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"Negotiating Environmental Deferalism: Dynamic Federalism as a Strategy for Good Governance"

Ryan, Erin

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I begin with great thanks to the Wisconsin Law Review for the opportunity to be a part of this timely and important conversation about executive power and administrative governance. I have been invited here to share my work on negotiated federalism, which explores the way that good multiscalar governance is often the product of intergovernmental bargaining among decision makers at various levels of government. As I have described in this work, negotiations are sometimes conducted purposefully, in statutorily prescribed ways, and elsewhere more serendipitously or even inadvertently, as a byproduct of the wider political process. The privileged constitutional status of the federal and state governments brings special attention to the negotiations that take place among state and federal actors, but similar dynamics apply in negotiations involving local, regional, national, and international actors. And while all three branches of government participate in different forms of negotiated governance (some more and less obvious), the executive branch features especially prominently in these efforts.

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