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## **NRULPC Newsletter Vol. 2, No 6**

December 2019

***SAVE THE DATE:***

***NRULPC Advisory Board Meeting - January 27<sup>th</sup> in  
Phoenix***

## Co-Directors Update



Season's Greetings NRULPC Supporters!

From all of the NRULPC and Clinic staff and students, we first and foremost want to extend our very best wishes to you and your families for a healthy and joyous holiday season, one with time for relaxation and reflection as we face the beginning of a new decade!

As we look back on this productive and busy year, we are gratified for the support you and many others have given to the Center that allows us to continue to find solutions to the legal and policy needs of our underrepresented communities as well as facilitate the development of the next generation of natural resource professionals. Thank you!

Now we are focused on looking forward and, especially, to meeting with many of you in Phoenix at the next NRULPC Advisory Board meeting. Please make sure you have January 27<sup>th</sup> on your schedules. You should have already received an initial invitation and draft agenda for the meeting (if not, please let us know ASAP). We cannot overstate how important it is for us to have an opportunity to gain from your expertise and perspectives. Your participation will help guide the Center's future directions.

As you will see in the updates and reports below, the Center's staff and Clinic students have been engaged in a variety of activities and projects that are bearing considerable fruit! Presentations have been made at the Public Lands Council preliminary business meeting and to prospective students who are returning veterans from the Navajo Nation. A number of publications are nearing completion - the new

NEPA Handbook and an intensive review of Proposed 2019 Rule for WOTUS. We are particularly excited to have received funding to fill a Law Fellow position that will focus on assisting with Clinic supervision and project development.

Again, we look forward to seeing you in Phoenix in the New Year. As ever, please always feel free to contact us with any questions you might have about the Center or Clinic.

Warmest wishes,  
George and John  
Co-directors

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## **Clinic Student Happenings**

*Priya Sundareshan*

As the holidays approach and the Fall 2019 semester comes to an end, it is time to reflect on the projects and activities the clinic students participated in over the last few months. Student work on their projects is now wrapping up, and include written memoranda for their respective clients on state requirements to permit alternative beaver dams for watershed restoration, the existing rules and options for forestry research and management on state trust lands, analysis of the comments submitted by Arizona stakeholders on the proposed federal rule on Water of the United States, and an update to a handbook for ranchers on the National Environmental Policy Act (NEPA) process. Each student has also worked on a post for the Western Lands Blog on a topic of individual interest (see list of recent blog posts below).

In class, the students received overviews of various natural resource laws and management regimes, including from three guest speakers: Diane Vosick of NAU's Ecological Restoration Institute, who spoke about forestry management and research into thinning practices to

minimize wildfire risk; Cyndi Tuell of Western Watersheds Project, who gave insights into her use of the Freedom of Information Act in her legal practice; and Matthew McDonnell, an energy consultant who shared his prior experience as a staff attorney for Hawaii's utility regulatory agency. The students also learned about the practical skills involved in legal practice, including the legal ethics of client representation, how to comment within the NEPA process on proposed projects, and strategic advocacy.

But perhaps the aspect of the clinic the students most enjoyed were the field trips to see natural resource management in the real world. The students made a visit to King's Anvil Ranch to observe the family ranching operations and enjoyed sitting in the bed of Sarah King's pickup truck as they observed the ranch. The students also toured the San Xavier Mining Laboratory run by the University of Arizona, which included climbing down a few hundred feet on (somewhat rickety) wooden ladders. The pictures here show the fun the class had on these trips!



Sarah King from the Anvil Ranch describes the Altar wash.



Clinic students looking at a cattle watering tank at the Anvil Ranch.

NRULPC clinic students walking to the San Xavier Mine entrance.



Looking into the mine shaft at the San Xavier Mining Laboratory.



## Advisory Board Column

### ***Stable Populations and Conservation Work, Not Enough to Prevent Litigation***

***By Stefanie Smallhouse***



In 2008 the Wild Earth Guardians and Western Watersheds Project petitioned the U.S. Fish and Wildlife Service to list the Sonoran desert tortoise (*Gopherus agassizii*) (SDT) as threatened or endangered under the Endangered Species Act (ESA). They identified several factors, including livestock grazing, that “may cause destabilizing declines” in tortoise populations. The petition highlighted areas where these activities overlap tortoise habitat and stated “there are little data available on the severity of each possible threat

to tortoise populations”.

The general basis of identifying grazing as a threat was determined by assuming that cattle exist where tortoise exist, cattle eat grass, tortoise also eat grass and therefore cattle are endangering the tortoise. Despite recognizing that the existing population data was inconsistent, sporadic and controversial, the petition justifies its

request with this same information as the best available science.

Early in the petition process an extensive effort by the AZ Game and Fish Department, Bureau of Land Management, Natural Resource Conservation Service, and the Winkelman NRCD was initiated to develop Best Management Practices for ranchers when installing conservation practices in SDT habitat to reflect proactive conservation measures.

In 2015 the FWS published its species status assessment for the SDT and found that the factors identified are not threatening, populations are stable and conservation efforts are beneficial. This is an example of the ESA process working; poor data was vetted and conservation partnerships and programs precluded the need for listing. Despite this, the petitioners filed suit against the USFWS this fall challenging the decision.

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## Spotlight on Advisory Board Member

*Bethany Sullivan*



As many of you may remember, Bethany Sullivan joined the NRULPC program in Spring 2018 as the inaugural Director of the Natural Resource Use & Management Clinic at the James E. Rogers College of Law. After running the Clinic for three semesters, Bethany transferred the reins to current Clinic Director Priyanka

Sundareshan, and has since returned home to the Bay Area in California. Bethany is now practicing law with the firm of Maier, Pfeffer, Kim, Geary, & Cohen LLP, where she works with tribal government clients on a range of issues relating to governance, business transactions, social welfare programs, gaming, taxation and economic development. Her practice includes counseling tribes on the acquisition and use of land, as well as environmental compliance for tribal development projects. Bethany also serves as a member of the NRULPC Advisory Board and she is thrilled to see the program

continue to grow and provide essential services, support, and leadership to the community.

### ***New Resources on the NRULPC Website and Blog***

- [Federal Appeals Handbook](#) - Guidance for Appealing Grazing Decisions
- [Mega-Wildfires in the Western U.S: A New Phenomenon, or Merely Predictable Events?](#)
  - [Summary Abstract](#)

### ***Western Lands, Western Waters Blog*** - new posts this semester

- Imperial County Declares Local Emergency Over the Decline of the Salton Sea
- Reclaimed Water A Potential Boon Under Drought Contingency Plan
- To the Moon and Back - Mining for the 21st Century
- U.S. Forest Service Proposes Changes to NEPA Regulations to Roll Back Environmental Review Requirements
- Desperate Action Needed to Save a Small Species of Porpoise from Extinction
- Federal Judge in Tucson Rules on Rosemont Mine with Broad Impacts

## Communications Outlets

### Natural Resource Users Law & Policy Center (NRULPC)

The Natural Resource Users Law and Policy Center (NRULPC) is a creative partnership of the University of Arizona's James E. Rogers College of Law and Cooperative Extension that grew out of grassroots discussions. The Center's aims are to collaborate with stakeholders, monitor industry decisions and efforts, provide scholarly legal and policy analysis, and address the underrepresented law and policy needs of the natural resource community of Arizona and the West.



*NRULPC  
Website*

### Newsletter and Other Resources

#### Newsletters

- Vol. 1, Number 1 - November 2, 2017 - Welcome to the First NRULPC Newsletter!
- Vol. 1, Number 2 - December 22, 2017
- Vol. 1, Number 3 - February 9, 2018
- Vol. 1, Number 4 - March 19, 2018
- Vol. 1, Number 5 - April 30, 2018
- Vol. 1, Number 6 - May 31, 2018
- Vol. 1, Number 7 - July 24, 2018
- Vol. 2, Number 1 - October 19, 2018
- Vol. 2, Number 2 - December 20, 2018
- Vol. 2, Number 3 - February 25, 2019

*Newsletter*

### JAMES E. ROGERS COLLEGE OF LAW Natural Resource Use & Management Clinic

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### Western Lands, Western Waters

Hot topics in natural resource law and policy affecting the American West

*Blog*

The NRULPC website provides information on the about the center, student programs, leadership and staff, out publications and the Advisory Board.

[go to >>](#)

The first issue of the NRULPC newsletter was released November 2017. It is published at various times of the year, but generally about every two months.

[go to >>](#)

The Blog is our newest resource with our first release in April 2019. All posts carefully researched and written by NRULPC Clinic students

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