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## NRULPC Newsletter Vol. 7, No. 2

*June 28, 2024*

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### **Co-Directors' Message**

Greetings,

In this issue of the newsletter we bring you good news on the legislative session, an update on the Spring semester undergraduate class, share an article on Federal policies to enable Native American regenerative agriculture (i.e., farming in harmony with nature), take a look at some work our Fellow, Colin McKenzie is doing, a highlight an op-ed piece co-authored by affiliated faculty, Michael Kotutwa Johnson and an update on the Adjudication program. Lastly is the position announcement for the new NRULPC Director.

Enjoy the summer and stay cool!  
Ethan and John



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We had a fantastic legislative session, and on behalf on the team at the NULPC, I would like to thank our stakeholders and legislative supporters. This year the Arizona Legislature continued our appropriation of \$1,522,400. Additionally, the NULPC was able to provide research and educational support to natural resources users and actively work with legislative members on issues pertaining to water, off road vehicles, regenerative agriculture, meat labeling and transparency, and irrigation.

Next year we will invest the money that we have been entrusted with to continue the excellent work in water adjudication, mining law and policy, forest and watershed health, range management, water policy, and serving natural resource users across the Arizona. It is an honor to continue to serve our state by providing policy research and education to university students, producers, and all of us who enjoy the natural abundance in our state.

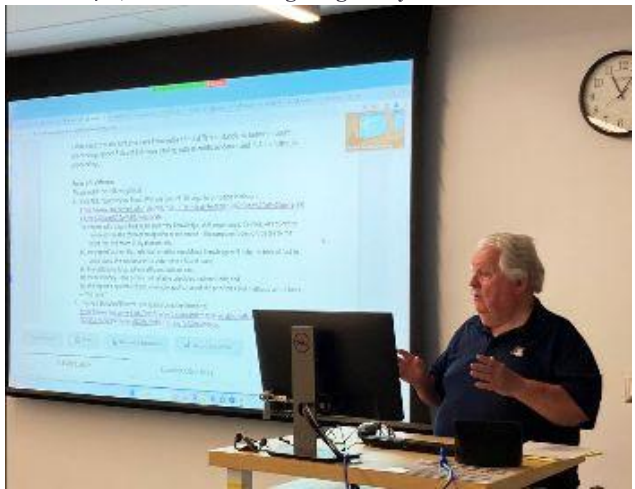
Dr. Ethan Orr  
Interim Executive Director, Natural Users Law and Policy Center

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## Undergraduate Course Update 2024

*Anne Gondor*

The Agricultural and Environmental Legal Issues (ACBS-LAW-RNR 411) course was taught again by Joe Willis and Anne Gondor. Enrollment was 30 students for In Person Spring 2024 (27 successfully completed). There was 1 Renewable and Natural Resources Program student, 8 Law Program students (however, 6 also registered under the ACBS section) and 18 College of Ag students. ACBS students were from program majors – Animal Sciences (2), Agribusiness (1), Nutrition and Food Systems (3), Agricultural Tech Mgmt & Educ (3) and one Finance Program student from the Eller College of Management. Law Students had additional programs of study such as Psychology and Criminal Studies. Students came from all across the country from Alaska, California, Illinois, Indiana, Maryland, Massachusetts, Montana, to Washington and seven communities across Arizona as well as Taiwan.



We had 17 guest speakers from the NRULPC board (5) and industry professionals (12) with expertise in the 14 regulatory topics covered in the course such as, water law, food safety, farm bill, endangered species, NEPA, CERCLA, conservation easements and the business of ranching. Sincere thanks this year to the two new speakers that agreed to present in short notice, Robert McManimon, an attorney with Rusing, Lopez & Lizardi and Sarah King, Executive Director of the Altar Valley Conservation Alliance. Many thanks to all the board members and other guest speakers who gave presentations again to our class, the students greatly benefit from your expertise.

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## Reform Federal Policies to Enable Native American Regenerative Agriculture

*Aude K. Chesnais, Joseph P. Brewer II, Kyle P. Whyte, Raffaele Sindoni Saposhnik, Michael Kotutwa Johnson*

*This article was highlighted in [Issues in Science and Technology](#) Vol. XL, No. 3, Spring 2024.*

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*Centering the goals and knowledge of Native land stewards in federal data and definitions of “climate smart” agriculture could nourish communities while incentivizing carbon sequestration across millions of acres.*

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Over the last five years, the number of bison on the Great Plains has increased significantly. Today, more than **20,000 bison roam the ancestral homelands of 82 tribes** in the United States. This is a small number compared to the 30 million or more that grazed these vast prairie ecosystems during the nineteenth century, before federal incentives and land settlement policies drove them to near extinction. The bison’s promising recovery is the direct result of continuous restorative efforts led by generations of tribal members.

The restoration of this keystone species has multiple documented benefits: bison graze in a way that improves the root structure of the grasses and soil health by, among other things, increasing the soil’s retention of rainwater. Their shaggy coats distribute seeds across the landscape, and the wet spots where they wallow **support birds and other species**. This

knowledge is embedded in tribal historical relations, demonstrating the cultural as well as ecological significance of efforts to support the return of bison.

Tribal Nations across the United States have implemented other [culturally significant regenerative agricultural practices](#) on the land, including the use of fire and waterscaping, both of which improve soil health and encourage native species to flourish. While much of the world is wondering how to best sequester carbon as a response to climate change, Native Peoples' relational and integrative approach to land stewardship is just one example of their capacity to lead carbon-conscious land and agriculture management.

[Read Full Article](#)

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**Law of the Rio Chama:** *Center and Clinic fellowship–supported applied research of continued relevance for water management flexibility amidst worsening drought and water storage limitations with core Middle Rio Grande dam and reservoir offline.*

Colin McKenzie

As the Center works to address various underrepresented law and policy needs of communities of natural resource users, the water space has proven particularly amenable to research-based collaboration towards meeting such needs. I'd like to share one recent highlight, a lesson in the value of this kind of work, whose usefulness, though it seems to crystallize intermittently without rhyme or reason, is nonetheless undergirded by years of relationship-building, collaboration, and research and development efforts.

A long-time collaborator and mentor, Adrian Oglesby, who serves as Director of UNM School of Law's [Utton Center for Transboundary Resources](#), texted me just last week of recent, renewed traction of a Bureau of Reclamation (BOR)-funded study, the legal aspects of which I led from 2016–21. Oglesby noted this [Rio Chama Reservoir Operations Pilot \[Project\] Report](#) (July 2022), has been "getting a lot of . . . attention lately" among water managers in New Mexico's Middle Rio Grande (MRG) Basin. (The legal work in the BOR study is reported at pp. 20–24; it is elaborated in [this appendix](#); I also published a related [law review article](#), researched and written during my 2020–21 Natural Resource Use & Management Clinic fellowship.)

The study aimed to provide a foundation for future analyses and potential paths forward for adaptive management processes in the Rio Chama watershed, by examining operational flexibilities for reservoir-controlled flows on the Chama between Heron Dam and Abiquiu Reservoir. The work was driven by the multi-stakeholder collaborative conservation initiative, [the Rio Chama Flow Project](#), in order to, ultimately, better serve multiple water user groups in the Middle Rio Grande Basin by maintaining compliance with the Rio Grande Compact and the Endangered Species Act. Therefore critically safeguarding the *Prior and Paramount* water rights of six sovereign MRG pueblos.<sup>n.1</sup>

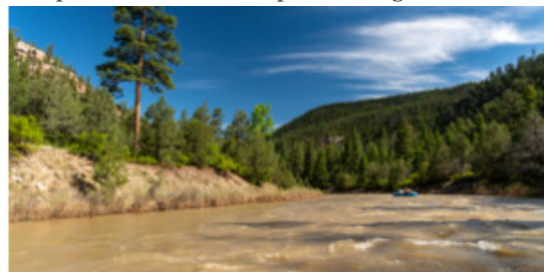


Photo Credit: Mitch Tote at The Water Desk

**At issue now, UNM's Oglesby noted, is that El Vado reservoir is in limbo, owing to extensive maintenance and, concomitantly, reduced storage capacity for irrigation water to be delivered downstream** (BOR recently [announced](#) as much). El Vado, it should be noted, is one of three reservoirs on the Rio Chama, a principal tributary of the Rio Grande; downstream of Heron, El Vado and Abiquiu dams and reservoirs on the Chama, sits roughly 70,000 acres of irrigated land in New Mexico's Middle Rio Grande valley. Decreased storage at El

Vado thus implies increased storage needs at Heron or Abiquiu, or at Cochiti on the *mainstem* Rio Grande.

With El Vado dam now compromised, the question MRG water managers are facing with increased urgency given BOR's recent uncovering of even greater structural issues than originally expected during the planned dam maintenance, is whether there is sufficient operational flexibility in the system, given legal and other constraints. Here, legal authorities for system operation comprise a complex mix of laws from the Rio Grande Compact and federal water resources for Reclamation and Army Corps of Engineers (USACE) water supply and flood control project, to the Endangered Species Act, and the 'Prior & Paramount' water rights corresponding to the six Pueblos—Cochiti, Santa Felipe, Santa Ana, Sandia, Isleta, and Santo Domingo, which form the [Coalition of Six Middle Rio Grande Basin Pueblos](#).

As the dam repair efforts drag on significantly longer than expected, in all likelihood, a worsening drought further complicates BOR's and the USACE's [operations of the Rio Grande](#) system. The *law of the river* of the Rio Chama, an important Rio Grande tributary, thus has outsized implications for farmers downstream, and, as Oglesby indicated, is finding renewed currency in the face of negotiations to re-operate the system in light of the El Vado dam issues, for water supply resilience—all this, of course, across multiple water *publics*.

<sup>n.1</sup> Apart from MRCGD's water supply, historically stored at El Vado, and the Pueblos' [Prior and Paramount Water](#), stored there too, the Albuquerque—Bernalillo Co. Water Utility Authority receives nominally 96,000 acre-feet per year San Chama—Chama Project water, an interbasin transfer that is conveyed from the Colorado River basin, to the Rio Chama and, thus, routed downstream through El Vado reservoir and dam (after tunnelling through the Continental Divide). That municipal and industrial (M&I) water supply—diverted from Willow Creek, tributary to the San Juan River in the Upper Colorado River Basin—represents New Mexico's allotment of Colorado River water. My work on the Rio Chama began nine years ago, during law school, and continued later during my Clinic fellowship—the research was initially funded by the BOR to support pilot, multi-stakeholder collaborative conservation initiative—the Rio Chama Flow Project (RCFP).

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## Local opinion: Back to the land-grant mission at U of A

*Katharine Hunsdon Zeiders and Michael Kotutwa Johnson*

[Arizona Daily Star: tucson.com](#)

We are at a pivotal moment for the University of Arizona. We are hiring our 23rd president, welcoming a new provost, managing the ongoing effects of financial mismanagement, and watching the transformation of higher education across our country. Nevertheless, this is a moment of opportunity and optimism. Our history, mission, and collective fortitude are on our side — we have what we need to succeed. But our leadership may not if they do not recognize and support our unique land-grant identity that comprehensively serves the educational, economic, and intellectual needs of Arizona.

Before there was the State of Arizona, there was the University of Arizona. Founded in 1885, 27 years before the territory became a state, the institution was created for Arizonans and designated as our state's only land-grant university. The University of Arizona was designated a land-grant university by the Morrill Act and is positioned alongside Diné College and Tohono O'odham Community College which were





designated land-grant colleges in 1994. Land-grant institutions aim to serve our communities and provide working people access to higher education while tethering research, innovation, and technological development to community needs. Although the land-grant mission initially centered around agricultural development in communities, every aspect of the educational landscape and economy of the state has been shaped by these institutions.

[Read full article](#) - Arizona Daily Star

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## Arizona Adjudications Project Open to Clients

*Jennifer Wendel*

The Arizona Adjudications Project, an initiative of the University of Arizona's Natural Resource Use and Management Clinic at the College of Law, is open to potential clients. Small landowners in Arizona's general stream adjudications may apply for free, limited representation through the Project.

General stream adjudications are court proceedings that catalog all **surface water rights** at a snapshot in time. Most western states have an ongoing general stream adjudication process. Adjudication proceedings allow states to generate a complete list of all surface water rights including (1) water rights that were established before the state had a water code that required permits (in Arizona, pre-1919), (2) federal water rights (federal reservations and tribal rights), and (3) current, post-1919 water rights. Adjudications organized all surface water rights by **priority date**, or the date the water was first lawfully put to beneficial use.



In Arizona, surface water uses include those in the **subflow zone**, the area close enough to a stream that water pumped from wells in this zone draws down surface water rather than groundwater. In an adjudication, all surface water users, including water users with wells in the subflow zone, must file a **Statement of Claimant** and claim their water right before the adjudication court. When an adjudication is completed, the court issues a **decree** that confirms the **elements** of each surface water right including the priority date, legal basis of claim, source of water, and point of diversion. Decrees can then be used to enforce senior water uses against junior water uses. This process helps Arizonans understand the current water uses in the state to better manage our resources for the future.

Arizona has **two ongoing general stream adjudications**: the **Gila River Adjudication** and the **Little Colorado River Adjudication**. All surface water rights along these two rivers and the tributaries to these rivers are subject to adjudication. The adjudication court reviews claims by watershed. Currently, the court is reviewing claims in the San Pedro Watershed, the Silver Creek Watershed, and the Verde Watershed.

If you are interested in free legal assistance from the Adjudications Project, please visit our website and contact us to learn more: [law.arizona.edu/azwaterrights](http://law.arizona.edu/azwaterrights). Adjudication claimants may fill out the Request for Assistance Form from our website. The Project will review all requests and determine whether we can assist.

### WHO WE SERVE:

- Individuals entitled to a surface water right claim in the Gila or Colorado River Adjudication

- Claimants with small water rights
- Small landowners
- No current legal representation

#### WHAT WE DO:

- Legal review of your water right claim
- Evaluate how the adjudication affect your water right
- File adjudications claims and other necessary water right documents with ADWR and the court



## Cooperative Extension

The Executive Director of the [Natural Resource Users Law and Policy Center \(NRULPC\)](#) engages Arizona Natural Resource Users, landowners and stakeholders, faculty and staff with Arizona Cooperative Extension, the College of Agriculture, Life and Environmental Sciences (CALES), and the James E Rogers College of Law, to set priorities for the NRULPC. The NRULPC supplies Tribes, private landowners, public lands managers, and natural resource users with critical information and technical assistance when they face complex legal environments. The Executive Director, with the guidance of the Advisory Board, sets the Center's agenda based on the needs of natural resource users in Arizona and the western U.S., including ranchers, farmers, and others whose business involves the use of natural resources. The Executive Director collaborates with stakeholders inside and outside the university to design and implement a consultative structure that ensures regular feedback and input and prepares quarterly reports to the advisory board and stakeholders. The Director continues ongoing engagement with development teams in natural resource users organizations and state legislators. The Director is responsible for developing and implementing a fundraising plan to ensure the NRULPC is self-sustaining.

The Executive Director coordinates and attends in-person meetings, conferences, and workshops around the state of Arizona and the western U.S. with stakeholders from the mining, ranching, farming, and forestry businesses communities as well as law/policy meetings agencies, including, but not limited to: Farm Bureau, Family Farm Alliance, Agribusiness and Water Council, Arizona Cotton Growers Association, the Arizona Cattle Growers Association, and other local, regional and national groups as considered proper.

#### **Required Qualifications:**

- Minimum Qualifications: Ph.D., J.D., and/or equivalent training and experience in fields closely related to natural resource management, law, and policy.
- Evidence of strong leadership, organizational, and communication skills.
- A track record of work with groups and individuals, public and private entities, and producers.
- A track record of effective and persuasive verbal and written communication and to be an effective collaborator.
- Knowledge of Arizona and Western U.S. agriculture and natural resource management, law, and policy.

- Knowledge of Arizona and Western U.S. agriculture and natural resource business communities.
- Ability and interest to effectively contribute to interdisciplinary teams.
- A track record of securing extramural funding to support applied research and Extension programs.

**Preferred Qualifications:**

- Demonstrated skills and experience in:
  - Training students (i.e., the next generation of natural resource science professionals, lawyers, agency heads, politicians, and judges) to critically evaluate complex natural resource law and policy matters using a hands-on approach to learning.
  - Providing access to legal and technical support for individuals and businesses involved in natural resource management that may not have access due to economic, cultural, and/or social constructs.
  - Combining science-based knowledge of natural resource management, law and policy, and economic analyses to promote responsible stewardship of natural resources.
- Experience working with both state and federal Government elected officials.
- Experience working with State and Federal Land Management agencies.

For more information on the position and how to apply, click here: [Executive Director](#).

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***New Resources on the  
NRULPC Website and Blog***

***Website***

- ***Regulatory Roundup*** - latest issue was released December 2023. Newest issue to be released soon.

***Western Lands, Western Waters Blog***

- No new posts at this time.
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## 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 E. 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.



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## Western Lands, Western Waters

Hot topics in natural resource law and policy affecting the American West

### Blog

Our Blog posts are carefully researched and written by NRULPC Clinic students.



### Regulatory Roundup

Summarized updates to law, policy, legislative and regulatory changes. Information made available several times a year.

Would you like to be on our NRULPC listserve? If so, please contact [Sheila Merrigan](#).



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