



NRULPC Newsletter Vol. 4, No. 1

February 26, 2021

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Co-Directors' Message

Dear NRULPC Advisory Board Members and Supporters,

In spite of the continued impact of the pandemic on all of our lives, the NRULPC and Clinic staff and students have been moving forward this new year drawing on technology for networking, learning, and providing support to Arizona's natural resources community. As you will see in this issue, **undergraduate and graduate classes** are well underway and Clinic students are hard at work on their projects. Our sincere thanks to so many of you who give freely of your time and expertise to serve as guest speakers! Concerning **communications and outreach**, we are working on several ideas for expanding services to our constituencies. Look for more details in the next newsletter. In the meantime, we want to thank Doyel Shamley and Tom Davis for keeping us informed of current issues through his posts to the **NRULPC listserv**. The listserv is an outlet that can be used by all subscribers so please feel free to post items of interest to our natural resource users' network. At the same time, the [NRULPC website](#) is in the process

of a complete update and watch for more student posts to the “[Western Lands, Western Waters](#)” Blog in the coming months. In collaboration with Arizona Cooperative Extension and the Rangelands Partnership, an updated resource on “[Public Lands Grazing](#)” is available on the new [Rangelands Gateway](#) website. Additionally, Jeff Eisenberg summarized **Clinch Coalition, Alliance for the Shenandoah Valley, Chattoonga Conservancy, Cherokee Forest Voices, Defenders of Wildlife, Georgia Forestwatch, Mountain true, Virginia Wilderness Committee, and Wild Virginia et al. v. U.S. Forest Service**, (January 8, 2021, W.D. Va.) which is available on the web site. Finally, plans are underway for the next **Advisory Board meeting to be held on Tuesday, April 27th** (time to be announced soon). Evaluation feedback from Board Members following the last meeting is guiding these plans so look for more time for discussion about the Center’s programs, future, and engagement with speakers and students. As ever, we value your comments and suggestions on any aspect of the Center’s and Clinic’s programs and services, and we look forward to when we can meet again in person.

Best regards,

George and John
Co-Directors



Clinic Update

Priya Sundareshan

The Natural Resource Use & Management Clinic is now well under way for the Spring 2021 semester! As with the previous Fall semester, we are meeting entirely virtually using Zoom. We will be staying virtual for the entire semester unless the pandemic situation dramatically improves, so we are most likely not planning the fun field experiences that have characterized previous semesters and contributed to student learning and stakeholder engagement. Nevertheless, the clinic students are as engaged with the material as ever and eager to dive in to their matters.

This semester we have four J.D. students enrolled in the clinic; three who are second-year students and one third-year student.



Two of those four students are back again to continue their clinic experiences from the Fall semester, which I take as a good sign that they enjoyed the work and opportunities for community interaction! Thus far, the students have chosen a natural resource statute or management regime to research and presented an overview to the class. These topics included the Federal Land Policy and Management Act, National Indian Forest Management Act, Clean Water Act, and the tradability of Colorado River water allocations. They are also participating in a joint class exercise in notice and comment using the recent publication of the Final Environmental Impact Statement in the Oak Flat land exchange and proposed mining operations.

The students have also begun their main project work within the clinic. The student matters this semester include:

- Research and development of materials for the use of artificial beaver dams as mitigation banks under the Clean Water Act,
- Engaging with Colorado River allocation scarcity and assisting with proposals for water conservation in farming;
- Planning and conducting tribal consultation over participation in the state water rights adjudication, and
- Research into laws and other legal frameworks facilitating community solar developments.

We look forward to a safe and engaging rest of the semester!

Undergraduate Student Engagement

Anne Gondor

Continuing with the successful online course model developed in the spring and fall of 2020, 24 undergraduate students (12 Law and 12 Agriculture) are learning how COVID-19 has impacted natural resources operations. To date, Doyel Shamley joined the class to speak on *Local Government Engagement and Substantive Commentary*; Andy Groseta and Ian Tomlinson provided insights on *The Business of Ranching*; and Kami Weddle with the Rousseau Farming Company discussed *Compliance with Food Safety Regulations*. While ranchers Andy and Ian so far were able to avoid some of the impacts of COVID, the produce industry has had to comply with new FDA and CDC Covid safety requirements. Kami mentioned that it is still difficult to obtain required food safety equipment, such as gloves, that have had a 4 fold increase in price, and they had to make significant changes



to provide testing and adequate social distancing in the work environment. Early in the pandemic, Kami had friends sew masks for their workers, and had difficulties

obtaining reliable branded hand sanitizers. As we all are, Kami said they are anxiously awaiting the next phase of 1b vaccination priorities that will include their workers. A huge thank you to the NRULPC Advisory Board members and other experts for contributing their expertise to our academic programs.



Responsible Mining Crucial for Supplying Minerals Used in Green Energy

Lowell Institute for Mining Resources



Mining companies must effectively address community needs as they develop the minerals required by the modern world. That was the bottom line at the fifth annual Mining Law Summit held online in early November by the University of Arizona Global Mining Law Program. More than 120 registrants gathered remotely for “New Frontiers in Community Engagement and Sustainable Development of Mineral Resources.” Global experts spoke of the progress and challenges facing mining companies that want to supply lithium, cobalt, graphite, zinc and other minerals as demand

increases for batteries, solar panels and other green-energy products and systems.

The panel on “Responsible Mining and the Green Energy Transition” started with the premise that extraction is crucial. “There will be no climate action without mining,” said Daniele La Porta, senior mining specialist with the World Bank Group. “This message is a lot more clear now. Mining will be key to getting to this low-carbon future.” Demand for certain rare earth and other metals will increase 500% by 2050 just to meet the needs in new energy-generation and storage facilities. “That’s already significant,” La Porta said, “and overall infrastructure was not factored in.” A major concern is that metals recycling cannot currently meet the demand. The technology and business case doesn’t yet exist to close that circle of use. The next best step is to reduce the intensive carbon generation of

mining operations.

[Read entire article](#)

Save the Date
NRULPC Advisory Board Meeting - Tuesday April 27th

Plans are currently underway to organize a spring Advisory Board meeting. The meeting will be held on the last day of class so students can participate. We are looking at the December meeting evaluation responses from AB members and will do our best to incorporate those ideas into the upcoming meeting.

Current Policy Environment in Washington D.C. for Natural Resources

Jeff Eisenberg



A wise and arguably pessimistic person may have once said: “The more things change, the more they stay the same.” Right out of the gate of the Biden Administration, a number of important environmental policies were issued, some reversing Trump policies. Many more reversals are expected in the coming months. These changes meet part of the quote. The other part of the quote is met if we consider that Trump did exactly the same thing with respect to Obama Administration policies, and the Obama Administration did it with respect to Bush Administration policies, although to a lesser degree.

What suffers in this environment is management of the resources. Rather than being managed under a consistent program of sustainable use, they are managed according to the current whims of the left or right side of the issue. Members of the public, the men and women who make a living from the land, can never be certain in this environment whether political winds will take away what they have. Members of the public can also never be certain whether we will have the clean water and air, or the open spaces and wildlife many consider necessary for making life worthwhile or even survivable.

Into this morass jumps the new administration. It is worth noting that President Biden

has made clear at the outset that climate change is one his four priorities that will focus all of the administration's efforts (the others being combatting covid-19, reviving the economy, and promoting racial justice). In light of this priority, and his desire to take early and significant action on his agenda, he issued a major Executive Order (EO) on climate change on January 27, 2021. The EO comprehensively addresses many facets of federal government activities that touch climate change in some manner including foreign policy, using purchasing power to minimize the government's carbon footprint, orienting federal infrastructure investments toward reducing carbon emissions, promoting jobs in green energy, securing environmental justice, and empowering workers by advancing conservation, agriculture, and reforestation.

Section 214 of the EO explains that "America's farmers, ranchers, and forest owners have an important role to play in combating the climate crisis and reducing greenhouse gas emissions. . . ." The Administration is ordered to consult with stakeholders to develop recommendations on how "to achieve the goal of conserving at least 30 percent of our lands and waters by 2030." Additionally, USDA is required to consult with stakeholders on how "to encourage the voluntary adoption of climate-smart agricultural and forestry practices that decrease wildfire risk fueled by climate change."

Other changes in the EO that may be of particular interest to Arizona natural resource users include a reversal of the decision to reduce the size of national monuments; a revocation of the permit for the keystone pipeline; a decision to rejoin the Paris climate agreement; and a moratorium on new road construction in the Tongass National Forest. Future actions may reverse the reversals regarding tailpipe and powerplant emissions.

The big loser in this whirlwind of activity is stable, positive policy moving our country towards a future that is good for people and for resources. The short-term winners are of course those members of the public that support these changes. As usual, the practical effect of all these dramatic changes is less than certain. At one end of possibilities, is that all these reversals will be reversed after the next election in four or eight years, assuming the political temperature has not settled down in the country before then. Even before the next election, many of the policies in the EO are merely proposals that will require legislation and/or further funding from Congress which may or may not happen. Additionally, the policies will generally be subject to court challenges which may or may not permanently block them.

One can only assume that this uncertainty is what the American people want from their government since this is always what we seem to get!

Spotlight on NRUM Clinic Guest Speakers 2020

Colin McKenzie, Fellow, NRUM

(Note: Some information taken directly from the [NRULPC 2020 Report](#))

Sarah Parmar (Sycamore Canyon Ranch & Director, Conservation (Colorado Open Lands)) talked about collaborative conservation and the mutual benefits of conservation easements on private ranchlands. Sarah’s current effort is in “[s]triving to be a non-wealthy absentee rancher” for her family’s “300-head cow-calf operation in southern Arizona,” *Related Reading*:

- Sarah Parmar, [Keeping It in the Family: My Start Down the Path of Succession Planning](#), Western Landowners Alliance (Feb. 13, 2020)
- Rio Grande [Headwaters] Land Trust [RiGHT], [Support RiGHT ON Colorado Gives! Days](#), (n.d.) (including embedded video – [RiGHT Mission Statement](#)). Sarah stated “*This is an incredible opportunity to not only protect acequia water rights, but also to support acequia leadership and organization in Colorado.*”
- [Acequia Assistance \[Legal Assistance\] Project](#) (n.d.) (detailing collaboration, involving Sarah’s leadership, between CU-Boulder Law, Colorado Open Lands, and Sangre de Cristo Acequia Association)
- Emmy Strongwater, [In Her Element: Sarah Parmar—Meet the Director of Conservation at Colorado Open Lands](#), Colo. Homes Magazine & Lifestyle (Jan. 21, 2020)



Len Necefer (Assistant Professor; Univ. Arizona American Indian Studies & Udall Center for Public Policy) spoke about the economic importance of outdoor recreation and the growing participation of native people and governments. *Related Reading*:

- Krista Karlson and Len Necefer, [Desert Rustle](#), Climbing.com (Oct. 16, 2019) (“Navajo guide Aaron Mike explores the intricate web of history, stewardship, and climbing in Cochise Stronghold, Arizona.”)
- [recent testimony](#) before House Natural



Resources Committee, on Oil & Gas development and [Welcome to Gwichyaa Zhee](#), a 2019 documentary film he co-directed featured at Telluride's *Mountain Film* festival.



Colin McKenzie (NRUM Clinic Law Fellow; attorney and hydrologist) shared his research on “[e]fforts working with federal agencies, water users, and stakeholders towards [urgent] water management innovation in New Mexico’s Middle Rio Grande basin of New Mexico.” *Related Reading:*

- Theresa Davis, [N\[ew\] M\[exico\] Water Managers Warn Communities to Prepare for Low Rio Grande](#), Albuquerque Journal (Jan. 31, 2021)

Bethany Sullivan, NRULPC board member and former Clinic director, “. . . discussed [her practice in Indian law](#) and the recent Supreme Court decision, *McGirt v. Oklahoma*.” *Related Reading:*

- Graham Lee Brewer and Cary Aspinwall, [How the Supreme Court Upended a Century of Federal Indian Law](#), High Country News (Aug. 4, 2020).

Joan Card, Partner, and **Jennifer Diffley**, Junior Partner (Culp & Kelly law firm) “. . .discussed Clean Water Act permitting and the recent Supreme Court decision in *County of Maui*,” the latter item implicating sundry implications of discharges of pollutants into groundwater, pursuant to the high court’s latest landmark interpretation of the Clean Water Act. *Related Reading:*

- For an overview of Joan and Jennifer’s firm’s work in this domain, see, e.g Culp & Kelly LLP, [Water Quality](#) (n.d.)
- Brigit Rollins, *Supreme Court Issues Opinion in ‘County of Maui’*, (Apr. 23, 2020).

John Lacy, UA NRULPC Co-Director and Global Mining Law Center Director “. . . presented on the history and development of mining law and its application to current issues at the Rosemont Copper Mine.” *Related Reading:*

- John Lacy and Justin Pidot were featured in a 2019 story which quoted their analysis of the Rosemont project’s legal issues, currently on appeal to 10th Circuit Court. See Arianna Brocious, [Understanding the Legal Decision Blocking the Rosemont Mine](#), Ariz. Public Media (Aug. 23, 2019)
- Note that Rosemont’s parent company, Canadian miner Hudbay Minerals (TSE and NYSE: HBM), has appealed the District Court’s 2019 ruling to the 9th Circuit Court of Appeals. Hudbay and the US Fish & Wildlife Service filed their initial brief in the

matter on June 22, 2015, which can be found [here](#).

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” in the Arizona–Sonora border region. *Related Reading*:

- For a recent story featuring Prof. Hopkin’s work, which involves UA law students in NRUM Clincic’s sister clinic, [Yaqui Human Rights Project](#), see Maya L. Kapoor, [The Only Catfish Native to the Western U.S. is Running Out of Water](#), High Country news (July 1, 2020).



***New Resources on the
[NRULPC Website and Blog](#)***

- [Public Lands Grazing Resource](#) (February 2021)
- [NRULPC 2019-2020 Report](#) (December 2020)
- [NRULPC Advisory Board Meeting](#) (recording; December 2020)

**[Western Lands, Western Waters Blog](#)
*no new articles at this time***

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 L. 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](#)

The Blog is our newest resource with our first release in April 2019. All posts carefully researched and written by NRULPC Clinic students

Would you like to be on our NRULPC listserv? If so, please contact [Barbara Hutchinson](#).



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