



## NRULPC Newsletter Vol. 1, Number 2

### Co-Director's Report: Task Force Meeting Set

**\*\*\*Save the Date - February 26, 2018\*\*\***

A recent visit to Tucson by new Natural Resource Use and Management Clinic Director, Bethany Sullivan, provided the opportunity to learn about the first group of students enrolled in the Clinic's spring seminar course and to discuss options for their client matters. The Co-Directors also met with Joe Willis, Chair of the NRULPC Task Force, to begin making preliminary plans for holding a Task Force meeting on February 26, 2018. The location will be in Tucson on the campus of the University of Arizona in the newly refurbished Old Main Building. The meeting will be held from 1:00pm-3:00pm and will include presentations, reports, and opportunities for small group discussions. A reception will immediately follow. Please mark your calendars and stay tuned for more information!

Wishing you and your families a festive and healthy holiday season!

George Ruyle and John Lacy, co-directors



## Spotlight on Task Force Members



Joe Willis (Schwabe, Williamson, & Wyatt), Chair of the NRULPC Task Force, specializes in natural resources and real estate and construction law. Mr. Willis has 45 years experience in helping people who own property that the government wants to take over for public projects, and has handled well over 1,000 cases with stellar results. Joe has been involved in many precedent-setting cases and stays abreast of cutting edge issues in eminent domain and inverse condemnation. His reputation for trying difficult cases often prompts opposing parties to settle. We are



Andy Groseta, NRULPC Vice-Chair, is a third-generation cattleman from Cottonwood, Arizona. His family is one of the pioneer mining and ranching families in north central Arizona. Andy's family ranching operation has included the Pine Creek Ranch, a stocker ranch, located north of Williams, Arizona (1980-2000); and, the W Dart Ranch, a cow/calf operation headquartered in Cottonwood that has been in business since 1922. Mr. Groseta is a 1972 graduate of the University of Arizona with a B.S. in Agricultural Education and Animal Science and he received a Master's Degree in

extremely pleased that Mr. Willis has agreed to be a Chair of the NRULPC Task Force!



Agricultural Education in 1978. He was an Agricultural Education Teacher/FFA Advisor at Amphitheater High School (Tucson) 1972-1980. He is also a Past President (2008) of the National Cattlemen's Beef Association and was recognized as the 2011 Agriculturalist of the Year by the Ag100 Council (University of Arizona).

## Natural Resource Use and Management Clinic Update



New Clinic Director, Bethany Sullivan, Esq., recently visited Tucson and met with NRULPC Co-Directors Lacy and Ruyle to assess options for matters that will be matched to student interests and public needs. After a competitive application process, Director Sullivan reported there will be six students taking the first Clinic course during the spring semester. The students come from a variety of backgrounds and bring a diversity of experiences to the Clinic. Matters considered include compiling and reviewing all notable Arizona natural resources litigation, updating a NEPA handbook, conducting an extensive review of the notice and comment process for the Mexican Grey Wolf management plan, creating a handbook for the Federal administrative appeals process, and assessing the implications of the proposed American Indian Empowerment Act. Director Sullivan will meet with students to discuss these options and determine the best fit for each student and the University resources.



## Recent Court Decisions

**Grazing** | Region 3 - ***Sacramento Grazing Association, Inc. et al. v. USFS*** - U.S. Court of Federal Claims issued a ruling that found the USFS had effected a taking under the Fifth Amendment to the United States Constitution of the Sacramento Grazing Association's ("SGA") right to beneficial use of stock water sources under New Mexico law that are located within the Lincoln National Forest. The judge decided that SGA and the Goss Family are entitled to just compensation for the taking, which the judge will decide in the next phase of the case. Trial was held in 2012 on the issue of whether or not the Forest Service had taken SGA's stock water rights. On November 3, 2017, the court issued its opinion. (04-786 L) (Nov. 3, 2017)

[https://ecf.cofc.uscourts.gov/cgi-bin/show\\_public\\_doc?2004cv0786-204-0](https://ecf.cofc.uscourts.gov/cgi-bin/show_public_doc?2004cv0786-204-0)

**Grazing & Wildlife** | Region 4 - The District of Idaho ruled favorably for the Forest Service on a NEPA challenge to four grazing allotments on the Salmon-Challis National Forest in ***Western Watersheds Project v. United States Forest Service***. Plaintiff sought to stop grazing on the allotments due to stream quality concerns by arguing the Forest Service failed to comply with the INFISH aquatic conservation strategy. In this case, the Forest Service stated that roads are the biggest source of harm to the streams and wanted to focus its efforts on road maintenance and trails. The court did not disallow the agency's decision to continue allowing grazing on the challenged allotments. (15-00218, D. Idaho.) (Nov. 3, 2017)

**Forest Plans** | Region 1 – The District of Montana ruled for and against the Forest Service on a case challenging the 2015 revised Kootenai and Idaho National Forest Land Management Plans in ***Ten Lakes Snowmobile Club et al. v. United States Forest Service et al.*** Plaintiffs claimed numerous violations of the Wild and Scenic Rivers Act (WSRA), the National Forest Management Act (NFMA), the National Environmental Protection Act (NEPA), and the Wilderness Act. While the court ruled the Forest Service properly designated the two river segments as eligible, the court found the agency abused its discretion by not proving an adequate public comment period on the recommendation. The court remanded the plans with instructions for several actions. (15-00148, D. Mont.) (Oct. 27, 2017)

**Grazing** | Region 3 – The District of New Mexico found in favor of the Forest Service on NEPA claims against the decision to reduce the number of grazing permits for the Alamosa and Jarita Mesa Grazing Allotments on the Carson National Forest in ***Jarita Mesa Livestock Grazing Association et al. v. USFS et al.*** Regarding socioeconomic effects and NEPA analysis, the court found it “well-settled that socioeconomic impacts, standing alone, do not constitute significant environmental impacts cognizable under NEPA” and “only when an action ‘will have primary impacts on the natural environment’ will ‘secondary socioeconomic effects’...be considered.” As the court found the Plaintiffs only challenged the grazing reduction’s socioeconomic impacts and not the reduction’s environmental impacts, the court found the Forest Service did not violate NEPA. The court concluded nothing in the record reflects the agency had limited its choice of actions prior to the completion of its NEPA analysis, therefore the court ruled the Agency did not violate NEPA. (12-69, D.N.M.) (Oct. 20, 2017)

## ***New Cases***

**Grazing & Wild Horses** | Region 5 – A preservation group and several ranches filed a complaint against the Forest Service alleging the agency is violating the Wild Free Roaming Horses and Burros Act (WHA) and NFMA for its failure to remove excess wild horses on the Modoc National Forest in

***Devils' Garden Preservation Group et al. v. McAdams et al.*** (17-00153, D. Mont.) (Oct. 27, 2017)

**Wildlife & Grazing** | Region 4 – Environmental groups filed suit in the District of Idaho alleging NEPA and National Forest Management Act (NFMA) claims against the agency authorizing domestic sheep grazing in the fall and winter on the Snakey and Kelly Canyon allotments on the Caribou-Targhee National Forest in ***Western Watersheds Project et al. v. USFS.*** (17-434, D. Idaho) (Oct. 20, 2017)

### ***Notices of Intent***

**Grazing & Wildlife** | Region 4 - The Western Watersheds Project (WWP) submitted a Notice of Intent to sue under the Endangered Species Act (ESA) regarding the Forest Service's authorization of livestock grazing on the Williams Creek allotment in the Sawtooth National Forest. WWP asserts that the agency during the consultation agreed to certain monitoring requirements and that this monitoring is not happening resulting in a violation of ESA and a need to reinstate consultation. (Nov. 3, 2017)

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