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**Natural Resources & Environmental Law Program
April 2019**



April 2019 Newsletter:

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NREL Program Earns A+ Rating from PreLaw Magazine Gina

The Winter 2019 publication of PreLaw Magazine rated UNM SOL's Natural Resources and Environmental Law Program an A+, improving on last year's A- rating. Only 13 other programs in the country were awarded an A+ rating, including other top natural resources and environmental law programs such as those at Vermont Law School, Lewis & Clark Law School, and the University of Utah College of Law. The review "graded law schools based on the breadth of their curricular offerings." UNM was recognized for its diverse course offerings in the field, its NREL Certificate program, the NREL clinic, the Natural Resources Journal, and for providing other student opportunities in the field such as the Environmental Law Moot Court program, the Environmental Law Society and programming offered by the Utton Transboundary Resources Center.

"UNM Law has had a strong program in this field for many years, and we continue to build it," said Professor Reed Benson, Chair of the Natural Resources and Environmental Law program. "Opening our Natural Resources and Environmental Law Clinic in 2017 has raised us to the next level."

Former Minister Christopher Finlayson Discusses New Zealand's Settlements with Māori

On February 25, UNM School of Law welcomed Christopher Finlayson to discuss New Zealand's model of settlement negotiations between the country's government and its indigenous peoples. Finlayson previously served as New Zealand's cabinet minister for Treaty of Waitangi Negotiations and also as the country's attorney general.

Finlayson described the legal framework that was put into place by a 1975 New Zealand law that sought to provide redress to Māori tribes for breaches by the New Zealand Government of guarantees set out in the Treaty of Waitangi (a 19th Century agreement between the British Crown and the Māori). Settlements typically include financial compensation, potential return or protection of tribal lands and



From left to right: Law and Indigenous Peoples Program Director John LaVelle, NREL Program Chair Reed Benson, the Honorable Christopher Finlayson, Utton Center Executive Director Adrian Oglesby.

cultural properties, and government apologies for harms imposed on the indigenous tribes. As Minister for the Treaty of Waitangi Negotiations, Finlayson oversaw negotiations of such settlements on behalf of the government.

As one example, Finlayson described how in 2014 a groundbreaking agreement was reached that entitled the Whanganui River to a legal identity, a first in the world, because the Whanganui Māori tribe regard the river as their ancestor. Finlayson said the river would have an identity "with all the corresponding rights, duties and liabilities of a legal person." The river will be represented by two officials, one from the Māori and the other appointed by the government.

The continuing legal education lecture was presented by the UNM SOL Natural Resources and Environmental Law Program, the Law and Indigenous Peoples Program, and the Utton Center.

The Utton Center Tackles UNM's Sustainable Water Resources Grand Challenge

The Utton Transboundary Resource Center is part of the leadership team that will be tackling UNM's Sustainable Water Resources "Grand Challenge." This February, UNM President Garnett S. Stokes [announced the selection of three university-wide Grand Challenges](#) that seek to bring researchers and scholars together in interdisciplinary teams to address some of New Mexico's most pressing issues. The goal of the Sustainable Water Resources Challenge is to develop the Rio Grande Watershed as a vibrant and resilient trans-boundary watershed that supports a thriving economy, healthy landscapes and aquatic ecosystems, and vibrant communities. UNM is providing seed funding for the interdisciplinary project.

The Utton Center has deep institutional expertise in New Mexico water governance and is known for its publications, conferences, and public service projects. "The Utton Center is excited to be working with our partners across UNM and the Higher Education Department to help develop meaningful solutions to the real and immediate water resource challenges facing New Mexico's communities," said Utton Center Executive Director Adrian Oglesby.

Check out the Utton Center's newly updated website [here](#).

Clinic Deepens Work with Land Grants and Acequias

The [NREL clinic](#) students continue to represent a diverse group of clients and this semester have increased their work with a number of land grant Associations throughout New Mexico. Today, the land grants are recognized, organized and managed under their own bylaws and New Mexico state statutes. This semester, the clinic's work includes: (1) assisting historic Hispanic neighborhoods in the rezoning of lands to preserve the land grant residential areas, (2) filing a case in the state court challenging the decision of county commissioners to permit towers in a land grant historic community, (3) assisting in the repatriation of land grant descendants whose cemetery land was converted into private property, (4) negotiating the return and transfer of federal land and privately developed land to local land grants, and (5) developing land grant regulations and permits for the sale of mineral resources. This semester the clinic is being supervised by Prof. Jeanette Wolfley.

The NREL program also held a very well-attended "lunch and learn" last October on Land Grants and Water Issues featuring Arturo Archuleta and Jacobo Baca from the New Mexico Land Grant Council and UNM's Southwest Hispanic Research Institute.

Recent NREL Certificate Graduates Making a Splash in New Mexico's NREL Community



Second year UNM Law students Anne Minard, Stephanie Russo Baca, and Lance Hough.

Anne Minard, Class of '16, was appointed this past October as a Special Assistant Attorney General in the Environmental and Consumer Affairs Division of the New Mexico Office of the Attorney General. In her new role she is working on litigation regarding contamination at military bases, utility

regulation proceedings, and various multi-state administrative and judicial actions on environmental matters. She was also recently elected as Chair-Elect of the Natural Resources, Energy, and Environmental Law (NREEL) Section of the State Bar. Minard previously clerked at the New Mexico Supreme Court and the United States Court of Appeals for the Tenth Circuit.

Stephanie Russo Baca, Class of '17, has joined the Utton Transboundary Resources Center as the Ombudsman Program Director and Staff Attorney. She will be leading the Joe M Stell Ombudsman Program, a statewide program that educates owners of water rights about how to navigate litigation in federal and state courts. Russo Baca will also be contributing to the Utton Center's overall mission of providing objective research-based public service to New Mexico's communities on issues related to energy, climate change, ecological conservation, food systems, and international natural resource management. Stephanie was previously associated with the Barncastle Law Firm in Las Cruces.

Lance Hough, also Class of '16 and a former editor-in-chief of the Natural Resources Journal, recently joined the Modrall Sperling Law Firm as an associate practicing in the firm's litigation section. His work includes oil and gas regulatory matters and water rights adjudications. Hough previously took part in ground and surface water restoration projects as an associate in the firm of Robles, Rael & Anaya.

Villa, Fort Speak About Importance of Environmental Public Health

In December, Prof. Cliff Villa and Emerita Prof. Denise Fort both spoke at an event in Albuquerque billed as a "A Gathering for Building an Environmental Public Health Network." Villa, who kicked the event off with a keynote address, demonstrated how the federal Clean Air Act, Clean Water Act, and other pollution control statutes are aimed primarily at protecting public health. Fort, who has also previously served as the director of the New Mexico Environment Improvement Division, discussed opportunities to improve environmental public health advocacy in New Mexico. Fort, UNM SOL alumna Carol Romero-Wirth, and recent NREL Certificate graduate Cara Lynch helped organize the event. If you are interested in learning more about the Environmental Public Health Network, email questions to:

envpublichealth@gmail.com.

Pacyniak Publishes Paper on New Mexico Renewable Portfolio Standard Policy Design

Prof. Gabe Pacyniak published a [white paper](#) in December identifying policy considerations related to New Mexico's current Renewable Portfolio Standard (RPS) design ahead of the state legislature's deliberation and passage of a major RPS expansion. The paper found that other states were implementing much more ambitious renewable electricity targets and that New Mexico's RPS had a uniquely restrictive cost-containment measure that disproportionately shielded large customers from cost impacts and prevented the full renewable goal from being met. In the recently concluded legislative session, the New Mexico Legislature passed the [Energy Transition Act \(SB 489\)](#), which will dramatically increase New Mexico's RPS target to 80% renewable energy by 2040 and 100% zero carbon energy by 2045. The act will also change the RPS cost-containment measures to remove the large customer provisions. Pacyniak's white paper was developed for New Mexico First and the Utton Transboundary Resources Center as a follow-up analysis to issues identified in the [New Mexico Energy Roadmap](#) process conducted by the New Mexico Energy, Minerals, and Natural Resources Department.

UNM Law Students Take On the Environmental Law Moot Court Competition

The last weekend in February law students Javier Gonzales, Victor Hall, and Samantha Kao traveled to the Pace School of Law in White Plains, New York, to compete in the annual National Environmental Law Moot Court Competition.

Coaches Samantha Ruscavage-Barz of Wild Earth Guardians and Deana Bennett of the Modrall Sperling Law Firm guided the team through the process. The team submitted a brief and presented oral arguments related to a hypothetical climate change suit alleging tort claims and violations of the public trust doctrine.

The students, who are all interested in natural resources and environmental law, praised the experience. Kao, who intends to pursue litigation, and said she "feel[s] more confident...being a lawyer," and that the competition was a "[g]reat experience." Gonzales said he "definitely had fun" while he refined his public speaking skills. Hall agreed the competition was good litigation practice and "should be continued and fostered here" at UNM SOL.



Victor Hall, Samantha Kao, and Javier Gonzales

Benson, Villa Present at NM Water Law Conference

Profs. Reed Benson and Cliff Villa presented at the 26th annual New Mexico Water Law Conference, held in Santa Fe in September 2018. Benson spoke on judicial remedies for interstate compact violations, and Villa addressed the aftermath of the Gold King Mine spill on the Animas River. Many of the other presenters at this two-day event were UNM Law alumni, as were the program co-chairs, Santa Fe attorneys John Draper and Lou Rose.

Recent Events: April 2 CLE on Clean Water Rule; April 6 “Hot Topics” NRJ Symposium

April 2: CLE with Visiting Scholar Patrick Parenteau - WOTUS 2.0: What the Proposed Clean Water Rule Revisions Would Mean for the West. Parenteau spoke about the Trump Administration’s proposed revisions to the controversial 2015 Clean Water Rule. The proposed revisions, published in the Federal Register on Valentine’s Day 2019, represent a radical reduction in the historic scope of Clean Water Act jurisdiction. The symposium discussed the question: How would these changes, assuming they survive the numerous legal challenges to come, affect water quality in the West?

April 6: Natural Resources Journal Symposium on Hot Topics in Environmental Law. Patrick Parenteau spoke about proposed changes to Endangered Species Act regulations. Joshua Mann, an attorney with the Interior Secretary’s Indian Water Rights Office, discussed tribal water settlement efforts. Samantha Ruscavage-Barz from Wild Earth Guardians discussed federal efforts to regulate methane emissions. CLE credit was offered at this event.

Upcoming Event:

April 18, 2019, Live-Streaming 11am to 6pm EDT. National Lawyers and Climate Change Conference. Leading lawyers and law professors will convene in person at locations across the United States to discuss the problem of climate change and the role of lawyers in advancing solutions. The locations will all be linked by live video/audio feeds. This year’s conference will feature leading experts addressing the most important aspects of the climate crisis from a legal perspective. The conference will also address ways in which lawyers can work to make a difference on this subject of grave concern to our well-being and future.

Speakers: U.S. Senator Ed Markey, U.S. Rep. Ted Deutch, and Prof. Michael Mann

Topics: The Green New Deal, Carbon Pricing as a Key Solution, Legal Pathways to Deep Carbonization, Voluntary/Market-based Decarbonization Initiatives, How You Can Take Action on the Climate Crisis

Where: Locations across the United States. You can host a location in your city. All locations will be joined by live video/audio feed.

The event is free. For further information, contact info@calltothebar.org.

About UNM Law's Natural Resources and Environmental Law Program

New Mexico is a place with a stunning variety of scenic beauty and natural and cultural resources, which makes it an ideal backdrop for the study of natural resources and environmental law and policy on a national scale. UNM Law's [natural resources and environmental law \(NREL\) program](#) offers students a robust variety of experiences, including a full range of [courses](#) in the field, the [NREL certificate program](#), the [NREL clinic](#), the [Natural Resources Journal](#) (the oldest U.S. law review in the field), the [Utton Transboundary Resource Center](#) (a research center dedicated to natural resources and environmental issues), an externship program, and the [Environmental Law Society](#). Students can also earn a dual degree in law and water resources.

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