



## NRULPC Newsletter Vol. 3, No. 2

*September 28, 2020*

### Co-Director's Update

Greetings NRULPC Friends,

As a new academic year has begun under the continuing cloud of COVID-19, we find we are as committed as ever to continuing the good work of the NRULPC and the Law Clinic. In the updates below, you will see that classes are in full swing and students are actively engaged in learning, no matter the remote environment. **Please mark your calendars for an exciting and informative Mining Law Summit on November 6th and an Advisory Board meeting on December 3rd (via Zoom).** Listserv announcements will be sent out with more details soon!

We are especially grateful for the continuing interest in and support of our Advisory Board members and such organizations as the Arizona Cattle Industry Research and Education Foundation with their donation of \$10,000 and the Yavapai Board of Supervisor for their donation of \$5,000. With these additional funds the NRULPC is better able to respond to individual and community requests for policy and legal guidance. We welcome hearing from you about issues of concern or any other aspects of the work of the Center and Clinic.

Stay well and safe.

Best wishes,

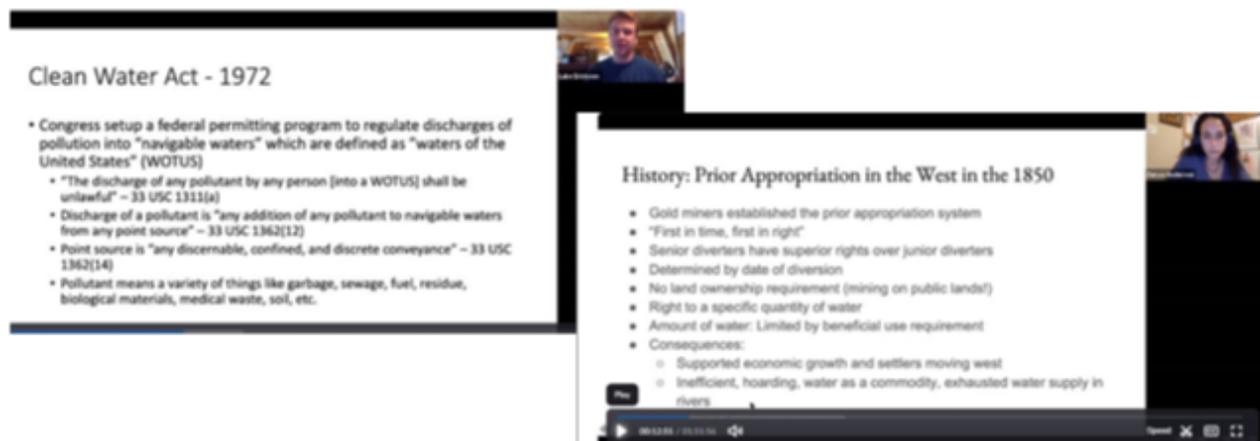
## Clinic Update

*Priya Sundareshan*

The Natural Resource Use & Management Clinic has begun (and is now a few weeks into) the Fall 2020 semester! We have 6 students this semester enrolled in the clinic, which includes 4 second-year JD students who are new to the clinic, and 1 third-year JD student and 1 Masters of Legal Studies student, both of whom are continuing in the clinic from the previous semester. The students have been assigned to their clinic projects and have connected with their clients for initial meetings, and will soon be deep in the details of the relevant natural resources legal regimes while supervised by me and Clinic Fellow Colin McKenzie. Their projects this semester include:

- A deep dive into the Clean Water Act's mitigation bank rules;
- An inventory of the Arizona statutes and codes for references to the Clean Water Act and gaps resulting from the new WOTUS rule;
- Planning out a robust tribal consultation process for engagement in the statewide water rights adjudication in Arizona;
- Analysis of the Arizona constitution and caselaw to understand the authority of the Arizona Corporation Commission;
- Analysis of the arguments around the definition of subflow to delineate groundwater and surface water in Arizona; and
- Legal mapping of the Law of the River and related ethical issues such as social license to operate.

*Students presenting projects via Zoom.*



Apart from their assigned projects, the students will also each draft a post for the blog at [westernlandsblog.arizona.edu](http://westernlandsblog.arizona.edu), and they are currently learning how to comment on agency

proposals using the example of BLM's Environmental Impact Statement for updated oil and gas leasing in the Chaco Canyon region. The students have also each researched a natural resource statute or management regime and presented to the others in class. Unfortunately we have had to forego field trips this semester as COVID restrictions continue, but we continue to make available other opportunities for students to engage with the broader community and natural resource stakeholders. The class will meet entirely via Zoom this semester, allowing us the ability to have guest speakers from near and far.

Indeed, our first guest speaker was former Clinic Director Bethany Sullivan, who joined us by video from California to discuss her private practice experience representing Native American tribes as clients, and the history of Indian law and intersection with

natural resource issues. We look forward to more exciting guest speakers and a rewarding clinic experience for all as the semester progresses!



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## Mining Law Courses on Navigating Community Engagement for Mineral Development

*John Lacy*

***Mechanisms for recognition of community concerns in mineral development*** is the working title for two proposed online courses on the University of Arizona's Global Mining Law Program. The courses will provide an overview of national and international law relating to indigenous people and community rights: access to information, sharing benefits, protection of cultural heritage and grievance mechanisms. Getting community buy-in, especially from indigenous people, is an emerging issue in global mineral development. Communicating honestly and finding lawful solutions to cultural concerns in an international context is important work for developing and maintaining a mining project.

John Lacy and the instructors in the Center (for this purpose Luke Danielson and Kristi Disney Bruckner) will use the engaging class method developed by the Center in which interviews are conducted with experts in community development from companies, governments and non-governmental organization (NGO's). The interview format allows the instructor to ask the interviewee questions that the students might ask to further the conversation. The class is open to law students and non-lawyers working in mining or other organizations that deal with mining. Go to <https://minerals.arizona.edu/lawcourse>



for more details. These issues will be addressed this fall in a virtual Mining Law Summit to be held on November 6, 2020, that will be offered free of charge.

### **Mining Law Summit** **November 6, 2020**

The 2020 Mining Law Summit addresses the need of mineral developers to effectively respond to the concerns of communities impacted by operations. The free virtual conference will combine recorded presentations from internationally-recognized authorities with live participation in answering questions and providing commentary. The conference will begin by looking at the nature of minerals needed for the modern world, the impact of controls through financial mechanisms, industry initiated standards for responsible mining, a survey of current successes and failures and will conclude with the use of social media to directly address community concerns. [More information and registration](#) is now available and the Summit is free of charge.

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## **GASL North American Regional Consultation**

**Lessons from COVID-19 for Building a Better Future through Sustainable Livestock**

*Anne Gondor*

The United Nations, Global Agenda for Sustainable Livestock held a series of regional consultation meetings in September to understand impacts on the livestock industry from COVID-19 “to assess drivers of change, consequences, and responses to the pandemic in four sustainability domains: food and nutrition security, livelihoods and economic growth, animal health and welfare, and climate and resource use.” The North



American regional meeting occurred on Sept 2, 2020 via zoom, with five speakers from both Canada and the United States livestock sectors (dairy, pork and beef) producers and processors as well as perspectives from three Non-governmental Organization (NGO) sector representatives.

Common challenges expressed by all sectors were the changes in consumption, consumer behaviors (hoarding), keeping workers safe, loss of processing facilities at critical times. Common solutions amongst the sectors were improving communication; and trust and crisis funding support between producers, processors, supply chain, and government entities.

Speakers from the NGO sector viewed COVID-19 impacts from a different lens than the industry assessments. World Wildlife Fund views COVID-19 as a warning call to approach livestock industry sustainability solutions with three goals: 1) natural habitat protection and restoration; 2) maintain biodiversity to ensure healthy ecosystems; 3) reduce the production and consumption footprints beyond just food and nutrition. World Resources Institute focused on food security issues arising or that will arise from COVID-19 in general across the world. The speaker quoted a pre-Covid-19 global food insecurity FAO statistic of 135 million people and 160 million that go hungry. Now COVID-19 has pushed many more people into extreme poverty. They highlighted supply chain disruption differences between countries and called for a focus on evaluating and adjusting how countries can more sustainably produce and distribute food in light of the pandemic. The global organization Health for Animals played a key role in alleviating fears and misinformation about livestock spreading the virus.

For more detailed information from each sector in North America or to view lessons learned from other regions please visit GASL 2020 [Lessons from COVID-19 for Building a Better Future through Sustainable Livestock](#).

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## **Did President Trump Fix NEPA?**

*By Matt Bingham*

(NRULPC Advisory Board Member)

With all of the high profile COVID-19 and political news filling the air waves in 2020, it would have been easy to miss some of the Trump's Administrations accomplishments in attempting to reform the National Environmental Policy Act ("NEPA").

Within months of his inauguration, President Trump issued an Executive Order announcing his intent to streamline the way Federal agencies perform NEPA reviews, so that "[m]ore efficient and effective Federal infrastructure decisions can transform our economy."<sup>[1]</sup> A key piece of this effort

was a commitment by the White House’s Council on Environmental Quality (“CEQ”) to update its NEPA regulations.

CEQ’s new NEPA rule was finalized on June 15th of this year. Some of the key changes include: (1) reducing the number of projects subject to NEPA review by excluding “non-Federal projects with minimal Federal funding or minimal Federal involvement”; (2) imposing presumptive time limits for NEPA reviews; (3) creating page limits on NEPA documents; and (4) narrowing the scope of impacts that must be considered to those that have a “reasonably close causal relationship” to the proposed action.[2]



While these and related developments will undoubtedly make NEPA less costly and time consuming, it remains to be seen whether they will stand the test of time. Several lawsuits have already been filed arguing that CEQ’s rule conflicts with the statute and more are expected. In addition, if President Trump loses reelection this fall, a Biden administration could withdraw or replace CEQ’s rule administratively.

[1] Presidential Executive Order on Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure (August 15, 2017).

[2] Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43304 (July 16, 2020).

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

***No new resources at this time***

### 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, mentor student clinicians and fellows, 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**

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

# 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

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.



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## Western Lands, Western Waters

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

## Blog

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

Would you like to be on our NRULPC listserv? If so, please contact [Barbara Hutchinson](#).



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