



NRULPC Newsletter Vol. 2, No. 4

Special Issue: Advisory Board Meeting Results

Co-Directors Update

Greetings NRULPC Advisory Board Members and Supporters,

As you will see in this longer than usual issue of the Newsletter, this spring has been an exceptionally busy time for the Center and the Clinic. Another academic year has come to a close and students have gone on to their summer activities. However, the students who participated in Center and Clinic projects, courses, and meetings have left behind a legacy of important accomplishments. We were especially pleased that students were active participants in the April Advisory Board meeting. Insights gained from them along with those from our experienced and expert group of Advisory Board members are helping guide plans for the future. We want to particularly express our thanks to our invited speakers. Advisory Board members, Ashley Ellixson (joining remotely) and Stephanie Smallhouse, gave us informative updates on labor issues and the Drought Contingency Plan, and Bill Myers, the former solicitor of the Department of Interior, came from Boise, Idaho, to be our keynote speaker. Bill's presentation on the recent challenges to the Antiquities Act concerning moves to reduce the size of national monuments was both informative and stimulating. We are grateful to all of the participants who helped make the Advisory Board meeting a successful day of learning and networking. Later this summer, we will follow up with a survey to all of the Advisory Board members to gain additional feedback – so stay tuned!

The Center and Clinic continue to work closely together to serve the needs of various stakeholders. Current projects/matters are focused on such issues as the new WOTUS ruling, watershed restoration, the administrative appeals process, and NEPA. In particular, the NEPA Handbook for Ranchers has been revised and is currently in review by two attorneys.

It is with some sadness that we also need to alert you to upcoming personnel changes. First of all, Celeste Steen will be retiring as Senior Associate General

Counsel at the UA at the end of the month. Celeste has provided important legal support to the Center as well as co-teaching the joint CALS/Law undergraduate course with Joe Willis. We will greatly miss Celeste but wish her well on this exciting new phase of her life.

In addition, Bethany Sullivan has taken a new position in a law firm in California that will begin in July. While we wish her all the very best, we are very sorry to see her go. Bethany has been a wonderful colleague and her leadership in developing the Clinic has been outstanding. The good news is that both Bethany and Celeste have agreed to remain involved as Advisory Board members! The other good news is that we have already hired an excellent replacement for Bethany. Priya Sundareshan, a UA law graduate, will begin her tenure as Clinic Director in July. We very much look forward to working with her to continue supporting the natural resources community and future leaders.

Best regards,
George and John
Co-directors

Natural Resource Use & Management Clinic
2019 Summer Update: Goodbye and Hello
By Bethany Sullivan

The Clinic just wrapped up its Spring Semester and is already gearing up for the Fall. The students gained invaluable experience dissecting the proposed Waters of the United States (WOTUS) rule governing Clean Water Act jurisdiction, and working with the NRULPC to discern how that rule will impact Arizona stakeholders. They also finalized their work compiling an administrative appeals handbook designed for the ranching community, as well as fine-tuning an environmental compliance manual for ranchers. Additionally, they created a new blog, *Western Lands, Western Waters*, on hot topics in natural resource law and policy. To check it out, go to <https://westernlandsblog.arizona.edu/>.

One clinic student is spending part of the summer working on forestry issues before the Clinic hits the ground running in the Fall with eight students currently enrolled.

[Intro/Outro](#)

Dear NRULPC Community,

As some of you already know, I will soon be leaving my role as Clinic Director to return home to California. This farewell is bittersweet, as it has been an incredible experience working with George, John, Barbara, and Sheila -- as well

as the many stakeholders and Advisory Board members -- to build this outstanding program from the ground up. I am immeasurably proud of the work we have done, and continue to do. Moreover, I am excited for the future of our program and am honored to stay involved as a member of the Advisory Board. My departure, therefore, reflects only our collective success in laying the necessary foundation to move this program forward.

This success includes the hiring of a fantastic new Clinic Director, Priyanka Sundareshan. Priya is a proud alum of the James E. Rogers College of Law, as well as the Massachusetts Institute for Technology. Not to be content with just a law degree, Priya simultaneously pursued and obtained a Masters in Agricultural & Resource Economics from the University of Arizona. She has since gained a wealth of experience working in Washington, D.C. for private, non-profit, and governmental organizations on environmental, energy, and administrative law issues. Priya is a native Tucsonan and thrilled to return to the desert. She undoubtedly has the enthusiasm, skills, and vision to take the Clinic and the broader NRULPC Program into the next phase.



Thank you for allowing me this opportunity to work with and for all of you -- it has been a true pleasure. And please join me in welcoming Priya to the program!

Best wishes, Bethany

ACBS/Law 411 Course Report **by Joe Willis**

Twenty students, all juniors and seniors, made up the ACBS/Law 411 class this Spring semester. Several were from agriculture backgrounds. Some were first generation college students. Most were from Arizona, but Oregon, California, and Florida were also represented. Only a handful were committed to go on to law school although others were still considering it. Celeste Steen was a co-instructor with me.

The course could be described as a mile wide and a foot deep on the subjects covered but that foot did get adequate coverage. Substantial focus was on the federalism system and constitutional law as well as administrative law in

general. Then we shifted to discrete areas of law including real estate transactions (a new addition by Celeste), animal welfare, and food safety. Dr. Chandra Rock, with University of Arizona Cooperative Extension, explained the Yuma lettuce problem and detection systems used to attempt to identify and isolate causes. Other outside speakers presented on current issues in cattle growing, dairy farming, regulatory laws such as the Endangered Species Act, and water law including the Drought Contingency Plan.

A field trip was held at the Vera Earl and Empire ranches with Ian Tomlinson spending over half a day outlining the business operations of a major cattle grower with interstate operations. As always, I come away with more than I put in and appreciate the opportunity to teach this class.



Spotlight on Advisory Board Member Bill Plummer

N.W. Bill Plummer has nearly six decades of experience in and commitment to the planning, design, construction, regulation and management of water resources with due considerations for stakeholder and environmental concerns. Bill has served in a number of policy and management positions in Washington, DC, Denver, Salt Lake City and Boulder City, Nevada with the Office of Management and Budget and the Department of the Interior. From 1978 to 1985 he was responsible for all Bureau of Reclamation activities in both the Upper (1978-1981) and Lower (1981-1985) Colorado River Basins. He has served as the Director of the Arizona Department of Water Resources and as General Manager of the Yuma Mesa Irrigation and Drainage District. He has provided consulting services to irrigation districts, towns and cities in Arizona and has been involved in numerous water and water related programs in South and Southeast Asia for the World Bank, Asian Development Bank and the United Nations. Bill has served and is serving as an officer or on the boards of directors of a number of water resource organizations. He has a Bachelor of Science in Civil Engineering from the University of Vermont and a Master of Science Degree in Engineering-Economic Systems from Stanford University.

Keynote Speaker Bill Myers

"Challenges to the Antiquities Act of 1906"

At the Advisory Board meeting we were treated to a most interesting presentation by our keynote speaker Bill Myers, Partner at Holland & Hart in Boise, ID specializing in energy, natural resources, and public land law. As noted in the agenda: Presidents have used their authority 20 times since the passage of the Antiquities Act in

1906 to diminish national monuments. Not until December of 2017 when President Trump invoked the Act to diminish the size of President Clinton's Grand Staircase Escalante National Monument and President Obama's Bears Ears National Monument has the presidential power to diminish a National Monument been challenged in court. Within hours of the President's proclamations, five lawsuits were filed in federal court seeking to undo his actions. In his talk, Bill first provided a detailed history of how the Antiquities Act of 1906 has performed over time.



Then, turning to the current situation, he provided a summary of the procedural and substantive issues in the recent cases from his perspective as counsel to intervenor defendants. Bill pointed out that if there is a motion to dismiss, this will mean the Dept. of Justice wins and "that is it"! However, there is still a possibility that an appeal could bring this issue to the Supreme Court.

Advisory Board Meeting: Summary Reports

The April 29th Advisory Board meeting was both informative and productive. NRULPC and Clinic staff members provided updates on all activities (PPT available on the NRULPC website: <https://extension.arizona.edu/nrulpc>), with Advisory Board Chair, Joe Willis, and co-instructor, Celeste Steen, providing a course report (see above). Center projects/matters were summarized with a more extensive presentation given on the new WOTUS rule by NRULPC consultant, Jeff Eisenberg (see below). This was followed by presentations by

Advisory Board members, Ashley Ellixson, and Stefanie Smallhouse (summaries follow). Dean Marc Miller gave an excellent budget and development overview along with College of Law Development Officer, Megan O'Leary. Dean Miller noted that it is hard to find programs with more positive impact and "bang for the buck" than this great collaboration. To this end, he expressed keen interest in finding a way to keep going, especially for the students. Lively small-group discussions followed in the afternoon and resulted in many ideas that will guide future activities.

Jeff Eisenberg's presentation on WOTUS was fact-filled and covered many aspects of the new rule. It was based on his work with numerous clients and stakeholders such as the City of Benson and the Altar Valley Conservation



Alliance. Jeff noted that while it is important to protect clean water, there is a disagreement between those who lean toward protection and those who are concerned about property rights. He outlined problems with overlapping jurisdiction between agencies and municipalities. If the new rule is approved, both intermittent and ephemeral streams

could be eliminated.

Ashley Ellixson provided an overview of the TN Visa issue. This is a dairy labor project that the United Dairymen Association (UDA) of Arizona has collaborated on with Dr. Duarte, Extension Specialist at the University of Arizona. The goal is to find a solution to visas for milkers from Mexico who cannot currently enter the U.S. Dr. Duarte has been developing a certification program that would help make it possible for milkers to work in the U.S. under a TN visa. However, the Department of Agriculture is holding to the upper level degree requirement for a TN visa so that option is not viable at this time. UDA is continuing to support immigration reform at the national level.

Stefanie Smallhouse reported on key points of the Drought Contingency Plan (DCP), especially those affecting Pinal County farmers. Tracing the history of various settlements that have led up to the Plan, Stephanie began with the 1980 Groundwater Management Act and noted the Gila River Indian Community settlement of 2004 as well as the Drought Guidelines of 2007. In 2018 a 40-member Steering Committee was established to develop the DCP that finally included agriculture interests. Stephanie provided insights into the challenges and frustrations of negotiating among various groups with their divergent needs and the apparent low priority given to farming.

Science and Law Symposium Discussion

Moderator: Joe Willis

Advisory Board members held a lively discussion on issues that surrounding the use of science on litigations. The idea of the NRULPC organizing a special symposium on the subject was posed to the members to gain their perspectives. The following are just a few of the ideas suggested discussion:

Science and Law Issues

- Where does science come up in natural resources legal issues? Agency issues?
- Sound constitutes sound science?
- Whose science do you listen to?
- Science may impact both sides of an issue, i.e. with WOTUS. Is there good and bad science?
- What if important aspects of science are left out of the discussion? How to fix that?
- What is the definition of “science” and “scientific methods”?

Potential Topics

- How to focus on studies v. perception?
- How does the public get something into the record with science and agencies?
- How do agencies decide the process for different levels/regulations?
- How to determine timeliness / staleness of data?
- What is subjective vs. objective

Possible speakers were discussed along with a general outline for a symposium agenda. NRULPC staff will coordinate the logistics for a symposium and will call on Advisory Board members to assist.

Fundraising Discussion Results

Moderator: Jeff Menges

Questions posed to Advisory Board members: (1) What type of funds do we need? (2) What information is needed to give to potential donors? (3) Who are the potential donors? and, (4) What are the best ways to get the word out about the NRULPC? Responses included:

1. General operating money is difficult to ask for; it is easier to “sell” a product. Thus, it was suggested that Board members introduce their various constituencies to NRULPC’s important services. Perhaps, holding an “Open house” with such corporations as CAT and John Deere was also suggested.

Total per year to maintain the NRULPC is about \$450,000; or the equivalent of a \$4-5 million endowment.

2. White papers geared towards different groups could help gain new funding. These might describe specific matters such as DCP, WOTUS, and the appeals handbook. Also, members saw a need to have materials that clearly explain how the Center and the Clinic collaborate and coordinate activities, and that demonstrate their positive contributions.

3. Follow-up with potential donors and submission of grant proposals. Actions with potential Donors: (1) Follow-up with previous small donors; (2) Submit grant proposals to such groups as the Public Lands Council (agencies and NGOs); (3) Identify target companies and foundations who accept funding proposals; and (4) Enlist more coordination and support from UA Development Directors to "sell" the Center; Board members to suggest names/targets.

4. Key messages about the NRULPC: This Center and Clinic are unique entities. Board members were called upon to be PROACTIVE in helping identify and contact possible donors.



Students Weigh in On Advisory Board Meeting

"The NRULPC Advisory Board meeting was a great opportunity to hear about all of the different projects

the NRULPC is working on. I was surprised to learn just how many issues are being tackled by the NRUPLC and how many different stakeholders are interested in these problems and are working on solutions. The more stakeholders, the more creative the solution needs to be, and I enjoyed seeing all of the different ideas discussed in a collaborative environment." **Allie Whitehill**

"I enjoyed getting to meet the advisory board. I think it really put our work with the Clinic into perspective as part

of a larger picture. I appreciated that they were so interested in what we had to offer, too. It was a very collaborative meeting!" Ashley Daltrey

Communication Outlets

Please visit our various communication outlets:

- NRULPC Website: <https://extension.arizona.edu/nrulpc>
- NRULPC Newsletter Archive: <https://extension.arizona.edu/nrulpc-newsletter-other-resources>
- Western Lands, Western Waters
Blog: <https://westernlandsblog.arizona.edu/>
 - You can now subscribe to our blog and be notified via email when new entries are posted! Enter the information requested at the bottom of the blog page and you will be subscribed.



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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