



## NRULPC Newsletter Vol. 1, Number 6

### Co-Director's Report

The spring 2018 semester is over and the NRULPC and Natural Resource Use & Management Clinic are celebrating many successes. Clinic students completed their classwork, with several preparing excellent culminating project papers on such topics as grey wolf reintroduction and tribal energy development (see abstracts below along with links to the full reports). The WOTUS webinar provided by Jim Burling, Esq. in April was extremely well-received by a wide range of participants throughout the state, including the undergraduate students from ACBS/LAW 411. The NRULPC listserv has been an active communications tool for providing notices about current legislative issues and meetings have been held with development officers in both CALS and Law – gearing up for a new outreach campaign. In addition, NRULPC has taken on projects to address law and policy needs of stakeholders including land ownership and water jurisdiction issues (Yuma Island farmers), landowner prescribed fire liability issues (Altar Valley Conservation Alliance), and streamlining the NEPA process (Arizona Cattle Growers' Association and the USFS). Finally, although the NRULPC website is still in development, we are pleased to announce its “beta” launch and we look forward to your comments and suggestions. You can find the NRULPC website at <https://extension.arizona.edu/NRULPC>.

Best wishes,  
George Ruyle and John Lacy  
co-directors

## Spotlight on Task Force Members



Sarah Roubidoux Lawson works with tribal governments and tribal entities to achieve self-governance and economic development goals while protecting tribal resources and sovereignty. Before joining Schwabe, Sarah spent over 10 years working in tribal government, advising tribal councils and tribal departments on a variety of matters including contracts, real estate development, and legislation. Sarah's work is particularly focused on tribal land and natural resource management, and she is widely regarded as an authority on issues involving Indian trust land. Sarah is admitted to practice in Arizona state and federal courts, as well as with the Navajo and Tohono O'odham Nations. She earned her B.A. from the University



Stefanie Smallhouse graduated with honors from New Mexico State University, receiving a Bachelor of Science in Agriculture degree with studies focused in Wildlife Science and Range Management. Stefanie worked as a wildlife biologist for the Bureau of Land Management in Southern Utah before marrying her husband, Andrew Smallhouse, and moving to the San Pedro River Valley in Southeastern Arizona. Their ranch was established by Andy's family in 1884 and they are raising the sixth generation. Stefanie helps manage their cow/calf operation, farm, mesquite lumber business, and saguaro nursery. She has been the Executive Director for the Arizona Natural Resource Conservation District State Association and most

of Michigan, her J.D. from the University of Wisconsin, and her LL.M. in Tax from the University of Washington. Sarah is an enrolled member of the Iowa Tribe of Kansas and Nebraska, a federally recognized tribe.



recently the Arizona Water Protection Fund. She also served as an elected official on the Redington Natural Resource Conservation District Board of Supervisors. Stefanie participated in the Partners in Agricultural Leadership Program sponsored by the American Farm Bureau Federation (AFBF) and Monsanto, and currently serves as the AFBF President.

## Clinic Update: Student Project Reports

### **A Look at the Past, Present, and Future for the Endangered Mexican Gray Wolf**

By Kelsey Gunderson and Holly Bainbridge

Full report - <https://extension.arizona.edu/sites/extension.arizona.edu/files/attachment/mexican-gray-wolf.pdf>



The story of the Mexican gray wolf arguably begins in 1973 when Congress passed the Endangered Species Act (“ESA”) in response to the extinction of some of the Nation’s native plants and animals, and the fear that many other species were following the same path. The purpose of the ESA was to protect and recover species in danger of going extinct and to protect the ecosystems upon which these species depend. The Mexican gray wolf, a top predator native to the southwestern United States and Mexico, suffered from extremely low population numbers after deliberate extermination by humans and years of losing natural habitat. The Fish and Wildlife Service (“FWS”) has engaged in efforts to conserve and ensure the survival of the Mexican gray wolf for over 30 years, avoiding the wolf’s immediate extinction by listing the species for protection under the ESA and initiating a captive breeding program from the

descendants of seven captured Mexican wolves. The FWS's development of a long-term recovery plan, however, has been a long and difficult process filled with much scientific debate and controversy. The Final Recovery Plan, issued in November of 2017, focuses on expanding the geographic range of the Mexican wolf, increasing the population size, improving genetic diversity, monitoring wild populations and implementing adaptive management, and collaborating with partners to address social and economic concerns related the recovery of the species. The Recovery Plan is not the final word on Mexican gray wolves, however, as there are continued opportunities to both challenge the Recovery Plan and participate in its implementation via district court litigation, proposed federal legislation, and built-in regulatory review periods.

**Enabling Tribal Development:  
A Look at Current Legislative Efforts in the  
Mineral & Energy Sectors**

By Peter Mather

Full report: <https://extension.arizona.edu/sites/extension.arizona.edu/files/attachment/tribal-development-mather.pdf>



Tribes across the nation face a development crisis. Their lands hold vast reserves of undeveloped minerals and tremendous potential to generate energy. This untapped potential could provide the growth and opportunity that many tribes desperately desire. However, policies within the Department of Interior, complex and burdensome legal frameworks, and a lack of Congressional action have all but stalled tribal energy and natural resource development. For example, in a decade of unprecedented development of renewable energy projects, tribes find themselves unable to complete even a handful of utility scale energy projects. The legislation Congress passed in 2005 to enable tribal energy and natural resource development has proved ineffective. In over a decade since the passage of the Energy Policy Act of 2005, no tribe has successfully entered into a Tribal Energy Resource Agreement and, in 2015, only one utility scale wind project was operational on tribal lands—compared to almost 700 utility scale wind projects completed over that same time. In light of these dire circumstances, new legislation is

required. Two recent bills seek to address the gridlock in tribal energy and natural resource development. This article will provide a summary and analysis of the proposed Native American Energy Act and Indian Tribal Energy Development and Self-Determination Act and argue that the latter provides an effective framework for the change tribes need.

## Washington D.C. Update from Jeffery Eisenberg

### Forest Service Discriminates against Arizona Rancher

In a case filed with the U.S. Department of Agriculture, Office of Civil Rights (OCR), the Department found that the Forest Service (FS) discriminated against David and Diana Cook in its administration of their grazing permit on the Tonto National Forest, Globe Ranger District. The Cooks are minority ranchers and are registered with the USDA as limited resource producers. The Cooks principal claim was that the FS cut the authorized cattle number of for their allotment but maintained the same level of cattle for the two immediately adjoining neighbors, even though the Cooks' allotment was in demonstrably better condition than that of their neighbors. The OCR found:

- Evidence supported the Cooks' contention that their allotment had "more acreage in satisfactory condition" than both the adjoining allotments;
- The District Ranger's action "of further reducing the grazing permit numbers appears to be deliberate and spiteful, and possibly vengeful";
- "The methods used by the District Ranger to determine the [Cooks'] permitted grazing numbers seem arbitrary and capricious";
- "The record contains sufficient evidence to suggest that FS officials treated the [Cooks] less favorably than other similarly situated ranchers";
- The FS discriminated against the Cooks with respect to administration of the grazing permit.

The OCR also found that the FS "discriminatorily delayed the installation of the

[Cooks'] conservation practices; and, that the FS' ignoring for six years the Cooks' request for replacement pipeline destroyed in a FS set fire to be evidence of discriminatory animus. For relief, the OCR invited the Cooks to submit a claim for equitable relief to make up for some of the financial losses they suffered as a result of the discrimination. The Cooks' claim for equitable relief is still pending before the Department. It also ordered the FS to take a number of steps to end its discrimination against public users of agency programs.



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