

## NRULPC Task Fork Meeting

Feb 26, 2018

Silver and Sage Conference Room, Old Main, University of Arizona

### Attending

Matt Bingham, Paul Brown, Linda Chezem, Tom Davis, Laura Gallaher (representing Richard Morrison) Andy Groseta, Barbara Hutchinson, Kirk Johansen, John Lacy, Jeff Menges, Dean Marc Miller, Paul "Paco" Ollerton, Bill Plummer, George Ruyle, Doyel Shamley, Robert Shuler, Alan Seitz, Stephanie Smallhouse, Celeste Steen, Bethany Sullivan, Joe Willis. Students with clinic: Holly Bainbridge, Kelsey Gunderson, Mia Hammersley, Joel Rose. Students in ACBS 411: John Enlow, NaRayah Runyon.

Unable to attend: Jeff Eisenberg, Sandra Fabritz-Whitney, Richard Morrison

Unsure of status: Don Butler, Sarah Lawson

### Agenda and Reports

Joe Willis: Welcome and Introductions

George Ruyle: Co-director

Introduced Barbara Hutchinson, NRULPC Program Manager, and Jeffery Eisenberg, consultant from Washington D.C. Jeff will provide quarterly legislative reports from DC, including such items as NEPA reform on grazing permits, conflict management, BLM outcome based grazing.

Barbara Hutchinson: reported on communications mechanisms:

- Three Newsletters have been published since last fall
- There are currently four Newsletter mailing lists, but can create more
- About 70% of the Task Force opens the Newsletter
- Each issue includes profiles of two Task Force members
- Please contact Barbara with ideas and suggestions for the Newsletter
- A Task Force listserv has been set up to assist in communications
- Website should be available soon

John Lacey: Co-director, lawyer with DeConcini McDonald Yetwin & Lacy, P.C., has practiced law for more than 50 years, 40 years with a focus on mining law, but also public land use including farmers, ranchers, and other land managers. There is a global mining law center in the College of Law. The College has a new emphasis on putting courses online to give students flexibility; currently recording one on NEPA now. Online delivery is a great experiment and give us the opportunity to deliver quality education to students wherever they are. Thanked respective Deans for the courage to support this effort. This kind of program is needed to offer practical solutions to difficult issues.

Joe Willis:

Introduced the Director of the Natural Resource Use and Management Clinic, Bethany Sullivan. Joe stated his view that the Clinic will actually work as a law firm.

Bethany Sullivan:

She has lived in Arizona on and off most of her life, and attended the UA Law School. Then went to work at Department of the Interior and worked with different agencies in natural resources, primarily tribal land issues, constitutional law, and tribal law. She is pleased to have this open line of communication. Bethany reported the Clinic is up and running. There are five students (four participating in the meeting). They have diverse backgrounds with natural resources including water and agriculture issues. The goal is to provide students with practical experience before leaving law school and bridge gaps with real natural resource issues – working with science and technical expertise at CALS and blending with UA law. Regulatory process, legislative process. Matters undertaken by the Clinic include: reviewing newly released recovery plan for Mexican Grey wolf; working with the Water Resources Research Center on community based water assessment project; working with tribes on development of tribal lands and tribal code; updating NEPA handbook for grazers; and compiling public lands litigation summary. Bethany wants to know from everyone what they think the Clinic should be working on – looking for ideas.

Joe Willis: Reported on undergraduate course that he co-teaches with Celeste Steen. There are 25 students in the class, which is the maximum. There is a waiting list. He feels the students are excellent students and sees them as our future. UA is the first public institution to put together this type of Center between CALS and the College of Law. Bachelor's degree in Law – 1<sup>st</sup> here at UA. Students can use this for background but they still need to get the juris doctorate to be a lawyer. Course meets 2 days a week (Tuesday and Thursday) in Biosciences East from 11-12:15. There are many students in CALS who are first generation college students and many with an agricultural background. Very different from his own background but he loved growing up visiting grandparents farm. Some of the topics covered in class include: new water rule from EPA and Corps of Engineers to control pollutants; review of legal system; review of federal and state administrative rules; food safety; animal welfare; organic farming; GMOs issue and certifications; and legislative and policy changes. Discussed merits of going to legislature (first line of opportunity/help) versus going to the courts, which have to follow existing law.

George Ruyle: Debra Rodriguez, CALS Development Officer, provided a written report with levels of contributions. She will soon be retiring and the Center's Development Officer will then be Karen Hollish. Debra suggested the need to establish an overall goal for the Center. It will take about \$300,000/year to support the Center's activities. Need to demonstrate value in order to bring in more support. Suggestion was made to request contributions from all the Task Force members.

Dean Marc Miller: Provided an overview of the Center and its slow start with its initial focus on funding. Thanked everyone who has contributed to this effort. This restart with George, Bethany, and John has been positive - needed to start the classes and send out newsletter to the greater community. The need to demonstrate value is key and to connect with community and demonstrate value. Great initial support, for instance Lohse Family Foundation in Tucson which was an open Chair in Law that now supports Bethany's position. This environmental clinic is the first at the UA. Need to have a sustained fundraising plan; there are opportunities and they are looking at the right fit and time from national foundations (for example, foundations focused on supporting native lands and communities). An alum, Peter Culp (who deals in water law), has a law firm and serves on the board of an environmental organization. A member of this board is looking to spread natural resources and law information nationwide. He is working with this individual to let him know about the Center and Clinic and has invited him to come visit with the leaders and students. Dean Miller noted goal of finding individuals

that value this type of cooperation and support and, in return, the importance of the University delivering on substance and ideals.

Comments from attendees: Jim Huffman at Lewis and Clark University has created a similar program, as has the Northwest Law Center. There may be others, including the National Agriculture Law Center in Arkansas. Important to keep brainstorming other contacts.

### **Discussion Group Summaries**

#### **Question 1: What is the biggest natural resource challenge facing your industry or livelihood?**

##### Group 1:

- Water (specifically, the Governor's proposal to put water meters on wells, making regulation statewide)
- Over regulation of cattle grazing on federal land
- Air quality with regards to livestock – maybe more in other states

##### Group 2:

- Water at forefront. Water rights, uses, allocations, transfer, mal-incentives, over usage pitting neighbor against neighbor

##### Group 3:

- Water, water, water
- ESA rules. Not enough people at the table in the early stages
- Forests are not managed well leading to catastrophic fires; poor regulation

##### Group 4:

- Lack of understanding among elected officials
- Growing disconnect between the producers and the public, politicians not understanding how the resources are used and public not understanding what it takes to get food to market. Need more education and more perspective

#### **Question 2: What do you find to be the most important legal or regulatory issue facing your industry or livelihood?**

##### Group 1:

- Burdensome nature of NEPA, ESA, WOTUS – take too long

##### Group 2:

- Lack of good leadership in the legislature
- Lack of expertise especially about water issues
- Need to educate legislators

##### Group 3:

- ESA (if you have a listed species on your land you are going to have difficulties) and NEPA (way to slow and complicated)
- Stakeholders should not accept that it takes years and years to see things get done

#### Group 4:

- College graduates receive an education, but there is a disconnect with the environment and farming so they go into agencies without any practical land experience
- NEPA not working as envisioned; people so cautious that it makes it an unworkable situation

#### **What do you believe is the biggest misconception about your industry or livelihood?**

#### Group 1:

- Misunderstanding of GMOs and chemical practices
- Food safety – overly strict Food Safety Modernization Act
  - Strict requirements and penalties – overkill
  - Sometimes falls on the state Department of Health
- That there is overgrazing of federal land; grazing is generally done responsibly
- Animal handling – people think abuse is widespread
- Only focus on U.S. agriculture – don't consider how bad agriculture is in another countries

#### Group 2:

- Misconception that agriculture industry wastes water and is inefficient; that there is something wrong with agriculture being a corporate industry and/or with agriculture using technology

#### Group 3:

- Growers are sometimes accused of greed instead of stewardship, i.e. using up the resources instead of taking care of the land and animals they are raising. How do we change that perception in the public and legislators?

#### Group 4:

- People do not see agriculture families as an industry, just as mom and pop enterprises; there is a misconception and they do not understand the structure of the industry.
- Mining misconception – we need materials to come out of the ground – can we do this and still protect the environment? How do we engage with the public and the stakeholders productively and still get the resources we need?

#### **What, if any, potential opportunities exist for various stakeholder groups in rural communities to collaborate on natural resource challenges such as water scarcity, invasive species, range restoration, etc.?**

#### Group 1:

- Industry has long recognized legislative opportunity, i.e. agriculture lobbyists
- Put together educational resources for judges and clerks
  - Put together data on agriculture
  - Newsletter aimed at judges
  - CLE for judges
  - Annual training session for summer judge training
- Encourage counties to having a designated natural resource employee

#### Group 2:

- Importance of education and building relationships along with building strong leadership.

- Work on public education concerning where food comes from; address the rural/urban divide.
- Educate rural folks on their legal rights.

Group 3:

- Pay more attention to the legislative opportunities.
- Do a better job of explaining industry to the students (i.e. the future's leaders and legislators) to change prevailing thought.
- Engage in better media and social media outreach to change perceptions.

Group 4:

- Provide educational opportunities at a very young level, such as in primary schools.
- Lobby politicians and educate them on the issues; this is better than litigation.
- Seek out non-governmental (NGOs) to come up with solutions and plans.

Doyel Shamley: Suggested using technology as webinars for communication in addition to the face-to-face meetings.

Dean Marc Miller: Thanked everyone for coming and especially the students for participating in this process.

Adjourned. 2:58 – Reception Followed

## **NRULPC Task Force Discussion Groups – 2.26.18**

“Standing trees rarely pay legal fees.”

### QUESTION 1 – Biggest natural resource challenge

- Lack of understanding – elected officials, the public, not understanding the importance of natural resource issues
  - Not wanting to take the time to understand
  - Lack of outreach in public education
    - Environmental education pushed too far? Created sense of disconnect about where resources come from
    - People know how to consume, but they don't know how to produce
    - Understanding of cradle to grave process of production
      - Examples – Monsanto protest elementary school field trip
- Divided political climate
  - Difficult to have public choose between environmental protection and industry jobs (especially with lack of understanding)

### QUESTION 2 – Most important legal or regulatory issue

- Lack of understanding in agencies of impacts on the ground for natural resource users
  - Leads to waste of time educating agencies

- Shift in agencies since the 1970's – less cooperation now/more adversarial
- Agencies are advocates rather than being neutral parties (Ex. EPA)
  - How do you fix ethical issues?
  - Problem of Chevron deference and too much agency discretion
  - “Pass the laugh test”
- Poor agency organization – decision making happening at too low a level (Ex. EPA)
- NEPA reform – doesn't work the way they envisioned
- Endangered Species Act reform

**QUESTION 3 – Biggest misconceptions about your industry**

- Agriculture – people don't really know who they are (not pictured as an industry or business)
  - Defy stereotype of highly efficient industry
  - Big agriculture is still 99% family farms
  - Not seen as a science
- Mining – we need these materials
  - Question should be how to mine responsibly, not whether to mine or not
  - If we don't mine here, then we are dependent on foreign products
    - Dangerous reliance on foreign governments
    - Esp. rare earth products – critical to electronics/electric cars/etc.

**QUESTION 4 – Potential opportunities for stakeholder groups to collaborate on natural resource challenges**

- Opportunities for education of the public?
- Lobbying – educating elected officials
  - Political due diligence – who do they get their support from?
- Using field work to engage in collaboration
  - Seeking out NGO's who are interested in specific end-goals