONMENTAL LAW AND POLICY 61 (2019) (with David Hoffer, The Lyme Timber Company).
- *Agricultural Exceptionalism and Vermont Land Use Law*, 30 DUKE ENVIRONMENTAL LAW & POLICY FORUM 143 (2019).
- *Etched in Stone: Historic Preservation Law and Confederate Monuments*, 70 FLORIDA LAW REVIEW 627 (2019) (with Jessica Owley, University of Miami School of Law).
- *Historic Preservation – A Green Mountain Perspective*, 34 NATURAL RESOURCES & ENVIRONMENT, Winter 2019, at 28 (with Mary O'Neil, Principal Planner, City of Burlington).
- *Conservation, Regionality, and the Farm Bill*, 71 MAINE LAW REVIEW 293 (2019).
- *Defining the Role of Agriculture in Agricultural Conservation Easements*, 45 ECOLOGY LAW

QUARTERLY 647 (2018).

- Reprinted in 2020 ZONING AND PLANNING LAW HANDBOOK 605.
- *Understanding the Complicated Landscape of Civil War Monuments*, 93 INDIANA LAW JOURNAL ONLINE SUPP. 15 (2018) (with Jessica Owley, University of Miami School of Law).
- *Defining the Role of Conservation in Agricultural Conservation Easements*, 44 ECOLOGY LAW QUARTERLY 627 (2017).
  - Awarded the 2017 Professional Scholarship Award by the American Agricultural Law Association.
- *The National Historic Preservation Act at Fifty: Surveying the Forest Service Experience*, 47 ENVIRONMENTAL LAW REVIEW 471 (2017).
  - Reprinted in 54 ROCKY MTN. MIN. L. INST. J. 367 (2018).
- *Reevaluating the Role of Acquisition-Based Strategies in the Greater Historic Preservation Movement*, 34 VIRGINIA ENVIRONMENTAL LAW JOURNAL 399 (2016).
- *Preserving National Historic Landmarks?*, 24 N.Y.U. ENVIRONMENTAL LAW JOURNAL 137 (2016).
- *“A Tinge of Melancholy Lay upon the Countryside”: Agricultural Historic Resources within Contemporary Agricultural and Historic Preservation Law and Policy*, 33 VIRGINIA ENVIRONMENTAL LAW JOURNAL 56 (2015).
- *“Scarcely a Vestige of Antiquity Remains”: Historic Preservation and Significant Religious Architecture*, 44 ENVIRONMENTAL LAW REPORTER 10808 (Sept. 2014).
  - Reprinted in A CHANGING LANDSCAPE: THE CONSERVATION EASEMENT READER 71-83 (Jessica Jay & Laurie Ristino eds., 2016).
- *Preserving Perpetuity?: Exploring the Challenges of Perpetual Preservation Easements in a Changing World*, 43 ENVIRONMENTAL LAW REVIEW 941 (2013).
  - Reprinted in A CHANGING LANDSCAPE: THE CONSERVATION EASEMENT READER 148-57 (Jessica Jay & Laurie Ristino eds., 2016).
- *Moving Beyond Preservation Paralysis?: Evaluating Post-Regulatory Alternatives for Twenty-First Century Preservation*, 37 VERMONT LAW REVIEW 113 (2012).
- *Preserving Preservation Easements?: Preservation Easements in an Uncertain Regulatory Future*, 91 NEBRASKA LAW REVIEW 121 (2012).
- *Preserving the Delicate Balance Between Judicial Accountability and Independence: Merit Selection in the Post-White World*, 17 CORNELL JOURNAL OF LAW & PUBLIC POLICY 343 (2008) (with Justice Mark S. Cady of the Iowa Supreme Court).
- Note, *Much Ado About Decoupling: Evaluating the Environmental Impact of Recent European Union Agricultural Reform*, 31 HARVARD ENVIRONMENTAL LAW REVIEW 279 (2007).
- Note, *A Vision Unfulfilled?: Soil and Water Conservation Districts and Land Use Regulations*, 11 DRAKE JOURNAL OF AGRICULTURAL LAW 353 (2006).

#### Bar & Outreach Publications

- UNIVERSITY OF VERMONT EXTENSION, MAPLE PRODUCER CURRENT USE GUIDES (Maine, New York and Vermont) (forthcoming Fall 2021).
- NATIONAL AGRICULTURAL LAW LIBRARY/VERMONT LAW SCHOOL, A GUIDE TO AGRICULTURAL CURRENT USE PROGRAMS (forthcoming Summer 2021).
- VERMONT CURRENT USE APPRAISAL LIGHTNING BRIEF, CONSERVATION LAW FOUNDATION/VERMONT LAW SCHOOL (2020) (editor).
- *Carbon Projects and Working Forest Conservation in California*, 38 CALIFORNIA REAL PROPERTY J., Summer 2020, at 41 (with David Hoffer, The Lyme Timber Company) (joint issue also published at 29 CA. ENV'L L. NEWS, Fall 2020, at 41, and 43 CA. PUBLIC L. J., Summer 2020, at 41).

- VERMONT LAW SCHOOL, LEGAL FOOD HUB, VERMONT PRODUCER'S GUIDE (2019) (editor for land use, farm transition, and real estate chapters).
- *Vermont Real Estate*, CHAMBERS PRACTICE GUIDE (2018 and 2019) (co-author).
- *Negotiating State Commercial Feed Licensing Requirements*, FEED & GRAIN (Jan. 2011).
- *The U.S. Agricultural Economy: How Challenges and Change Present Investment Opportunity*, U.S. - SAUDI ARABIA BUSINESS BRIEF (Nov. 2010).
- *Surveying the Increasing Role of Federal Regulation Within the Commercial Feed Sector*, FEED & GRAIN (Oct. 2010).
- *Recent Legal Challenges to the RFS2*, ETHANOL PRODUCER, Sept. 2010, at 24.
- *Monsanto Banned from Planting GMO Sugar Beets*, LAW 360 ENVIRONMENTAL (Sept. 2010).
- *Evaluating the Impact of Monsanto v. Geertson Seed Farms in the Agricultural Biotechnology Sector*, AG PROFESSIONAL, Aug. 2010, at 18.
- *Recent Developments in the Enforcement of the Clean Water Act Impact Ethanol Producers*, ETHANOL PRODUCER, May 2010, at 24.
- *A Ghost Story*, IOWA LAWYER, May 2007, at 12.

#### Encyclopedia Articles

- AMERICA GOES GREEN: AN ENCYCLOPEDIA OF ECO-FRIENDLY CULTURE IN THE UNITED STATES (K. Kennedy ed., 2013) (one entry: Conventional Farming).
- ENCYCLOPEDIA OF BIOMES AND ECOSYSTEMS (R. Howarth ed., 2012) (two entries: Kennebec River Estuary & Mount Desert Island).
- ENCYCLOPEDIA OF GREEN CULTURE (K. Wehr ed., 2011) (one entry: U.S. Environmental Law).
- ENCYCLOPEDIA OF THE UNITED STATES GOVERNMENT AND THE ENVIRONMENT: HISTORY, POLICY AND POLITICS (M. Lindstrom, ed., 2010) (two entries: Soil Conservation Service & *Village of Euclid v. Amber Realty Co.*).
- ENCYCLOPEDIA OF AMERICAN REFORM MOVEMENTS (H. Kaufman & J. McKivigan eds., 2010) (two entries: Conservation Districts & Alternative Environmental Projects).

#### Preservation Publications/Op-Eds

- *Filling the Gaps*, HISTORIC NEW ENGLAND, Fall 2013, at 8.
- *Preservation Beyond Ownership: A Case Study*, HISTORIC NEW ENGLAND, Summer 2013, at 10.
- *Preserving Our Collective Past*, PERIOD HOMES MAGAZINE, May 2013, at 82.
- *Is Your House Historic?*, LINCOLN JOURNAL, May 28, 2011.
- *Iowa Court of Appeals Upholds Landmark Ordinance*, THE IOWA PRESERVATIONIST, Winter 2011, at 1.

#### ACADEMIC EXPERIENCE

- VERMONT LAW SCHOOL, Adjunct Professor, Fall 2019, Fall 2020, Fall 2021 (Agriculture and the Environment)
- COLBY-SAWYER COLLEGE, Adjunct Professor, Spring 2020 (Environmental Law)
- NORTHEASTERN UNIVERSITY SCHOOL OF LAW, Adjunct Professor, Spring 2014 (Land Use Law)
- BOSTON COLLEGE LAW SCHOOL, Adjunct Professor, Fall 2012 and Fall 2013 (Historic Preservation Law)
- BOSTON ARCHITECTURAL COLLEGE, Adjunct Professor, Spring 2013 (Preservation Law and Planning)

Academic Guest Lectures: University of Virginia School of Architecture (Preservation Planning) (Nov. 10, 2014); University of Maryland School of Architecture, Planning, and Historic Preservation (Real Estate Development) (Feb. 12, 2015) / (Historic Preservation Law) (Apr. 20, 2015; May 2, 2016; Apr. 17, 2017); Georgetown University Law Center (Historic Preservation Law) (Apr. 11, 2016 & Apr. 17, 2017); George Washington University School of Law (Food Systems and Environmental Law) (Nov. 7, 2016);

University of Maryland School of Law (Food, Farming, and Sustainability) (Jan. 17, 2017); University of South Carolina School of Law (Sustainable Development Clinic) (Jan. 30, 2017); Vermont Law School (Agricultural Law) (Oct. 18, 2017); George Mason School of Law (Nov. 11, 2019) (Food Law)

## **PRESENTATIONS/LEGISLATIVE TESTIMONY**

### Selected Presentations:

- *Understanding the Complicated Landscape of Civil War Monuments*, ABA Real Property, Trust & Estate Law Section, Professor's Corner Webinar, Oct. 8, 2019 (with Jessica Owley, SUNY Buffalo Law and Adam Swensek, Special Counsel to the Chief Justice, Louisiana Supreme Court).
- *The Private/Public Law of Confederate Monuments*, 10th Annual Association for Law, Property, and Society (ALPS) Conference, Syracuse Law School, Syracuse, N.Y., May 17, 2019 (with Jessica Owley, SUNY Buffalo School of Law).
- *Legal Issues in Farm Transfer*, Land for Good/UVM Extension Farm Succession Workshop, Berlin, Vt., Feb. 12, 2019.
- *The Complicated Legacy of Civil War Monuments*, Ninth Annual Colloquium on Environmental Scholarship at Vermont Law School, South Royalton, Vt., Sept. 22, 2018.
- *Overview of Emerging Conservation Easement Tax Issues*, Vermont Bar Association, Environmental Law Day, Burlington, Vt., June 12, 2018.
- *Preservation Easements and a Changing Climate*, 2017 National Preservation Law Conference, National Trust for Historic Preservation/Georgetown University Law Center, Washington, D.C., June 13, 2017.
- *The Public Interest in Private Land Conservation*, Georgetown University Law Center, Environmental Law Center Workshop, Apr. 6, 2017 (invited speaker to respond to Professor Federico Cheever's working paper).
- *National Historic Landmarks*, ABA State and Local Government Division, Land Use Committee, Dec. 9, 2016 (presentation for monthly nationwide committee call).
- *Fifty Years of NHPA Litigation: The Forest Service Experience*, Forest Service National Heritage Program Meeting, Washington, D.C., Oct. 11, 2016 (featured presentation for the Forest Service's NHPA 50th anniversary event).
- *Enforcement of Local Historic District Ordinances*, 2016 Maryland Historic District Legal Symposium, Annapolis, Md., June 11, 2016 (panel moderator).
- *Exploring the Comparative Use of Acquisition-Based Strategies within Contemporary Historic Preservation and Land Conservation Practice*, 7th Annual Association for Law, Property, and Society (ALPS) Conference, Queens University, Belfast, Ireland, May 20, 2016 (panel: New Frontiers in U.S. Historic Preservation Law with Professors J. Peter Byrne and Sara Bronin).
- *FERC 101*, Forest Service National Hydropower Training, Fort Collins, Co., May 11, 2016.
- *Preserving Historic Religious Structures*, 2015 National Preservation Law Conference, National Trust for Historic Preservation/Georgetown University Law Center, Washington, D.C., Feb. 25, 2015 (panel: Preservation Economics and Financial Incentives with Ross Bradford, National Trust for Historic Preservation).
- *Preservation Easements 101*, University of Mary Washington, Fredericksburg, Va, January 28, 2015.
- *Historic Preservation Restrictions and the Community Preservation Act*, Cape-Wide Historic Preservation Conference, Barnstable, Mass., Apr. 17, 2014.
- *Preserving Buildings of the Modern Movement*, Yestermorrow Design/Build School, Waitsfield, Vt., July 10, 2013.
- *Resident Curator and Easement Programs*, Boston Society of Architects – Historic Resources Committee, Boston, Mass., Feb. 14, 2013 (lecture with Kevin Allen, Mass. Dep't Conservation and Recreation).

- *After the House Museum: Returning Historic House Museums to Private Ownership*, 2012 New England Museum Association Annual Conference, Burlington, Vt., Nov. 8, 2012 (panel session).
- *Historic New England's Stewardship Program*, Boston Landmarks Commission, Boston, Mass., Aug. 28, 2012.
- *Non-Regulatory Preservation: Exploring the Available Alternatives*, Cape-Wide Historic Preservation Conference, Harwich, Mass., Apr. 9, 2012.
- *Building Community Consensus to Conserve Landscapes*, 2012 Massachusetts Land Conservation Conference, Worcester, Mass., Mar. 23, 2012.
- Testimony, Massachusetts Joint Committee on State Administrative and Regulatory Oversight, S.B. 2053, opposing legislation relative to certain projects referred to the Massachusetts Historical Commission for consultation (Jan. 24, 2012).

## **ADMISSIONS**

- New Hampshire; New York; Vermont; and Iowa (inactive status)
- United States Court of Appeals for the Eighth Circuit
- United States Court of International Trade

## **PROFESSIONAL & CIVIC INVOLVEMENTS**

### Professional Involvements:

- Land Trust Alliance, National Conservation Easement Defense Network (2017 – Present)
- American Agricultural Law Association, Conference Planning Committee (2017–2019); AGRICULTURAL LAW UPDATE Committee, Co-Editor (2018 –2019)
- ABA State and Local Government Division, Land Use Committee, Historic Preservation and Architectural Control Subcommittee, Chair (2015 – 2017)
- Massachusetts Land Trust Coalition, Conservation Easement Defense Subcommittee Member (2013 – 2014)
- Lawyers' Committee for Cultural Heritage Preservation, Student Writing Competition Judge (2012, 2014 – Present)

### Civic Involvements:

- Norwich Historic Preservation Commission, Commissioner (2020 – Present)
- Vermont Land Trust, Board of Directors, Governance and Nominations Committee Chair (2019 – Present)
- Lake Champlain Committee, Board of Directors (2018 – 2021)
- Green Mountain Habitat for Humanity, Board of Directors (2017 – 2019)
- Preservation Burlington, Board of Directors (2017 – 2019)
- Maryland Association of Historic District Commissions, Board of Directors (2016 – 2017)
- Beacon Hill Architectural Commission, Commissioner (mayoral appointment to commission tasked with reviewing project proposals in National Historic Landmark District) (2013 – 2014)
- Massachusetts Statewide Preservation Conference, Content Committee (2013)
- Nichols House Museum, Board of Directors (2013 – 2014)
- Old South Church, Operations Committee (2012 – 2014)
- Massachusetts Preservation Coalition, Historic New England representative (2011 – 2014)
- Preservation Iowa, Board of Directors (2009 – 2011)