



## NRULPC Newsletter Vol. 4, No. 2 - June 2, 2021

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### Co-Directors' Message

Dear Friends of the NRULPC:

We have finished another busy semester in a year that now holds promise of ending on a more positive note than last year. In fact, we are very much hoping we will see all of you “in person” at the fall NRULPC Advisory Board meeting, **tentatively scheduled for November 16<sup>th</sup>, 2021**. This will likely be held at the Maricopa Cooperative Extension office in Phoenix as in the past. In spite of the virtual Zoom format, the April 27<sup>th</sup> Advisory Board meeting went smoothly and included good discussions on important natural resource topics as well as organizational funding issues (see report below). Feedback from participants suggested ongoing interest in more networking opportunities among Board members and NRULPC staff, and in continuing to have updates on Center and Clinic activities and accomplishments. Following on the very well-received and informative presentation on the political aspects of the permitting process by attorney Carla Consoli, suggestions for invited speakers for the fall meeting strongly leaned toward a focus on forest issues and included specific contacts for

potential speakers. You can be sure that the Center staff is already working on plans for “in person” engagement! At the same time, there was interest in knowing ahead of time what topics are to be covered in Center and Clinic courses, presumably to help identify areas where there could be more interaction with the students (see also course updates below).

As you may know, we have now officially launched a 2021 fund-raising campaign to gain the \$50,000 needed to continue the Law Fellow position, previously held by Colin McKenzie. With your assistance, we are looking forward to gaining this funding through a variety of means and contacts. Please feel free to let us know if you have questions or concerns about the campaign. We hope to hear from all of you soon with ideas and suggestions.

Wishing you a pleasant summer. Be well and safe.

George and John,  
Co-Directors



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## Clinic Update

*Priya Sundareshan*

The Natural Resource Use & Management Clinic bids farewell to the Spring 2021 semester! Congratulations to J.D. student Luke Erickson for graduating this May after having participated in the clinic for three semesters – a record of participation for us. Luke brought his deep interest in water law and has helped the clinic prepare for potentially taking on a new role representing small claimants in the Gila River Adjudication as well as other water-related projects. Our graduating Master of Legal Studies (MLS) student Cora Varas-Nelson, who took the clinic for 2 semesters, was also featured by the Law College in a [profile](#) developed through nominations for graduate awards. Best of luck to Luke, Cora, and our other graduating students formerly in the clinic, as they study for the bar exam over the summer and/or prepare for their next steps!

Although we met as a class entirely by Zoom, we were fortunate to take a field trip on the invitation of the Altar Valley Conservation Alliance. We joined the AVCA Science Advisory Board as they reviewed restoration projects both on

private land (the Santa Margarita Ranch) and federally managed land (the Buenos Aires National Wildlife Refuge). The students and I greatly appreciated the chance to meet local stakeholders and learn about the ongoing restoration work to convert mesquite areas back to desert grasslands.



The students wrapped up their individual clinic projects and had final meetings with clients. In fact, our work on helping Pinal County watershed management even earned a mention in the [Arizona Republic](#). The Clinic now takes a break for the summer as I focus on developing our Fall projects. We anticipate 7-8 students to enroll in the Clinic for the Fall, so there will be plenty to do in preparation!

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## **Undergraduate Student Engagement**

*Anne Gondor*

Due to the pandemic, the course was offered this spring as Live Online with lectures over zoom, and course materials, exams and quizzes delivered via the U of A Desire 2 Learn online system. This year we had 24 students - 12 law students (7 seniors) and 12 ACBS students (5 seniors), 3 sophomores and 9 juniors. Now that we have a full semester of zoom lecture recordings, it will be possible to offer a fully online additional semester course if there is interest.

A total of 17 guest speakers presented to the class. Many thanks to all our wonderful speakers and especially our Board Members Andy Groseta, Doyel Shamley, Celeste Steen, Carlos Ronstadt and Sarah Lawson who helped us this year with presentations on their areas of expertise relevant to course topics. It is important and beneficial when Board Members speak to our students, adding considerable value to the class. The students greatly appreciate the knowledge and anecdotes shared. We hope more Advisory Board members and friends of NRULPC will consider presenting when the course is offered again next year.

Two new topics were covered this semester. Sarah Lawson gave a wonderful historical overview of Federal Indian Law and Jeff Eisenberg presented "Natural Resource Policy Developments: Today in Washington, D.C." along with information about the 2018 Farm Bill. Speakers also discussed new legislation (HB 2056) and how the pandemic has impacted their topic. We are continuously updating course materials with current event articles as well as redesigning extra credit writing assignments. This year we incorporated information from the new [Rangelands Gateway Public Lands Grazing](#) section into an extra credit activity on public lands and issues surrounding the 30 by 30 executive order.

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## NRULPC Advisory Board Meeting - Summary

*By Anne Gondor*

The semi-annual NRULPC Advisory Board Meeting was held via Zoom April 27, 2021. Center activities were highlighted alongside this year's Clinic and undergraduate course achievements concluding with a lightning round showcase of graduate student projects.



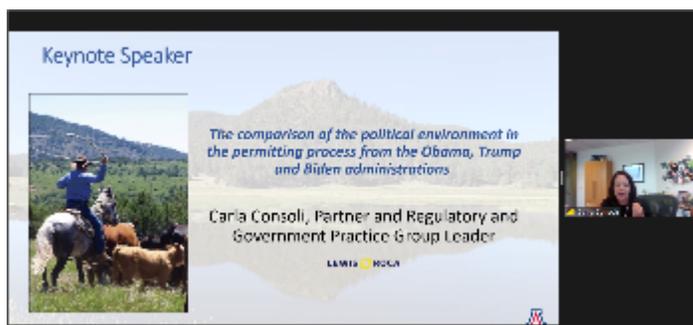
### NRULPC Legal Resource

#### Projects: An

overview of current projects was given by George Ruyle (co-director) and Jeff Eisenberg (consultant). Project topics included: (1) drought-influenced stocking rates; (2) proposed Forest Service rangeland management directives; (3) new "litigation and agency decision resources" website page; (4) analysis of NEPA issues in ongoing litigation over surrounding BLM management plan filed in 2019 for the San Pedro Riparian National Conservation Area Resource Management Plan (SPRNCA); (5) memo on environmental litigation seeking to overturn USFS use of categorical exclusions; (6) assisted permittees with questions on annual operating instructions (AOI) procedure; (7) background research on pathology paper; (8) continued conversations regarding water supply for Clifton, AZ; and (9) comments submitted to AZDEQ on rangelands prescribed burning and proposed air quality requirements.

**Online Training Programs:** Review by John Lacy of four new course developments. (1) Public Lands Under the National Environmental Policy Act; (2) Public Land Use for CALS and Clinic students and executive training; (3) Video postings of lectures and interviews on Colorado River conservation and Waters of the United States (WOTUS); (4) Undergraduate Natural Resources Issues course.

**Keynote Speaker:** Carla Consoli, a partner at Lewis Roca presented and facilitated a discussion on *A Comparison of the Political Environment in The Permitting Process from the Obama, Trump*



*and Biden Administrations.* This discussion highlighted changes on NEPA definitions, permitting practice, and applications between the administrations. It was noted how the political environment, including the fear of litigation by NGO's, has infiltrated Agency actions. Carla was encouraged that the new EPA administrator hopes to merge the Obama and Trump versions of WOTUS to have the best of both for defining Waters of the United States. The presentation ended with a discussion on how the Biden administration is casting the climate change lens on all actions. In addition, Carla noted some of the glossed over realities for transitioning to renewable energy that will require 100% more minerals mining outputs. Yet despite the imperative surrounding climate change many US mining projects are being prevented due to ESA concerns. Carla also reminded the audience of the pitfalls of perverse incentives and how to combat our sound bite culture with attempts to solve for the big picture. It is up to project proponents to educate agencies to see the bigger picture and provide better community relations to proactively manage potential opposition to projects.

The meeting [recording](#) can be found on the NRULPC website.

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**Save the Date - Tentative**  
NRULPC Advisory Board Meeting

November 16

Plans are currently underway to organize an end of year Advisory Board meeting. The meeting will be held while classes are still in session so students can participate. We are looking at the April 2021 meeting evaluation responses from AB members and will do our best to incorporate those ideas into the upcoming meeting.

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## **Global Mining Law On-line Offerings, Summer and Fall 2021** **James E. Rogers College of Law, University of Arizona**

### **Summer**

The James E. Rogers College of Law is offering two on-line courses specific to public land use this summer as part of its Master of Legal Studies program of the Global Mining Law Center. These courses are:

**LAW 640B (1 unit, graded, six weeks, June 28 to August 8, 2021), Legal Overview for Public Land Users**, taught by John C. Lacy with guest interviews discussing law and policy issues confronting public land users including grazing rights, forest resources, recreation, fishing rights, cultural and other considerations. This course is a supplement to the United States Public Land and Mining Law course taught by Professor Lacy.

**LAW 698Q (2 units, pass/fail, six weeks, May 17 to June 27, 2021), Managing Public Lands under NEPA**, coordinated by John C. Lacy with presentations from experienced compliance professionals at WestLand Resources. This course takes a detailed look at the process of compliance with the requirements of the National Environmental Policy Act.

For information go to: <https://law.arizona.edu/mining-law-and-policy-concentration>

### **Fall**

**LAW 640P (3 units): Community Engagement and Sustainable Development of Mineral Resources**, coordinated by Kristi Disney

Bruckner, Luke Danielson and Ashley Smith-Roberts Professors of Practice.  
Available Fall 2021. [Course Introduction Powerpoint](#)

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## The way forward in the era of Megafire

**THE WEST IS BURNING** raises awareness about the conditions of forests in the western U.S. Told through a **full-feature documentary**, we examine the history of forest management and litigation that led to the current conditions which are causing catastrophic fire nearly year-round. The film explores the urgent need to act now, and the potential to generate positive change in our forests, watersheds, and communities, both rural and urban.

[View the screening](#) - Enter password, no uppercase letters: wildfire

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## Updates on Southwestern Laws & Policies

*Jeff Eisenberg & Barb Hutchinson*

- **AZ House Enacted Resolution 2016 for San Carlos Water Conservation Infrastructure**

Recognizing the lack of funds as well as the critical need to finish the San Carlos Irrigation and Drainage District's (SCIDD; Pinal County) canal rehabilitation project, on 25 May 2021, the Arizona House of Representatives enacted Resolution 2016 resolving to support the infrastructure legislation being

considered by the U.S. Congress and to pursue the necessary water conservation and infrastructure funding to safeguard Arizona's water supplies.

- **New Arizona Law: “Water Conservation, No Forfeiture” (SB1368/HB2056)**

On February 18<sup>th</sup> Governor Ducey signed into law a bill, HB 2056, that makes it possible to conserve water by not using it without losing the legal right to the water. This important change has significant implications for water use in the state. The general rule in Arizona has been that if a person who is entitled to use surface water has not put the water to beneficial use for five or more consecutive years, the water right reverts back to the State. Under the new law, this period has been extended for “one or more periods of up to ten years” (HB2056), if the person with the right to the water files a water conservation plan with the Director of the ADWR. The plan must state that the water covered in the plan for conservation is not being abandoned.

- **New Mexico Policy Change on Prescribed Burning**

New Mexico enacted House Bill 57 this year authorizing the state's private landowners to conduct prescribed burns on their own property unless restricted from doing so because of drought. The fire must be conducted using appropriate precautionary measures such as sufficient personnel and equipment; and landowners must provide prior notification to local fire officials. In addition, counties may require private landowners to obtain permits. In addition, a prescribed burn manager certification is being created. This certification is critical for limiting liability for damage caused by the fire. A landowner who is not certified under this program will be responsible for two times the amount of damage caused by a fire, while a certified landowner is liable only for the value of the damage.

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***New Resources on the  
[NRULPC Website and Blog](#)***

- [BLM v. Idaho Cattle Association, ET AL](#) - (Decided April 16, 2021) (pdf)
- [Wroten Land & Cattle Co., ET AL](#) - (Decided April 16, 2021) (pdf)
- [NRULPC Advisory Board Meeting](#) (Recording; April 2021)
- [Our Students Highlighted](#) (scroll to bottom) `

**[Western Lands, Western Waters Blog](#)  
*no new articles 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 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 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.



[HOME](#) [ABOUT](#) [VIEW BY TOPIC](#) [VIEW BY SEASON](#) [OTHER BLOGS](#) [CONTACT US](#)

## 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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