



## NRULPC Newsletter Vol. 2, Number 1

### Fall Greetings from the Co-Directors

We hope this finds you and your families enjoying a pleasant start to the fall season. We are particularly thankful for the cooler temps and recent rains – a wonderful way to begin this new fiscal year! We are also pleased to update you on the important work that continues through NRULPC and Clinic programs and activities. It has been a busy time and requests for Center and Clinic response is a little overwhelming. The collaboration between the Center and Clinic has a full and growing docket of matters ranging from alleviating the current labor shortage in the dairy industry through a change in TN visa requirements to finding solutions to current constraints on prescribed fires in Arizona to assessing Agency for Toxic Substances and Disease Registry (ATSDR) jurisdiction over animal agriculture. At the same time, work continues on Yuma Island farmers tenure and water rights issues as well as NEPA/grazing permit reforms. These matters provide amazing opportunities for law students to learn about and assist in finding solutions to difficult natural resource-related issues. In the articles below, you will also find more information about the student academic courses, as well as the upcoming Mining Law Summit. Updates to the website are ongoing and we encourage you to visit: <https://arizona.us17.list-manage.com/track/click?u=ca8b9c48b493c3309d09fc477&id=9a753adac2&e=8fc766949c>. In particular, a “Forestry & Wood Products” project and accompanying reference paper were recently added to the Center Projects page. Finally, plans are underway for another Task Force meeting. Stay tuned for more information!

Best wishes,

George Ruyle and John Lacy  
co-directors

## Spotlight on Task Force Members



Matt Bingham is a regulatory lawyer who helps public and private companies successfully interface with government agencies. Matt focuses on permitting, siting, compliance, and enforcement matters, especially those impacting the mining, energy, construction, and utility industries.

Matt received his J.D. from Columbia University School of Law in 2007. He is active in the Rocky Mountain Mineral Law Foundation, serving in various leadership roles including as a member of the Young Professionals Committee. He



Jeff Menges is a fifth generation rancher. He was raised in southwestern New Mexico and now lives in southeastern Arizona. Jeff attended New Mexico State University, where he received degrees in Range Science and Animal Science. He and his wife, Suzanne, live on the family ranch near Safford where they run about 800 head of commercial cattle. They have three sons, who along with Suzanne are all graduates from the University of Arizona.

Jeff is a Past-President of the Arizona Cattle Growers' Association

represents energy developers and those seeking to invest in energy development projects, and helps developers obtain required siting approvals from the Arizona Corporation Commission. For investors in the energy industry, Matt helps conduct proper due diligence to identify regulatory risks involved with financing or purchasing target projects. By advocating on their behalf before the Arizona Corporation Commission, he helps utility companies—water, electric, and telecommunications—get the right permits and approvals to do business in the state. Within the environmental and regulatory realm Matt helps clients obtain, comply with, renew, and defend their environmental permits including those related to water, air, and dust.

and a former Regional Vice-President of the National Cattlemen's Beef Association. He serves on the Board of Directors for the Arizona Cattle Growers' Association, New Mexico Cattle Growers' Association, and the Arizona FFA Foundation. Jeff has a passion for working with youth and since 2004 he has volunteered as a livestock judging coach for Safford FFA. He has received numerous awards including an honorary Arizona State FFA degree, Outstanding Service Award from Safford FFA, and Greenlee County leader of the year. In 1998, Jeff and the Arizona Cattle Growers' Association received a successful ruling from the 9th Circuit Court that reinstated grazing in a number of riparian areas.

## Natural Resource Use & Management Clinic Update

The NRUM Clinic has continued to work on projects aimed at informing and supporting the public (while educating students) on a number of important natural resource law and policy issues. For example, in September two students, Joel Rose (class of 2019) and Jennifer Wendel (class of 2019), presented to the Cobre Valley community in Arizona on the complex Gila River General Stream



Adjudication. The students explained the procedural requirements for asserting one's surface water rights and the judicial process for quantifying and confirming those rights. They also detailed some of the hot button issues, including the legal connection between certain well water pumping and surface water subflow, as well as the applicability of forfeiture to older water rights. The presentation, which was part of a larger forum hosted by the University's Water Resources Research Center, was well-received by the community audience, including two local mayors.

There are currently six Juris Doctor students and one Masters in Public Policy student enrolled in the clinic this fall semester. In addition to their classwork and clinic projects, the students will have the opportunity to visit and learn about working landscapes. Future class excursions include a trip to King's Anvil Ranch in the Altar Valley, as well as tours of the University of Arizona Campus Agricultural Center and the Pima County Cooperative Extension Office.

## **Well-Received Undergraduate Course Will be Offered Again in 2019**

The undergraduate course "ACBS/LAW 411: An Introduction to Agricultural Law and Policy for the Modern Day Natural Resource User" will be offered again in Spring 2019 in a larger venue to accommodate more students. The course will be held Tuesdays and Thursdays from 11:00am – 12:15pm. This course, which is shared between CALS' School of Animal & Comparative Biomedical Sciences and the Rogers College of Law, is taught by Mr. Joe Willis, Esq., Chair of the NRULPC Taskforce, and Ms. Celeste Steen, Esq., the instructor of record. Ms. Steen is the University of Arizona's legal counsel responsible for all CALS land contracts as well as serving as a Rogers College professor of practice. During last year's spring session, a number of guest speakers participated including several members of the Advisory Task Force. This year additional material will be added concerning food safety given the lettuce problems in Yuma and more recently the ground beef recall from the JBS Tolleson plant.

## Yuma Island Matters Update

### by Jeff Eisenberg

NRULPC convened a meeting of Yuma Island farmers at the Yuma Mesa Irrigation District office on Monday, July 16, to identify solutions to uncertainty about their tenure on land they have worked for many decades. Around 15 families are involved holding 21 leases on the Island from the State of Arizona covering more than 2800 acres. The goal of the meeting was to develop a plan for resolving the uncertainty. Public entities involved in redressing the issues include the Arizona Department of Lands (Lands), the Bureau of Reclamation (BOR), and federal land managing agencies. At the same time, the NRULPC is working to determine whether a long-term water supply can be secured for the farmers. To that end, on September 12<sup>th</sup>, a meeting with Lands was held. While productive and positive, it was determined that Bard Irrigation District water is not available to the Yuma Island farmers. However, Lands is making an effort to resolve this issue drawing on precedents set with other water agreements involving following plans established by the California Metropolitan Water District (MWD) and BOR.

## Hot Topic in Litigation

The trial of Dewayne Johnson v. Monsanto has been in the news recently. On August 10<sup>th</sup>, a California jury found that Monsanto (now Bayer) knew that the widely-used active ingredient in Roundup, glyphosate, is dangerous and failed to warn consumers about the risks. The trial court awarded Monsanto to pay \$289 million in compensatory and punitive damages to Dewayne Johnson who claimed glyphosate had caused his cancer. Monsanto appealed the result and, on October 10<sup>th</sup>, a judge issued a tentative ruling for a new trial on the proposed punitive damages. If finalized, the ruling would grant a motion by Bayer arguing that the evidence did not prove the company intended to harm the plaintiff. For more information, see [“Dewayne Johnson v. Monsanto: What does the future hold for technology in agriculture?”](#) written by Jeff Eisenberg,

NRULPC consultant.



*Mine Safety: Sharing Solutions*

@THE UNIVERSITY OF ARIZONA

NOVEMBER 9, 2018

Sponsored by The University of Arizona Global Mining Law Program,  
a collaboration of the James E. Rogers College of Law and the Lowell Institute for Mineral Resources

The 2018 Mining Law Summit "Mine Safety: Sharing Solutions" will provide invaluable insights into addressing the issues of a mine disaster and propose considerations for future mine safety policy initiatives. The one-day event includes:

- a review of a recent example,
- a look at the authority of the Mine Health and Safety Administration,
- shared experience with self-audits and information sharing, and
- a panel discussion illustrating the implementation of collective expertise in addressing a hypothetical mine disaster.

Mining industry leaders, public policy makers, executives responsible for safety concerns, and law and mining students will explore these critical questions at the second annual Mining Law Summit. The summit, sponsored and hosted by The University of Arizona Global Mining Law Program, a collaboration of the James E. Rogers College of Law and the Lowell Institute for Mineral Resources, will take place on November 9 from 8:00 AM to 5:00 PM MST.

Summit Location: University of Arizona James E. Rogers College of Law  
1201 E. Speedway; Tucson, AZ 85721-0176

Lodging: University Park Hotel  
880 East Second Street; Tucson, Arizona 85719 USA; +1-520-792-4100

- For questions on **summit content**, contact [John Lacy](#), Director, Global Mining Law Program
- For questions on **event logistics**, contact [Bernadette Wilkinson](#), Senior Program Coordinator

- For **registration and more information**: <https://arizona.us17.list-manage.com/track/click?u=ca8b9c48b493c3309d09fc477&id=27265cfa38&e=8fc766949c>



THE UNIVERSITY OF ARIZONA  
COOPERATIVE EXTENSION

**Natural Resource Users  
Law & Policy Center**

A collaboration between the  
James E. Rogers College of Law and  
the College of Agriculture & Life Sciences

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