



## NRULPC Newsletter Vol. 2, No. 3

**SAVE THE DATE:**

***NRULPC Advisory Board Meeting Set for April 29<sup>th</sup> in Phoenix***

### Co-Directors Update

Greetings NRULPC Advisory Board Members and Supporters,

The new year is off to a busy and productive start for both the Center and the Clinic. Classes are well underway as you will see below in the update by Bethany. Additionally, ACBS/Law 411 is also on-going this semester and in a larger classroom to accommodate the increased enrollment. Projects/matters continue on such issues as the new WOTUS ruling, dairy workers, artificial beaver dams, NEPA, and stream adjudication and tax issues. The NRULPC website continues to be updated with new resources such as video interviews with key stakeholders [<https://extension.arizona.edu/nrulpc>]. At the same time, the Center and Clinic staff are following up on the many excellent suggestions that originated from the November virtual Advisory Board meeting. To that end, we are working on plans for an in-person Advisory Board meeting to be held on Monday, April 29<sup>th</sup>, at the Maricopa County Extension Office. Besides activity updates, there will be presentations by invited speakers as well as discussion/planning sessions on communications and Advisory Board engagement. We hope all Advisory Board members will be able to attend. Finally, Bethany and her students are in the process of creating an exciting new blog to be launched soon. Please watch for it!

Best wishes,

George Ruyle and John Lacy  
co-directors

## Spotlight on Task Force Members

**Sandra Fabritz-Whitney** is committed to the preservation of water resources for future generations of Arizonans. She has been in water planning, administration and policy development in Arizona and the Southwest US for nearly 30 years. Sandy currently oversees global water strategy and policy for Freeport Minerals Corp., one of the world's largest publicly traded copper producers headquartered in Phoenix,



Arizona. Prior to joining Freeport, Sandy was the Chair of the Arizona Water Banking Authority and the Director of the Arizona Department of Water Resources where she worked for many years, beginning her career in 1992 as an intern. She is currently a member of the Governor's Water Augmentation Council, Governor's Drought Contingency Plan Steering Committee and chair of the Water Policy Committee of the Arizona Mining Association. Sandy holds a Bachelor of Science: Environmental Resources in Agriculture with a program emphasis in Livestock Rangelands Management and Natural Resource Management from Arizona State University.

## Natural Resource Use & Management Clinic 2019 Spring Semester Update

By Bethany Sullivan

This semester the clinic is again in full force with six enrolled JD students. In the classroom, the students are learning fundamentals of public land law, administrative law and procedure, water rights and adjudications, and other components of the legal practice. They are tackling a range of projects, such as analyzing how the newly proposed Waters of the United States jurisdictional rule will impact Arizonans and finalizing an administrative appeals handbook to assist ranchers who wish to challenge permitting decisions with the Bureau of Land Management and U.S. Forest Service. Additionally, they are fine-tuning

their tech skills to create a new blog highlighting hot topics in natural resource law and policy that particularly impact Arizona and the Southwest. A couple students will have the opportunity later this spring to guest teach about public land law to an undergraduate rangeland management course.

In addition to coursework and projects, the clinic aims to bring students outside the classroom. At the end of last semester, Sarah King welcomed the clinic students into her home and provided a tour of her ranching operations. The students also visited the Campus Agricultural Center and Pima County Extension Office. This semester, the students hiked Mt. Lemmon while learning from American Indian Studies professor, Len Necefer, about the local history and use of sky



islands by indigenous communities, the U.S. military, recreationists, and others. In March, NRULPC Co-Director John Lacy, an expert in global mining law, will join the clinic as it visits the ASARCO Mineral Discovery Center and active copper mine in Green Valley, Arizona. We are always looking for new ways to get the students out onto working landscapes, so please feel free to contact Professor Bethany Sullivan at [bcnull@email.arizona.edu](mailto:bcnull@email.arizona.edu) with suggestions.

## Revised Definition of "Waters of the United States" - Proposed Rule

On December 13, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Army Corps) [released](#) a prepublication version of a proposed "Waters of the U.S." (WOTUS) definition to replace the 2015 WOTUS rule issued under the Obama Administration. In its official statement, EPA stated the intent of the proposed definition is to provide a "clear, understandable and implementable definition of "Waters of the U.S." that clarifies federal authority under the Clean Water Act." The new rule would overturn the definitions issued in 2015 and would mark a significant reduction of the federal government's jurisdiction over waters in Arizona. It is less clear what the proposed shift in jurisdiction towards the state actually means for management of water quality and quantity in the state.

In 2015 rule, the Administration defined Waters of the United States as

including all upstream tributaries that physically connected to traditionally navigable waters, and the wetlands adjacent to these tributaries. The proposed new rule cuts back on this broad claim of federal jurisdiction. While it is true that tributaries and adjacent waters play an important role in maintaining the chemical, physical, and biological integrity of traditional navigable waters, the scientific relationship of these waters and their properties does not change the legal requirement that federal jurisdiction over the waters is predicated on navigability. This change in understanding about the scope of federal jurisdiction would bring a significant change to the number of waters over which the U.S. would claim jurisdiction in Arizona. Most significantly, the proposal excludes ephemeral streams from federal jurisdiction which compose a significant percentage of surface waters in Arizona. The proposal to limit the scope of jurisdiction of tributaries could also have significant impact on the number of wetlands and ditches in the state that will be subject to federal management. The proposed rule was published in the [Federal Register](#) February 14 and a public hearing on the proposed rule is scheduled for February 27-28 in Kansas City, Kan. For more information, please contact Jeff Eisenberg at: [jeffeisenberg@rockspringrs.com](mailto:jeffeisenberg@rockspringrs.com).

## **NRULPC Advisory Board Member Stefanie Smallhouse in the News!**

**Excerpt from Arizona Daily Star (February 3, 2019)  
"Tucson-area farmer helps ag win at state legislature"**

Tucson used to be a ranching town in an agricultural state. In today's urbanized



Arizona, though, farmer-ranchers like Stefanie Smallhouse are a rarity. Smallhouse and her husband, Andy, operate the Carlink Ranch northeast of Tucson along the San Pedro River, and she is also president of the Arizona Farm Bureau Federation, a powerful agricultural industry group.

Despite how rare people like the Smallhouses are among Arizona's metro-centered populace, farmers won a solid victory with the passage of the drought contingency plan last week. The plan commits to providing Pinal County farmers \$9 million toward converting from Colorado River water back to groundwater pumping by 2023. That was \$4

million more than the \$5 million the plan contained before the Legislature amended it, almost doubling state funding for these farmers in transition.

Smallhouse and other ag representatives also pushed successfully for a separate \$20 million commitment that is expected to be covered by federal grants. But it's likely the broader solution of the Pinal farmers' water-sourcing problems will also lead to more problems that need solving soon, too.

Read the [full article](#)

## NRULPC Website Updates

Several revisions and updates were made recently on the NRULPC website - <https://extension.arizona.edu/nrulpc>. The link "Newsletters and Other Resources" is now the location for newsletter issues, NRULPC-generated papers, and related resources. The section "Advisory Board Meetings & Events" now includes meeting minutes and presentations as well as information about special NRULPC-sponsored events. Also, we have updated the "Student Programs" section to include information about the James E. Rogers College of Law's online degree program that includes courses with strong natural resource management considerations including environmental laws and regulatory policies. Of special interest is the new video from the Public Land Use course with interviews with leaders in the timber industry – [The Timber Resource](#). Please check them out. We are always happy to receive comments and suggestions for how to improve the website! [contact: Barbara or Sheila at [barbarah@cals.arizona.edu](mailto:barbarah@cals.arizona.edu) or [merrigan@cals.arizona.edu](mailto:merrigan@cals.arizona.edu)]



THE UNIVERSITY OF ARIZONA  
COOPERATIVE EXTENSION

**Natural Resource Users  
Law & Policy Center**

A collaboration between the  
James E. Rogers College of Law and  
the College of Agriculture & Life Sciences

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