



2019-2020 REPORT

Natural Resource Users Law and Policy Center

extension.arizona.edu/nrulpc

TABLE OF CONTENTS

What We Do _____	3
Who We Are _____	4
Realization of the Mission _____	6
Exposing Students to Complex Natural Resource Law and Policy Matters _____	6
Increasing the Law and Policy Analysis Capacity of Cooperative Extension _____	6
Building Partnerships Amongst Natural Resource Users _____	7
Incorporating Natural Resource Experts into Undergraduate Classroom Exercises _____	7
Offering a Public Interest Law Clinic Serving Stakeholders and Students _____	8
Helping Stakeholders in Arizona and the West Solve Their Legal Hurdles _____	11
Advisory Board _____	13
Communications _____	14

WHAT WE DO

The **Natural Resource Users Law and Policy Center** (NRULPC) is a unique partnership between The University of Arizona's College of Agriculture and Life Sciences (CALS), Cooperative Extension, and the James E. Rogers College of Law, that strives to address the underrepresented law and policy needs of natural resource users in Arizona and the West. The overarching goal of the Center is to help landowners, farmers, ranchers, small miners, and other stakeholders, whose livelihoods rely on natural resources, understand and resolve legal and regulatory issues to using the land, allowing them to be more productive and profitable, while also meeting environmental standards. Specifically, this distinctive collaboration among Cooperative Extension and College of Law personnel promotes innovative and personalized approaches to working with stakeholders and to creating the next generation of natural resource professionals in an environment where students learn in real time by actively working on the explicit needs of natural resource users.

Identifying and addressing legal and policy impediments to productivity is an interactive process between the Center and stakeholders who depend on natural resource use in their businesses. Matters addressed through the Center serve broad natural resource interests and the link with Cooperative Extension provides a mechanism to extend this outreach throughout Arizona as well as across the nation. In addition, the close affiliation of the Center with the College of Law's **Natural Resource Use and Management Clinic** (NRUM) offers a mechanism for client advocacy in addition to the three traditional land-grant university missions of education, research, and extension. The Clinic provides educational and research opportunities in real-world situations for students studying law and natural resources.



WHO WE ARE

The Center uses a Co-Director model harnessing expertise from both Colleges and Cooperative Extension while facilitating the intersection of the natural sciences and law.



Co-Director George Ruyle is a professor and Extension Specialist in the CALS School of Natural Resources and the Environment. He also holds the Marley Endowed Chair for Sustainable Rangeland Stewardship. Professor Ruyle is an internationally renowned expert on appropriate and rational long-term natural resource use specializing in collaborative and adaptive rangeland livestock management.



Co-Director John Lacy, Esq. is the director of the Global Mining Law Center and longtime professor of practice at the University of Arizona's James E. Rogers College of Law where he teaches a number of courses related to the international mining industry. Professor Lacy is shareholder in the firm of DeConcini, McDonald, Yetwin, & Lacy P.C., where his practice has focused on mining and natural resource law.



Priyanka Sundareshan is the Director of the Natural Resource Use and Management (NRUM) Clinic. She is an alum of the James E. Rogers College of Law and the Massachusetts Institute of Technology. In addition to her law degree, Priya has a Masters in Science in Agricultural & Resource Economics from the University of Arizona. She worked in Washington, D.C. for private, non-profit, and governmental organizations on environmental, energy, and administrative law issues. Priya is a native Tucsonan.

Colin McKenzie is the NRUM Clinic's legal fellow. Colin has worked in the non-profit and private sectors as well as in local, state, and federal government. His professional experience comprises technical consulting, water law and policy, litigation, and project management. He received his J.D. from the University of New Mexico School of Law. He is a former hydrologist and New Mexico-licensed attorney.



Research Specialist, **Anne Gondor**, supports the undergraduate course ACBS/LAW 411 with logistics, curriculum design and aids students with online course delivery of materials in D2L. Anne's master's degree in Natural Resources is from Oregon State University with an emphasis in Water Conflict Management and Transformation. Previously, Anne worked 18 years with The Nature Conservancy (TNC) as a Conservation Planner.

Jeffrey Eisenberg is consultant to the NRULPC on Washington D.C. issues. He is currently Principal at Rockspring Resource Solutions where he represents agriculture, conservation, and forestry organizations, universities, agri-business, individual landowners, and smaller companies engaged in these areas. He has served as CEO for the National Association of Conservation Districts, the Executive Director of the Public Lands Council, Agriculture Lobbyist for The Nature Conservancy and Staff Attorney for USDA.



Communications Director, **Barbara Hutchinson**, and **Sheila Merrigan**, Communications Associate, are responsible for publishing the quarterly newsletter, maintaining the Center's website, managing listservs and social media. Also, preparing progress reports, organizing Advisory Board activities, coordinating with the Development Office, developing marketing materials and providing meeting reports.



Andy Groseta, Co-Chair of the NRULPC Advisory Board, is a third-generation cattleman from Cottonwood, Arizona. He holds Bachelor's and Master's degrees as well as an Honorary Doctor of Science degree from The University of Arizona; and has been honored as Agriculturalist of the Year by the Ag100 Council. **Joe Willis**, also Co-Chair, is an attorney with Schwabe, Williamson & Wyatt. He specializes in natural resources, real estate and construction law with more than 45 years of experience.



Advisory Board members include:

Ashcroft, Nick – National Research Policy & Planning Analyst, New Mexico State University
Baldwin, Elizabeth – Assistant Professor, School of Government & Public Policy, University of Arizona
Bingham, Matt – Director, Legal & Public Affairs, Rosemont Copper Company
Butler, Don – Retired
Chezem, Linda – Attorney, farmer/rancher
Davis, Tom – President, Arizona Water Coalition
Ellixson, Ashley – Executive VP of Legal and Risk Management, United Dairywomen of Arizona
Fabritz-Whitney, Sandra – Director of Water Strategy, Freeport McMoRan
Hammersley, Mia – Law Clerk for the New Mexico Supreme Court
Johansen, Kirk – Lawyer, Schwabe Williamson & Wyatt
Lawson, Sarah – Lawyer, Schwabe Williamson & Wyatt
Menges, Jeff – Rancher
Ollerton, Paul "Paco" – Farmer, businessman
Plummer, Bill – Retired, policy and management of water resources
Ronstadt, Carlos – Lawyer, The Law Office of Carlos D. Ronstadt
Seitz, Alan – Certified Crop Consultant
Shamley, Doyel – Consultant and Supervisor, Apache County
Smallhouse, Stefanie – President, AZ Farm Bureau
Steen, Celeste – Retired, former Senior Associate General Counsel for University of Arizona
Sullivan, Bethany – Lawyer, Maier, Pfeffer, Kim, Geary & Cohen LLP; and former Director of the NRUM Clinic

REALIZATION OF THE MISSION

The **Natural Resource Users Law and Policy Center (NRULPC)**, is a collaboration of the University of Arizona's James E. Rogers College of Law and the College of Agriculture and Life Sciences' (CALs) Cooperative Extension System (CES). Its mission is to address the unmet needs of natural resource users on law and policy topics. This includes addressing the following needs:

Exposing students to complex natural resource law and policy matters through the NRUM Clinic – Examples of “learning by doing” include: (see more about Clinic programs and activities on page 8)

- Prepared analysis of methodology to assist landowners in the determination of subflow to surface water sources (which is subject to prior appropriation and possible claims of others) and groundwater (subject to reasonable use by the surface owner) in current adjudication.
- Monitored and summarized legal and policy forestry issues relating to state lands and the NEPA process.
- Engaged with Arizona stakeholders on regulatory gaps due to the new rule on federal waters jurisdiction.
- Gained experience with public notice and comment procedures through drafting comments for proposed federal regulations relating to natural resource management and policy decisions in the West.



Increasing the law and policy analysis capacity of Cooperative Extension to serve natural resource users

- Ruyle, George and William Brandau. *Federal Appeals Handbook – Guidance for Appealing Grazing Decisions*. Publication No. AZ1803-2019, University of Arizona Cooperative Extension, October 2019, Tucson, Arizona.
- Ruyle, George, et al. *NEPA for Ranchers*. 2nd edition, University of Arizona Cooperative Extension, June 2020, Tucson, Arizona.
- Eisenberg, Jeff, et al. *2020 WOTUS Rule: Analysis of the 2020 WOTUS Rule*. *The Water Report: Water Rights, Water Quality & Water Solutions in the West*. Issue no. 196, Envirotech Publications, Inc., June 15, 2020, Eugene, Oregon.
- Sullivan, Bethany, video interview on the implementation of regulations on the Waters of the United States (will soon be available online).
- *Grazing on Public Lands* web resource. Soon to be launched on the “Rangelands Gateway”. Arizona Cooperative Extension, NRULPC, and Rangelands Partnership: University of Arizona, Winter, 2020. <https://rangelandsgateway.org>

- [NEPA for Ranchers](https://www.youtube.com/playlist?list=PL9bs98fSwEjQnsR6B7qjm3FesPC-1qZkB) and [Public Lands Playlists](https://www.youtube.com/playlist?list=PL9bs98fSwEjQjkGjT95-9Y67tLetBxjs8). YouTube. University of Arizona, October 2020.

Building partnerships amongst natural resource users and the larger community

- Advised landowners in Gila River Valley about their legal options to optimize water use.
- Conducted analysis of *Coronado National Forest Biological Opinion* for the livestock grazing program; submitted to and reviewed with Forest Service personnel.
- Prepared analyses of new *Waters of the United States (WOTUS) Rule* with specific reference to the scope of Clean Water Act enforcement.
- Conducted assessment and allocation of vacant grazing allotments.
- Developed analysis of legal positions related to the liability of feedlot owners regarding research of animal pathogen contamination of leafy vegetables.
- Drafted paper on helping public land grazing permittees avoid litigation.
- Developed collaborative procedures for addressing emergency drought.
- Circulated “Open Range Law in Arizona” memo.
- Consulted on responses to numerous legal challenges to Federal agency records of decision regarding public land livestock grazing.
- Assessed sustainable mining issues for course development. (NRUM Staff)
- Represented Cobre Valley Watershed Partnership in business formation and other legal assistance. (NRUM Staff)
- Assisted the Altar Valley Conservation Alliance in reviewing safe harbor agreements.
- Compiled and submitted analysis of proposed NEPA revision to CEQ.
- Conducted analysis of proposed BLM grazing regulations EIS and submitted to BLM.
- Preparing analysis of NEPA issues in ongoing litigation over San Pedro National Conservation Area Resource Management Plan.



Incorporating natural resource experts into undergraduate classroom exercises to promote active learning and leadership on timely and relevant topics

- ⊖ Developed online mining and natural resource courses for both registered students and executive training students (in collaboration with the Global Mining Law Center in the College of Law).

- Conducted undergraduate course ACBS/LAW 411 - “An Introduction to Agricultural Law and Policy for the Natural Resource User”.
 - Undergraduate course ACBS/LAW 411 - “An Introduction to Agricultural Law and Policy for the Natural Resource User” hosts guest speaker experts from the agricultural industry, legal sector, and academia. Students are introduced to fundamental concepts associated with modern day agricultural industries to help them understand legal concepts as well as public policy that affect commodities markets, natural resources in their "raw form", consumer attitudes, and market forces on various agribusiness industries of the west. The main substantive rules of law and their application include: 1) Animal welfare, law, and policy; 2) Food safety regulations and organic food standards; 3) Environmental law and policy; and 4) Water law and policy.
 - The course is attended by sophomore, junior and senior students from the ACBS and LAW programs. The course has benefitted students majoring in the Agricultural Tech Management & Education, Leadership and Communication, Sustainable Plant Systems, Information Science & Society, Agribusiness Econ & Management, Family Studies & Human Development and Natural Resources, Animal Sciences, Nutritional Sciences and Nutrition and Food Systems. Past students in the course originated from across the country including cities such as Chicago to rural agricultural producer and ranching families from Arizona as well as international exchange students.

Offering a public interest Natural Resources Use and Management Clinic to serve stakeholders and engage students

Between four and seven students are enrolled in the Natural Resource Use & Management Clinic (NRUM) during any given semester for a meaningful clinic experience. Most are second- or third-year students pursuing a Juris Doctor at the College of Law, and some students are pursuing a Masters in Legal Studies. Students are also encouraged to pursue other degree programs at the University to strengthen their knowledge of natural resource issues and management, and students from other degree programs are welcomed to enroll in the clinic as well.

- Over the course of a year, students are involved in a wide variety of matters to gain hands-on experience working on legal issues in the natural resources arena. Example matters:
 - Provided written memoranda for respective clients on state requirements to permit alternative beaver dams for watershed restoration.
 - Researched existing rules and options for forestry research and management on state trust lands.
 - Conducted analysis of the comments submitted by Arizona stakeholders on the proposed federal rule on Water of the United States.
 - Updated handbook for ranchers on National Environmental Policy Act (NEPA) process.
 - Researched liability of feedlot operations stemming from agricultural contamination.

- Researched and interpreted the Clean Water Act’s mitigation bank rules for stakeholder access and understanding.
 - Inventoried Arizona statutes and codes for references to the Clean Water Act and gaps resulting from the new WOTUS rule.
 - Planned a robust tribal consultation process for engagement in the statewide water rights adjudication in Arizona.
 - Conducted analysis of the Arizona constitution and caselaw to understand the authority of the Arizona Corporation Commission.
 - Reviewed legal arguments around the definition of subflow to delineate groundwater and surface water in Arizona.
 - Contributed posts for the Western Lands Blog on a topic of individual student interest.
- Through these matters, students have gained experience in legal research and have improved their writing skills for both legal and lay audiences. Some recent student activities have also

emphasized their oral presentation skills and ability to present their legal research and knowledge to

clients and the lay public, along with thinking on their feet to answer audience questions.

These include:

- presentations to the NRULPC Advisory Board.
- presentations on water law topics at a joint workshop of the Santa Cruz Natural Resource Conservation District and the Arizona Land & Water Trust.



- Adding to these “hands on” learning experiences, class curriculum provides an overview of many relevant natural resource statues, administrative law, and public lands management regimes that come into play in the West. The students learn about the practical skills involved in legal practice, including legal ethics of client representation, how the public can engage with proposed projects with a federal component, and strategic advocacy on natural resource issues. Guest speakers have shared their experiences with natural resource issues, including:
- Diane Vosick of NAU’s Ecological Restoration Institute, who spoke about forestry management and research into thinning practices to minimize wildfire risk.
 - Cyndi Tuell of Western Watersheds Project, who gave an insight into her use of the Freedom of Information Act in her legal practice.
 - Matthew McDonnell, an energy consultant who shared his prior experience as a staff attorney for Hawaii’s utility regulatory agency.

- Colin McKenzie, NRUM Clinic Legal Fellow, presented to the students about his efforts working with federal agencies and other water users in allocating water rights within the Rio Chama basin of New Mexico.
 - Bruce Plenk, solar lawyer and adjunct UA law professor, talked about energy policy at the state and local levels.
 - Len Necefer, professor in UA Department of American Indian Studies, spoke about the economic importance of outdoor recreation and the growing participation of native people and governments.
 - Samantha Ruscavage-Barz, managing attorney with WildEarth Guardians and adjunct UNM law professor, shared her experience with administrative law and NEPA.
 - Sarah Parmar, Director of Conservation with Colorado Open Lands and connected to the Malpai Borderlands Group, talked about collaborative conservation and the mutual benefits of conservation easements on private ranchlands.
 - Bethany Sullivan, NRULPC board member and former Clinic director, discussed her practice in Indian law and the recent Supreme Court decision in *McGirt*.
 - Gary Ziehe, Regional Range Management Program Manager, Southwest Region, and colleague Kent Ellett of the U.S. Forest Service shared how their agency is implementing the new changes to NEPA.
 - Joan Card, Partner, and Jennifer Diffley, Junior Partner, of the Culp & Kelly law firm discussed Clean Water Act permitting and the recent Supreme Court decision in *County of Maui*.
 - John Lacy, NRULPC Co-Director, presented on the history and development of mining law and its application to current issues at the Rosemont Copper Mine.
 - James Hopkins, UA law professor, shared his work on indigenous human rights that involves cross-border collaboration in issues of transboundary water transfers and endangered species recovery.
- Finally, the student experience has been rounded out with pre-pandemic field trips to sites across Arizona to engage with natural resource stakeholders and learn about the day-to-day activities and priorities of people working with the land.
- Visited King's Anvil Ranch to observe the family ranching operations, and saw firsthand the nature of grazing leases on both state and federal lands as well as access to recreation on private lands.
 - Toured the San Xavier Mining Laboratory run by the University of Arizona, which included climbing down a few hundred feet on wooden ladders.
 - Made presentations to the Santa Cruz NRCO on water law issues which afforded the opportunity to hear directly from a number of stakeholders gathered about ranch management and restoration efforts that help their businesses succeed.
 - Attended the Rangelands Partnership conference and the University of Arizona's Water Resources Research Center's annual conference featuring speakers that included the Commissioner of the Bureau of Reclamation.

- Visited Yuma, Arizona as part of a different class on the history of the Colorado River and learned about the local agricultural industry and river diversions that make it possible



- Additional trips were planned to observe forest logging operations in Flagstaff, Arizona and stream restoration sites near Sonoita, Arizona (to be resumed post-pandemic).

Helping stakeholders in Arizona and the West solve their legal hurdles

NRULPC reaches out to individuals, stakeholder organizations and complimentary University programs in order to coordinate and enhance relevant support mechanisms. The following list summarizes current and prospective networking connections.

- Altar Valley Conservation Alliance. Developed draft legislation to eliminate hurdles to conducting prescribed burns on private lands in Arizona.
- Americans for Prosperity-Arizona. Discussing border safety issues.
- Apache County. Working directly with former County Supervisor on forestry and travel management planning for public lands.
- Arizona Association of Conservation Districts. Participated with the Clinic in presenting principles of water law to 50 producers in Santa Cruz and Cochise Counties.
- Arizona Cattle Growers Association. Regular and ongoing communications with several leaders. Gave presentation at their annual conference in July, 2019. Received \$10,000 donation for support of public lands issues programming.
- Arizona Farm Service Agency, USDA. Developed streamlined approach to drought programs for ranchers.
- Center for Growth and Opportunity, Utah State University. Discussed exchanging information about the work of each group, including information on immigration legislation for agriculture workers, as well as comments on NEPA reform.
- Center for Environmental Science Accuracy and Reliability (CESAR). Jeff Eisenberg was asked to serve on the Board of Directors.

- City of Superior. Helped integrate public and private sectors by assisting the town with understanding, preparing and achieving the establishment of a Conservation District.
- Greenlee County. Facilitated discussions on groundwater for affordable housing development.
- Farm Bureau/Arizona Farm Bureau. Participated in various projects related to water and land use regulations.
- Freedom Center at the University of Arizona. Discussed potential collaboration with the Director, in particular, equity issues in use and management of natural resources.
- Apache-Sitgreaves National Forest NEPA Focus Group. Continued participation with this grassroots group of ranchers and Forest Service personnel includes providing resource material and technical support.
- Property and Environment Research Center (PERC). Follow-up on initial contact.
- Public Lands Council (PLC). The NRULPC and Advisory Board members have been reaching out to the PLC to share information and explore opportunities for collaboration.
- The Rangelands Partnership (RP) is a collaboration of 19 land-grant universities in the Western and Great Plains regions involving rangeland and natural resource extension professionals, librarians, and IT experts that develop and maintain multiple



communication outlets providing open access to extensive resources on sustainable rangeland management and related issues. The Center has coordinated with the RP on a comprehensive web resource on “public land grazing” including video interviews with representative stakeholder groups (see above).

- Small Business Administration, Office of Advocacy. Follow-up on initial contact.
- Southwestern Communities Coalition. Working to develop legislation protecting private land owner data regarding endangered species.
- Western Resources Law and Policy Center. Agreement established to work together in sharing products and to help each other when possible.
- Yavapai County Board of Supervisors. Contacted directly by Advisory Board co-chair resulting in \$5000 gift.

Our mission is to address the unmet needs of natural resource users on law and policy topics.

ADVISORY BOARD

Role of Advisory Board

To provide guidance to the NRULPC leadership on important natural resource issues, advocacy for community service and student programs and projects, and to assist in fund-raising, the Advisory Board is composed of representatives from a variety of segments of the natural resource community. To this end, the Advisory Board provides expert advice on natural resource issues and matters undertaken to support stakeholder requests as appropriate. In addition, Advisory Board members help to identify and approach funding sources that will continue to build the capacity of the Center to provide pro bono services to underrepresented natural resource users.



Chairs of the Advisory Board

A Chair and Vice-Chair of the Task Force serve at the request of the NRULPC co-Directors. The Advisory Board Chairs call and organize meetings on a regular basis and maintain regular communication with the NRULPC co-Directors.

Nomination, Assignment, and Term of Advisory Board Members

Advisory Board members may be identified by the NRULPC leadership and currently serving Advisory Board members. New Advisory Board members may be designated at any time by the Advisory Board Chairs in consultation with the NRULPC co-Directors and serve for a period of one to three years (on a rotational basis), with the option of serving consecutive terms. Membership includes representation from such sectors as law, mining, dairy, ranching, and farming.

Meetings of the Advisory Board



At least two Advisory Board meetings are held per year. When conditions allow, one is an in-person meeting held in either Tucson or Phoenix. Any additional meetings are conducted virtually using teleconferencing services allowing for visual presentations and open discussions. Meetings include updates on NRULPC educational and outreach programs, development activities and status, and discussions on topics of broad interest to the natural resource community.

Outreach Activities of the Advisory Board Members

Advisory Board members are called upon to provide information about themselves and/or related activities that is disseminated through the NRULPC communications outlets. They are also asked to review content prior to publication as may be appropriate.

COMMUNICATIONS

Numerous methods of communication to the public, stakeholders and students facilitate learning and dialog, including:

Newsletter

- A bi-monthly newsletter is distributed electronically to board members, students, stakeholders and any other interested persons. The newsletter contains information about the Center and Clinic activities; descriptions and accessibility of new reports and documents; Advisory Board highlights and contributed articles; as well as other relevant information.
 - Link: <https://extension.arizona.edu/nrulpc-newsletter-other-resources>
 - Subscribe: You may sign up for the newsletter by contacting either [Barbara Hutchinson](#) or [Sheila Merrigan](#)

Blog

- Short blog posts, generally written by Clinic students, are available online
 - Link: <https://westernlandsblog.arizona.edu/>
 - Subscribe: To subscribe scroll down to bottom of website and click on the link provided

Website

- The website provides information about the NRULPC and links to the Center's publications.
 - Link: <https://extension.arizona.edu/nrulpc>

Publications

- All NRULPC publications are available online as well as other documents relevant to the work of the Center and the Clinic.
 - Link: <https://extension.arizona.edu/nrulpc-newsletter-other-resources>

Get Involved!

Help make the Center the premier outlet for Western natural resource law and policy issues. Whether it is hosting a ranch or facility tour, speaking to students in the classroom, mentoring a student, writing an article or a blog, providing an announcement through the NRULPC listserv or contributing monetarily – all efforts will help make this exciting opportunity a success.