



NRULPC Newsletter Vol. 3, No. 3

December 16, 2020



Season's Greetings from the Co-Directors

We hope this finds you and your families well and enjoying this most unusual holiday season in as safe and comfortable a way as possible. As we approach the end of the fall semester and a challenging year, we look back and are grateful for the continued commitment and accomplishments of our staff, students, and Advisory Board members. In spite of the current adverse conditions, the Center and Clinic have maintained a high level of engagement in addressing natural resource issues affecting Arizona and Southwestern communities. Numerous reports and legal opinions were prepared and submitted, many with student involvement, and our instructors maintained close contact with students even though that interaction had to remain virtual. We were extremely pleased that so many of our Advisory Board members were able to participate in the December 3rd meeting, and particularly thank Advisory Board co-chair, Joe Willis, for facilitating the opening session. Informative and thought-provoking presentations by Liz Petterson, John Barrett, and Bailey Kennett from the Arizona Land and Water Trust, and Heather Whiteman Runs Him from the UA College of Law, as well as a lightning round of presentations by Clinic students made for a very full agenda. Many excellent questions were posed to the speakers that have led to further discussion (see report below; [recording](#) now available). We are also pleased to welcome two new members to the Advisory Board: Liz Baldwin, Assistant Professor in the

University of Arizona School of Government and Public Policy, and Nick Ashcroft, Policy Analyst at the Linebery Policy Center for Natural Resource Management at New Mexico State University. Liz and Nick bring considerable expertise and knowledge to the Board in invasive species, water, and other natural resource issues.



Finally, we encourage you to review the [2019-2020 NRULPC Report](#) now available online.

As we look ahead to 2021, we are hopeful for an end to the pandemic and the beginning of a return to more normal operations, as we know all of you are, too. We look forward to working together on finding solutions to the difficult policy issues that affect natural resources in Arizona and the West and to participating in the preparation of the next generation of our natural resource policy leaders.

Best wishes,
George and John

Clinic Update

Priya Sundareshan

The Natural Resource Use & Management Clinic is wrapping up our Fall 2020 semester, which occurred entirely over the internet through Zoom meetings. Although we were not able to have in-person class meetings this semester or excursions to speak with local stakeholders, the students were fantastic and engaged with the Clinic materials and their assigned matters with deep interest and curiosity. They have gained direct experience with commenting on federal agency proposals using the example of the BLM's update for oil and gas leasing in the Chaco Canyon area. They have also researched individual natural resource management statutes and regimes to educate their classmates, and continue to work on blog posts to contribute to westernlandsblog.arizona.edu.

We had a number of guest speakers join the class this semester to impart their knowledge and experience with natural resource management including:

- Bethany Sullivan, NRULPC board member and former Clinic director, discussed her practice in Indian law and the recent Supreme Court decision in *McGirt*.
- Gary Ziehe, Regional Range Management Program Manager, Southwest Region, and colleague Kent Ellett of the U.S. Forest Service shared how their agency is

implementing the new changes to NEPA.

- Joan Card and Jennifer Diffley of the Culp & Kelly law firm discussed Clean Water Act permitting and the recent Supreme Court decision in *County of Maui*.



John Lacy,
NRULPC

Co-Director, presented on the history and development of mining law and its application to current issues at the Rosemont Copper Mine.



- James Hopkins, UA law professor, shared his work on indigenous human rights that involves cross-border collaboration in issues of transboundary water transfers and endangered species recovery.

Finally, the students dove deeper into areas of natural resource management and law through their assigned matters. These matters included:

- creating stakeholder-oriented explanations of whether wells would be subject to the adjudication of surface water rights in Arizona,
- research and development of materials for the use of artificial beaver dams as mitigation banks under the Clean Water Act,
- analyzing the areas in Arizona law that would need updating in light of the recently changed Waters of the United States federal rule,
- planning stakeholder and tribal consultation for possible representation of small claimants in the Arizona surface water adjudication, and
- analyzing the impact of recent case law interpreting the Arizona Corporation Commission's constitutional authority.



The students capped off the semester by presenting their work on their matters at the Advisory Board meeting of the Natural Resource Users Law & Policy Center in a lightning round session. Their presentations were received with great interest and demonstrated the work the students had put in throughout the semester. As they wrap up their project work and complete their other finals, the Clinic students are looking forward to some well-earned rest during the holiday break!

Advisory Board Meeting Summary Report

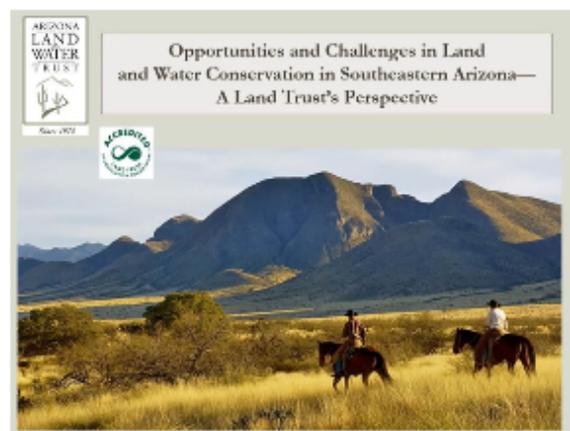
Maintaining Working Landscapes: Private and Non-profit Partnerships

As many of you know, the NRULPC Advisory Board meeting was held on December 3rd. Participants included Dean Shane Burgess, College of Agriculture and Life Sciences and Vice President of Agriculture, Life and Veterinary Sciences (University of Arizona); Dean Marc Miller, James E. Rogers College of Law (University of Arizona); 15 Board members, five Clinic students, four invited speakers and staff members from the Center and the Natural Resource Use Management Clinic. During the introductions, Advisory Board members were asked to identify their priority natural resources issues. At the top of the list was “water” in all its facets as Don Butler said, “because it affects everyone” and as Carlos Ronstadt stated, “pending water shortages because that affects every other issue”. However, NEPA reform and implementation was a close second along with concerns about wildfires and their “ripple effect on other issues” as noted by former Clinic Director, Bethany Sullivan. Presentations by Center and Clinic staff members followed providing a summary of this year’s activities including for example:

- analysis of Coronado National Forest Biological Opinion for the livestock grazing program
- analyses of new Waters of the United States (WOTUS) Rule
- provided support to public land grazing permittees avoid litigation
- analysis of NEPA issues in ongoing litigation involving the San Pedro River

Advances in online training programs and course curriculum and activities were outlined and the student [blog](#) noted.

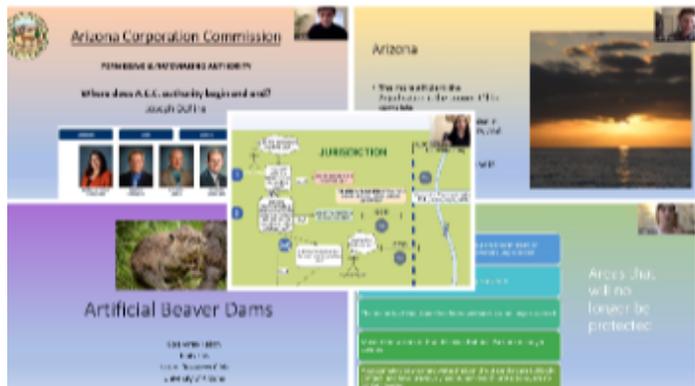
Three sessions of invited speakers followed that elicited many interesting questions and points for more detailed discussions. Speaking about the Arizona Land and Water Trust’s (ALWT) perspective on “*Opportunities and Challenges in Land and Water Conservation in Southeastern Arizona*”, Liz Petterson – Executive Director, John Barrett – Land Program Director, and Bailey Kennett – Desert Rivers Program Director, provided an extensive overview of the ALWT’s programs. For 40 years, the ALWT has worked with ranchers and farmers in Southern Arizona who are interested in voluntarily conserving their lands, in some cases through the establishment of conservation easements. This may involve developing local and community conservation plans as well as serving as a bridge between public entities and





private landowners. Invited speaker Heather Whiteman Runs Him, Director of the Tribal Justice Clinic at the University of Arizona’s James E. Rogers College of Law presented on “Recent Developments in Indian Water Rights and Water Rights Settlements”. Providing historical background first, Heather discussed the merits and risks as well as potential

benefits and drawbacks to two paths for achieving water settlements: adjudication/litigation and settlements. She suggested there are ideals and realities in such cases and that, ultimately, the price of water security is one that affects a wide variety of issues. This was followed by student presentations covering such topics as the new WOTUS rule, public service corporations, artificial beaver dams for mitigation, and tribal consultations. Clinic Law Fellow, Colin McKenzie, provided a concluding exercise that provided an opportunity for the Deans to weigh in on the future. A [recording](#) of the entire meeting is available on the [NRULPC website](#).



NRULPC Advisory Board Survey

We are quite pleased that so many of you were able to join us for the Advisory Board meeting on December 3rd! We very much appreciate your time and thoughts. Due to time constraints and the limits of Zoom meetings, we were unable to cover all the points we would have liked to discuss with you. Because of this, we would appreciate your filling out a [short survey](#) to provide feedback on the meeting itself and directions for the future. We understand that some of you will not be able to fill out the entire survey since you were unable to attend, however, your responses to the other questions will be greatly appreciated.

Kudos for Paul "Paco" Ollerton!

Barbara Hutchinson

Recently NRULPC Board member, Paco Ollerton, received the “*Friend of Extension*”



award for 2020. We contacted Paco to see if we could interview him about his experiences with Extension and he graciously accepted. Paco shared his story about life as a third-generation cotton farmer and how he became involved in field trials and irrigation research for Arizona Cooperative Extension. Paco's grandfather moved to Maricopa and began farming before WWI, his dad took over after he returned from WWII and Paco came back to the farm in 1980 - the start of his forty years with cotton. Paco's first cotton field trial was in 1998 (and he has run a trial nearly every year since). He participated in his first Cotton Field Day in 1990. Paco says he "learned a lot" from working with Cooperative Extension and that it has influenced the way he

continues farming.

It was our intention to write this article based on Paco's recollections, but when we reached out to the Extension collaborators Paco mentioned having worked with, we realized the "real story" is in their reminiscences. Here are just a few of the many glowing comments we received from Jeff Silvertooth, Steve Husman, Randy Norton, and Blase Evancho.

"Mr. Ollerton is an integral part of Ag Extension programming in Central Arizona. Without his collaborative efforts and continuous involvement over the last 30+ years, the impacts and accomplishments of every crop related program would be greatly diminished. He has helped sculpt the agricultural landscape by devoting his life to the science and practice of preserving natural resources and improving the crop production potential of our county, state, region and even nation."

"Frankly, grower cooperators are not easy to locate as our field experiments always cost them time and money in one way or another. Paco also participated in all grower-focused Extension meetings to be supportive of our efforts. He serves in many leadership roles in support of the industry and very unselfishly gives of his time and resources. In addition to unwavering professional support-based interactions, I consider Paco a friend. He is a good man with all the right motivations, honor, and intent."

"Paco has always been a very open-minded and progressive farmer...he has served as a host for dozens of field trips directed to his fields with crop and soil science classes and for Extension programs as well. He is an astute manager and knows how to gain benefits from the investments in these projects, and he is eager to share that with his farmer colleagues..."

Paco is a good farmer, an excellent agribusinessman, and a very good person. He has a good sense of humor as well, which is essential working with university personnel for 34 years!

“Several comments have been made related to Paco’s sense of humor, which are all very true...the cost associated with participating in these research projects is very real. In fact, as we were harvesting our trial late last week one of the varieties entered in the trial did not perform very well. Paco quipped ‘this mug is getting more and more expensive’, referring to the coffee mug he received as part of the award.”

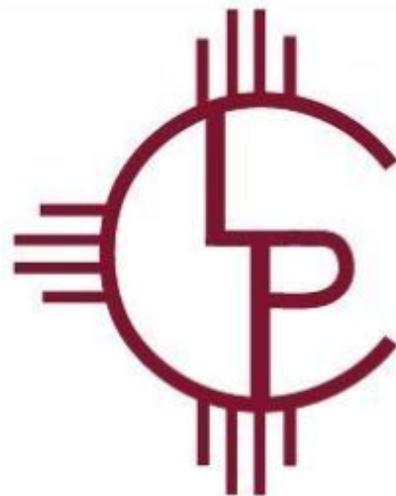
“We all have a similar appreciation for Paco, his compelling personality and his willingness to accept the financial burden that it takes to carry out our field trials...every trial he participates in, increases the cost of “that mug” that he joked about last week. He truly is a great person to work with and he makes every aspect of my position better just by being involved.”

“Paco is well-deserving of this award for what he does for the UA, Extension, and the agriculture industry as a whole...he is a treasured friend of Extension and is not only the “Heart of Extension” in Central Arizona, but also its soul.” Our heartiest congratulations to Paco!

The Linebery Policy Center for Natural Resource Management

*Dr. Nick Ashcroft, Sr. Policy Analyst for the
Linebery Policy Center for Natural Resource
Management, College of Agriculture, Consumer and
Environmental Sciences at New Mexico State
University*

The Linebery Policy Center for Natural Resources Management at New Mexico State University was established in 2003 with a generous donation from the Scarborough-Linebery Foundation. The endowment includes two Distinguished Chairs, the Tom Linebery and Evelyn Linebery Distinguished Chairs. The Linebery Policy Center’s mission is to provide policy analysis and position papers to educate and advocate for beneficial use of natural resources. Our objectives include promoting the visibility of natural resources industries, developing position papers and economic analysis on the issues and policies affecting natural resources industries and rural



Linebery Policy Center

communities, while providing timely response to the changing needs of constituents. In fulfilling these objectives, Linebery Policy Center perpetually represents Tom and Evelyn's values and legacy of natural resources education, promoting the importance and benefits of natural resources industries and a strong voice of advocacy for the rights of property owners. The Linebery Policy Center focuses on natural resources policy and regulation analysis, economic evaluations, pertinent-topic fact sheets and position papers.



Linebery Policy Center for Natural Resource Management, Website - <https://aces.nmsu.edu/linebery/index.html>, facebook - <https://www.facebook.com/lineberypolicycenter> and for more about the Center and the Distinguished Chairs <https://aces.nmsu.edu/giving/tom--evelyn-linebery-cha.html>

New Resources on the NRULPC Website and Blog

- [NRULPC 2019-2020 Report](#) (December 2020)
- [NRULPC Advisory Board Meeting](#) (recording; December 2020)
- [NEPA for Ranchers](#) (June 2020)

Western Lands, Western Waters Blog

- [The San Pedro River, Subflow, and Development](#)
- [Impacts to our Environment During COVID-19](#)
- [Navajo Nation Needs Expanded Access to Domestic Water](#)

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 L. 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

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

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 listserve? If so, please contact [Barbara Hutchinson](#).



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