



NRULPC Newsletter Vol. 5, No. 2

June 30, 2022

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Co-Directors' Message

Summer Greetings,

The Agriculture, Environmental and Legal Issues Undergraduate Course finished out the semester in style and Anne Gondor shares the highlights in this newsletter. Jeff Eisenberg's memo, *Confidentiality of University Research Data Collected from Agriculture Operations*, is highlighted below as is the Regulatory Roundup from April. A hearty congratulations to Natural Resource Use & Management Clinic director Priya Sundareshan on the birth of her second son!

The Spring meeting of the NRULPC Advisory Board was held May 24th in the ENR2 building on the University of Arizona campus in Tucson. Three board members, Andy Groseta, Jeff Menges, and Stefanie Smallhouse attended the meeting in-person, while Joe Willis, Nick Ashcroft, Kirk Johansen, Bill Plummer, Alan Seitz, Doyle Shamley, and Bethany Sullivan joined us remotely.

NRULPC progress was highlighted along with various matters the Center has worked on this semester. Brief updates on the undergraduate class and clinic were given. Two excellent speakers joined us in-person: Marc Brinkmeyer, Owner and Chairman of the Board, Idaho Forest Group and Perri Benemelis, Principal, Benemelis Consulting LLC. Marc discussed “*Timber, Talent and Technology*” what we refer to as “*T Cubed*” to “*Academics, Analytics and Artificial Intelligence*” what we refer to as “*A Cubed*” while Perri presented on *The Lower Colorado River Multi-Species Conservation Program*. A brief summary of her presentation is in this newsletter. The [meeting recording](#) is on our [website](#).

A lively and informative Advisory Board member discussion covered roles of member, legal and policy issues members are seeing around the state, new avenues for student interactions, future options for the center and ideas for the Fall meeting. We appreciate each of our board members and thank you for your support of the Center and Clinic, participation in meetings, presentations to the undergraduate class and involvement with the clinic students!

Wishing all our subscribers and safe and enjoyable summer – stay cool!

Best wishes,
George and John,
Co-Directors



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

Anne Gondor

The ACBS-LAW 411 course was offered for Spring 2022 as both live in person with students coming into the classroom with simultaneous Zoom for both students and guest speakers who needed to stay remote. The basic purpose of the class is to present a balanced view from the resource users perspective and promote law, as a career option to students working on these natural resource degrees.

This year we added an end of year discussion post for students to tell us:

1. What was your favorite topic in the course and how has it impacted you?
2. Has the exposure to the topics in the course made you reconsider your next steps on academic or career path?



With this we were able to get better feedback on some of the topic materials presented and knowledge that at least one student plans to attend law school after they receive their undergraduate degree from the ACBS program. We hope to encourage more SNRE students by cross listing the course with renewable and natural resources, it didn't happen for this spring, but it's definitely happening for next spring. We have also raised our maximum class size to 30 for spring 2023.

We had students from all over Arizona from Tuba City to Yuma, with 2 students from the Navajo Nation, a fourth of the class was from Tucson, others came from Mexico, California, Oregon, Minnesota, North Carolina and Washington. One student came from a 5th generation farming family this year, this was very helpful to some of our discussions early in the semester. Student program level demographics were - 15 seniors, 7 juniors, 2 sophomores and they were evenly split between Law and ACBS.

We want to recognize and thank, board member, Sarah Roubidoux Lawson for helping us revise Joe Willis's *U.S. Federalism System and the Hierarchy of Laws Study Guide*. With two students from the Navajo Nation in the course this year we realized, a gap, of not having represented tribal government policy in this document, so thank you, Sarah for that.

Thanks to all of our guest speakers and especially to board members* who presented this year - Celeste Steen, Doyel Shamley, Andy Groseta, Sarah Lawson, Carlos Ronstadt and consultant, Jeff Eisenberg. We had a total of 17 guest speakers this year on the following topics:

Arizona Topics of Policy & Law	Food Safety (FSMA)
CERCLA	*Local Government
Arizona Water Law	Engagement
Types of water regulated &	Outbreak Investigation
* Historical Events that shaped Arizona	*Ranching
water law	WOTUS

Conservation Easements
Contracts and Real Property

*Tribal Law
NEPA
Endangered Species Act
(ESA)

Advisory Board Meeting Guest Speaker Presentation Summary

The Lower Colorado River Multi-Species Conservation Program

Anne Gondor



Speaker **Perri Benemelis**, the Principal of Benemelis Consulting LLC presented on [*The Lower Colorado River Multi-Species Conservation Program*](#)

Benemelis Consulting LLC is a water resources planning and analysis firm. Benemelis began her water resources career with the Arizona Department of Water Resources (ADWR). As manager of the Colorado River section, she was directly involved in the development of the Lower Colorado River Multi-Species Conservation Plan (MSCP) and for a number of years she served as the Steering Committee chair. She worked on the development and negotiation of the first quantified shortage agreement between the Colorado River Basin States, the United States, and Mexico (2007 Interim Operating Guidelines and Minute 319). In 2014, she began managing the Water Supply Acquisition Program for the Central Arizona Groundwater Replenishment District, during which time the District more than doubled its water supply portfolio.

Perri's presentation was an overview describing the MSCP Program and events that led to its creation, what constitutes the MSCP programmatic compliance approach, implementation and funding. Perri first described "the Colorado River Multi-Species Conservation Program ([LCR]MSCP) is a combined federal, non-federal Endangered Species Act ("ESA") compliance program to protect 26 endangered, threatened and sensitive species and to provide assurances to water and power users that their operations may continue upon compliance with the terms of the program." [This program falls within the USFWS Conservation Planning program and Section 10 of the Endangered Species Act.] "The MSCP was necessary due to a 1997 Biological Opinion on Reclamation's operations resulting in a "jeopardy" finding for endangered listed species, Southwestern willow flycatcher [*Empidonax traillii extimus*] and Razorback sucker

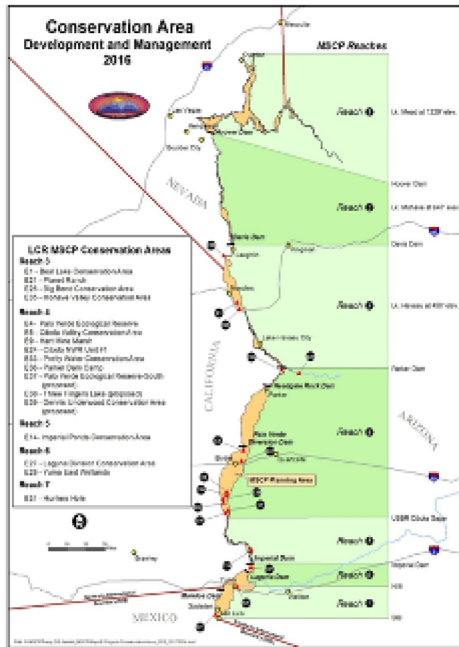


Figure 1. LCR-MSCP Conservation Areas 2016. Source: <https://www.fws.gov/landmanagement/conservation/conservation-areas-mcp.pdf>

[*Xyrauchen texanus*].” Perri described how the damming of the river dramatically altered the river hydrograph from a system with flashy high flows to very low flows, with high turbidity and a lot of suspended sediments, this impacted the ecosystem species (plants and wildlife) that evolved along with the river.

Confidentiality of University Research Data Collected from Agriculture Operations

Jeff Eisenberg

The public in the United States and Arizona have become increasingly hostile to having farms or ranches operate in the vicinity of where they live and have launched a number of legal challenges to operations in in recent years. Particular social issues arise around the need to secure the safety of our food supply. The Center for Disease Control estimates that more than 37 million people in the United States acquire a food-born illness annually from one of 31 pathogens transmitted commonly by food. This concern for food safety and its relationship with beef production is particularly important in Arizona given the significance of vegetable production in the state and the series of lettuce recalls for e. coli contamination over the last several years in the region. In 2020, lettuce generated \$725 million in Arizona which is the highest revenue of any agriculture commodity produced in the state after dairy.



The University of Arizona has worked to create best management practices that will enable producers to voluntarily adopt practices to mitigate the risk of

pathogen transmission. In particular, it has developed and is implementing a research program focused on identifying the pathways for the transmission of pathogens and then the development of voluntary best management practices to minimize the likelihood that transmission occurs. Confidentiality of the collected research data is afforded under Arizona statutory and case law. This protection should go a considerable distance in allaying the concerns of producers about safeguarding the confidentiality of their operation's proprietary information.

[Read full memo](#)

Welcome Back Colin McKenzie

Colin reports he is “thrilled” to return to the Natural Resource Use and Management (NRUM) Clinic as fellow. The first time around, in 2020–21, he focused on clinical legal education with law MLS and law students alike and on client matters at the intersection of science; his article "Integrating the Law of the Rio Chama," appeared in the summer 2021 edition, Vol. 57, of the *Natural Resources Journal*.

Since then, Colin "spent" a sabbatical year on quality time with his three year-old child; during that time he also pursued independent R&D—research and development—where natural resource matters meet jurisprudence, political philosophy, and legal analytics. As before, Colin will engage in collaborative research, education, and evidence-based policy efforts across a range—no pun intended—of issues, from public lands to mining and water law. Complex adaptive systems, social license, and the so-called “radical center” are continued foci of his research.

A University of New Mexico School of Law alumnus, he served as Co-Editor in Chief of the *Natural Resources Journal* and was himself a student law clinician, under the direction of Prof. Barbara



Creel, at UNM's Southwest Indian Law Clinic. After law school, Colin clerked for the Hon. Jennifer Attrep of New Mexico Court of Appeals. From 2015-18, he was a researcher for and later consultant to the Utton Center for Transboundary Resources. Prior to law school, Colin worked as a groundwater hydrologist, splitting his time between southeastern Arizona and northern Chile.



REGULATORY ROUND-UP

[Issue 5](#) – April 30, 2022

Highlights:

- IPCC Climate Change Mitigation report and Climate Change Resilience for US old growth forests executive order
- Online planning tools to help meet regulatory needs
- DOI wildfire management 5-year strategy and CFLRP community forest management projects grants
- Grazing 9th Circuit case and 2022 Conservation Reserve Program Improvement Act
- NEPA Implementing Regulation Revisions
- Topics on water and mining

See also

REGULATORY ROUND-UP

[Issue 4](#) - February 28, 2022

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

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

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

[NRULPC Website and Blog](#)

[Website](#)

- [Regulatory Roundup](#)
 - Issue 6: June 30, 2022 (on website soon)
 - [Issue 5](#): April 30, 2022
- Memorandum
 - [Confidentiality of University Research Data Collected from Agriculture Operations \(June 2022\)](#)
 - [Water Activity in the Arizona Legislature \(March 2022\)](#)
- March 24, 2022 [Advisory Board Meeting](#)
 - [Agenda](#)
 - [Recording](#)
 - [Powerpoint](#)

[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.



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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 [Sheila Merrigan](#).

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