



NRULPC Newsletter Vol. 5, No. 1

February 25, 2022

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Co-Directors' Message

Happy New Year,

Our new year wishes come a bit late but still sincere hope that 2022 will be a productive, enjoyable and fun year for you and your families.

As usual we have our Clinic update and send good wishes to Priya as she takes family leave in March! Anne provides an update on the popular *Legal Issues* course and we borrow an article from the *Lowell Institute for Mineral Resources* which gives us a discussion between John and Stan Dempsey on complex mining law issues. We are also highlighting one of our newer board members, Elizabeth Baldwin. The latest issue of the Regulatory Round-Up will be out at the end of the month. Lastly, please pass on the information about our job announcement for a Fellow with the Natural Resource & Management Clinic.

Best wishes,

George and John,
Co-Directors



Clinic Director's Update

Priya Sundareshan

The Spring 2022 semester has begun and the Natural Resource Use & Management clinic is taking it a bit slower this semester. I accepted one returning student who is currently enrolled in the clinic, so capacity is tight for projects this semester. The main reason for this departure from our usual clinic enrollment and acceptance procedures is because I am expecting a baby due in March! So enrollment has been limited to returning students in order to minimize class disruption when I take my parental leave mid-semester.



Nonetheless, the clinic remains busy with projects and evaluating potential projects. My student Analisa will be diving into the world of state regulation of natural resources and utilities as we follow the Arizona Corporation Commission's ongoing docket on a Just and Equitable Transition for coal communities in Arizona transitioning to other jobs and energy sources. There are a number of complex issues that may be relevant to this inquiry, including interpretation of the Arizona Constitution and recent Arizona case law, understanding the utility ratemaking process, as well as research into the history of coal development and procurement in Arizona and the native nations.

We are also hiring! Thanks to federal funding distributed by the state, we are able to immediately hire a law fellow in the clinic. Ideally, if all goes well in the hiring process, the fellow will be able to come on board just as I head out on leave and can smooth any needed transitions and student oversight. Here is the

link to the [job posting](#) – we appreciate your help spreading the word far and wide so that we have a robust pool of applicants to choose from.

Spring 2022 Agriculture, Environmental and Legal Issues Course Update (ACBS-LAW411)

Anne Gondor

The Agriculture, Environmental Legal Issues (ACBS-LAW 411) course has its full contingent of 25 students for In Person Spring 2022. Thirteen students are from the ACBS program, and twelve students are from the LAW program. Sixteen seniors, seven juniors and two sophomores. Many of the students have dual majors: Agricultural Tech Management & Education Program and Government and Public Policy, Animal Science and Law, Law and Music, Law and Sports Management, Law and Psychology, Law/Geo and Marine Sciences, Law and Philosophy and Law and Journalism. Some students are studying Sustainable Plant Systems, Nutrition and Food Systems, Veterinary Science and Microbiology and Food Safety. One student is studying Computer Science, Economics and Mathematics.



Students hail from all across the United States from Minnesota to Oregon and many communities across Arizona. One student is from Mexico. We plan to have 18 guest speakers from the NRULPC board and professionals with expertise in the regulatory topics covered in the course. These topics range from water law, food safety, endangered species, NEPA, CERCLA, conservation easements to the business of ranching. Many thanks to board members who have agreed to give presentations to our class, the students greatly benefit from your expertise.

Summit Explores Best Models for Complex Mining Law Issues

As permits for mining operations become more complex and expensive to obtain, U.S. companies ought to look at new legal structures that provide better assurances that the economics are worth moving forward.

In particular, the Town and Country Planning Act in Great Britain can serve as a model for U.S. government entities, private citizens and organizations, and companies, said renowned mining industry professional Stan Dempsey during an hour-long discussion at the University of Arizona's November 2021 Mining Law Summit.

"Models for New Legal Structures" looked at how to balance varied interests when a mining operation is proposed while still giving the developer a stable financial and regulatory environment in which to operate the mine. Dempsey, a National Mining Hall of Fame inductee who is former board chairman of Royal Gold Inc., and John Lacy, director of the UArizona



Stan Dempsey (left) and John Lacy

Global Mining Law Center, touted the Great Britain example as a way to address the needs of all sides of mining development. Those planning laws require that all interested parties participate early in the permitting process to voice and hash out concerns, compromises and solutions. These include issues of environmental and social impacts and governance of mitigating activities. "Everything is pulled together in an overall evaluation," Lacy explained. A single permit is eventually issued at the national level and only one appeal can challenge the process.

Mine developers in the United States currently pursue permits from several government agencies. Each agency holds separate public hearings after plans and environmental assessments are submitted. Challenges, sometimes in court, can happen at each permitting stage. This protracted process takes an average of four years in the United States, compared to two years using the model in Great Britain and some other countries. "Each of the stakeholders have legitimate interests that they're advancing and want to preserve," Dempsey said. "It's time to really listen to other people." United States agencies and companies need to refashion the permitting process. "We need a completely new environmental impact assessment," he said, that upfront addresses political, social and economic effects.

Governments need to play bigger roles

A more nationalistic approach to getting mining operations funded and

approved—pressing needs as demand grows for rare earth minerals that drive green activities against climate change—might have governments partner with companies. Dempsey called this the 50/50 partnership. In exchange for addressing and paying for environmental and social impacts, a company should get assurances of stability regarding royalties, taxes, export rules, infrastructure development and other business considerations. “It’s really a question of how much will the host country get out of this operation and how much for the company,” he said.



Iron ore mining in Luan county, China

Lacy cautioned that there are dangers in such partnerships. Developing countries may put undue burdens on mining developers to provide treasure to governments without earning fair profit. Missteps in dealing with political unrest could end in abandoning assets. New mining technology might prod a government to change its conditions for operating a mine that could become financially prohibitive for the company. Countries like China and Sri Lanka are willing to invest what it takes to develop mines. They are looking at the long game, said Dempsey, balancing the desires of local special interests with the eventual financial rewards of mining for both the public and private stakeholders.

National oversight may not be enough

Dempsey and Lacy spent some time musing over the possibility that the complexities of launching and maintaining mines are simply too big for one country to control. Here’s when micro- and macro-permitting might save the day. Dempsey noted that indigenous people, in Canada and elsewhere, currently provide services on their lands in agreements to share in the profits.

Robust industry standards that deal with environmental assessments could smooth out the process all over the world. Maybe an organization like the United Nations could referee disputes over permits that involve governments, companies and special interest groups. Individual mining companies face huge investment risks when trying to balance profit with stewardship. These risks could change the fundamental way mines are developed. Said Dempsey: “I have

a fear that private industry may not have a place in major mining in the future.”

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Spotlight on Advisory Board Member

Elizabeth Baldwin

Dr. Elizabeth Baldwin is an associate professor in the School of Government and Public Policy. She studies environmental policy, and is particularly interested in the way that government agencies work with other units of government and with non-state actors to formulate and implement environmental policies. She completed her J.D.



and her PhD at Indiana University, where she studied at the Ostrom Workshop on Political Theory. Her past research projects have focused on U.S. states’ clean energy policies, off-grid electrification projects in sub-Saharan Africa, and water governance and reform in Kenya. She currently is leading an interdisciplinary team of researchers at the University of Arizona to model invasive buffelgrass as a social-ecological system, with the goal of identifying policy options to address buffelgrass and modeling their long-term effects on the spread of buffelgrass in southern Arizona. She is also part of a University of Arizona research team studying the U.S. Forest Service’s forest planning process, as well as a university research team collecting and analyzing data on state and county policy approaches in response to Covid-19. She also studies the governance of Regional Transmission Organizations that regulate the nation’s electricity transmission infrastructure. She teaches courses in environmental policy and public management, and serves as an advisor to the University of Arizona Water, Society, and Policy masters’ program.

**Fellow
Natural Resource & Management Clinic**

Job Opening

The Natural Resource Use & Management Clinic at the University of Arizona James E. Rogers College of Law is offering a one-year fellowship to provide a recent law school graduate the opportunity to grow as an effective advocate in natural resource law and policy. The fellow will work with the Clinic to address important natural resource challenges in the arid western United States, including water scarcity and allocation, sustainable agriculture, ranching, timber practices, land conservation, and other projects with the closely associated Natural Resource Users Law & Policy Center. The clinic focuses on regulatory and policy matters, working closely with University partners, such as the College of Agriculture & Life Sciences and Cooperative Extension, to pursue collaborative natural resource management initiatives. [More info and application.](#)



REGULATORY ROUND-UP

Issue 4 – February 28, 2022 (Will be on the NRULPC [website](#) soon)

Highlights:

- Federal and state steps towards Climate Change policy solutions and decision making information
- Regulatory and case law updates and webinar links

See also

REGULATORY ROUND-UP

[*Issue 3 - December 30, 2021*](#)

[*Issue 2 - August 30, 2021*](#)

[*Issue 1 - June 30, 2021*](#)

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

[Website](#)

- [Regulatory Roundup](#)
 - Issue 4: February 28, 2022 (*coming soon*)

[Western Lands, Western Waters Blog](#)

- No new posts

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.



HOME ABOUT VIEW BY TOPIC VIEW BY SEASON OTHER BLOGS CONTACT US

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 [Sheila Merrigan](#).

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