

Spring 2014

Spring 2014 Utton Center Newsletter

Utton Center, University of New Mexico - School of Law

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The Utton Center



Rio Grande in spring runoff

Utton Center Newsletter, Spring 2014



Marilyn C. O'Leary

Note from the Director

I am so pleased to introduce this newsletter with an announcement of our new director. After a search that brought us a number of outstanding candidates, Adrian Oglesby has been named to that position.

Please join me in congratulating Adrian. We will welcome him to his new role on July 1.

Adrian has connections with the Center that go back to his student days at the School of Law. Adrian was the editor of the SOL's US-Mexico Law Journal as a student. He went on to practice water law in a variety of settings. These experiences have given him wide-ranging knowledge of New Mexico water law and its outcomes in New Mexico. He will be an outstanding director as he continues his usual practice of reaching out to everyone involved in our state's water issues.

As interim director I have been gratified by the response to the Utton Center's work and the enduring legacy of Professor Utton. Look for an announcement of the publication of a new book on Al's life and body of work written by Michele Minnis.

Our strategic planning efforts have emphasized the importance of the Utton Center's role in the state as the only entity with water law as its core expertise. Any effective and realistic discussion of water rights and water policy must include an understanding of the role of water law in framing solutions.

As the Center continues to implement its values of preventive diplomacy, impartiality, good scholarship, and transparency, it will recognize interdisciplinary collaboration with the catalyst of law as its essence.

This has been a busy and productive year for us. The Center has worked closely with the SOL's Natural Resources and Environmental Law Program and its faculty to put on "Lunch and Learn" lectures and continuing legal education programs. Our Ombudsman Program has served over fifteen hundred water rights claimants, as Darcy Bushnell educated *pro se* parties on the settlement of the Pueblos water rights in the *Aamodt* case in north-central New Mexico, as well as other adjudications.

Six law students have performed research and written articles and reports for the Center. They are Sarah Armstrong, David Ketai, Ed Merta, Anne Minard, Zach Ogaz, and Stephanie Tsoie. We have published the 2014 update of *Water Matters!* for the legislature; it is now accessible on our website.

I look forward to continuing my commitment to this organization as a member of the advisory board and charter member of the "Friends of the Utton Center." On September 28, the Center will host a social gathering to recognize and honor the Utton family and to convene the many friends of the Utton Center, whose loyal support has made our work possible.

I hope to see you on September 28!

-Marilyn C. O'Leary, Interim Director

Adrian Oglesby to Lead Utton Center as New Director



Adrian Oglesby

The Utton Transboundary Resources Center at the University of New Mexico School of Law is pleased to announce that **Adrian Oglesby** will assume the position of director as of July 1.

Prior to joining the Utton Center staff in June 2013, Oglesby served as an outside advisor, editor, and grantwriter for the Center. As Senior Staff Attorney, he worked to identify and develop meaningful legal and policy solutions to the real and immediate natural resource challenges facing New Mexico.

Adrian graduated from the University of New Mexico School of Law in 2000. Before earning his JD degree, he managed environmental cleanup projects. He has since run a successful law firm that provided legal counsel to tribes, farmers, and NGOs on water and environmental issues; represented the New Mexico Interstate Stream Commission on the Pecos River; and established and managed the Living Rivers Program for The Nature Conservancy in New Mexico.

Currently Oglesby is the Vice Chairman of the Middle Rio Grande Conservancy District Board of Directors, President of the New Mexico Riparian Council, Chair-Elect of the Natural Resource Section of the State Bar, Chairman of the Mid-Region Council of Government's Water Resource Board, and a member of the Tamarisk Coalition's Board of Directors.

As the Utton Center addresses the critical water issues of New Mexico and the arid Southwest, Adrian Oglesby brings a wealth of background and experience to the Center's efforts. He is already engaged in planning and facilitating water and natural resources projects that will expand the education of the students at the UNM School of Law and serve the state legislature, agencies, local governmental entities, and the communities of our state.



**Albert E. Utton
(1931-1998)**

**SAVE-THE-DATE - SEPTEMBER 28
We're planning a party!**

As the Utton Center celebrates our 14th anniversary, we will remember the legacy of Professor Al Utton and his groundbreaking work in natural resources law. Join us for this fun afternoon and

- welcome our new director Adrian Oglesby
- honor the service of outgoing director Marilyn O'Leary
- acknowledge the unflagging support of the Utton Family
- thank our many friends and loyal supporters.

We'll feature a margarita tasting remembering Al's search for the "margarita perfecta" and a New Mexican cocktail buffet.

"Friends of Utton Center" Celebration
September 28 from 4-6 p.m.
472 Priestly Road, Corrales
Home of Fred Harris and Marg Elliston

Utton Center Staff Activities

Conferences/Workshops

Darcy Bushnell, the director of the Stell Ombudsman Program, organized and facilitated a series of public meetings on the settlement of the water rights of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque. The work was done under a contract with the County of Santa Fe during the first quarter of 2014. It consisted of conducting two large community meetings, 12 small workshops, 12 sessions of office hours and producing a handbook which explained the settlement to non-lawyers. In all, the Program served about 1,500 individuals and distributed 1,000 handbooks.

Adrian Oglesby, Senior Staff Attorney, participated in the planning of New Mexico First's Water Town Hall held in April in Albuquerque. Approximately 300 people attended a two-day conference of decision-makers, experts, and professionals engaged in water-related activities. Report of New Mexico First Water Town Hall: <http://nmfirst.org/events/th-40>

In addition, Adrian participated in the panel discussions held by the New Mexico Museum of Natural History and Science on the past, present, and future of the Rio Grande and the bosque.

Presentations

August 2013 - *Native American Water Rights Settlement Database*, NARF & Western States Water Council Tribal Water Settlement Conference, Pojoaque, NM. Darcy Bushnell.

September 2013 - *Drought Impacts on New Mexico Wildlife*, Wildlife Law Conference, Albuquerque, NM, Adrian Oglesby and Denise Fort. ***Overview of Laws Concerning Tribal Wildlife***, Adrian Oglesby.

January 2014 - "Whiskey's for Drinking, Water's for Fighting...Think Again," Amigos Bravos, Santa Fe, Marilyn O'Leary.

February 2014 - *Salt Cedar in the Land of Enchantment*, Tamarisk Coalition Conference, Grand Junction, CO, Adrian Oglesby.

March 2014 - *Water Rights*, NM Rural Water Association 36th Conference, Albuquerque, NM, Darcy Bushnell.

April 2014 - *Adjudication in NM*, UNM Water & Energy in NM Speaker Series,

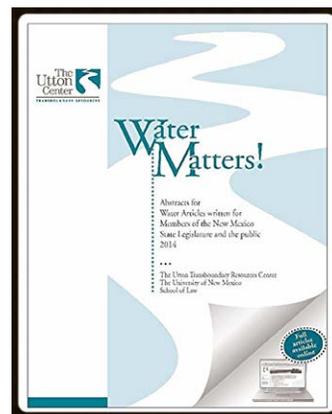
Albuquerque, NM, Darcy Bushnell.

Publications

Adrian Oglesby co-authored a chapter for a new book edited by Fred Harris entitled, *New Mexico 2050: What Will We Be? Where Will We Be?*

2014 *Water Matters!*

The Utton Center is pleased to announce the publication of the *Water Matters!* update for 2014. Hard copies of this publication are provided in abstract form to the New Mexico state legislature during the short session with full articles printed for each long session. *Water Matters!* is accessible online at <http://uttoncenter.unm.edu/projects/water-matters.php>.



Written by Utton Center staff, UNM SOL students, and water experts and attorneys, *Water Matters!* is reviewed by professional consultants. The Utton Center would like to thank all who contributed. The Utton Center gratefully acknowledges support from the McCune Charitable Foundation for the grant that made this publication possible.



Middle Rio Grande, August 2013

Drought Conference 2014

The Utton Center has a history of addressing New Mexico's water law and policy issues by initiating research, convening experts, and developing consensus solutions. The Center collaborates with multiple disciplines to address New Mexico's natural resource issues to manage future conflict and promote informed decision-making.

Continuing this focus, the Center will convene a seminar of experts to discuss potential solutions to the drought gripping New Mexico. Ninety-seven percent of the state is currently classified in severe to extreme drought; years of average precipitation will not restore surface water supplies to normal levels. New Mexicans are painfully aware of the critical consequences of reduced water availability to communities, agriculture, industry, aquatic life and wildlife, and forests threatened by catastrophic fire.

The problem addressed by this seminar is the lack of meaningful comprehensive laws and policies to address drought. Research of best practices and outcomes of drought planning from around the West and across the world will advance New Mexico's ability to remain resilient in the face of water shortages. The Center will provide this analysis to key decision-makers, who will then consider the best solutions to chronic water shortages and equitable distribution of water during droughts.

A team of Utton Center staff and law students will research the issues, explore innovations, and work with a conference of experts to identify drought management best practices. The findings will be published and distributed statewide and nationally.

We are happy to announce funding for this conference has been awarded to the Utton Center by a grant from the McCune Charitable Foundation.

Watch for more information and a date for this conference in Fall 2014.

Student Spotlight

SARAH ARMSTRONG



Sarah Armstrong

Sarah Armstrong, Class of 2015, is a native of Atlanta, Georgia and graduate of Emory University, where she received a Bachelor of Arts in Anthropology and Environmental Studies. It was during an Emory-sponsored field study in the Peruvian Amazon that she first became interested in the rights of indigenous peoples. Sarah has chosen to pursue this interest at the University of New Mexico School of Law where she is a candidate for the Certificate of Law and Indigenous Peoples.

In fall 2013 and spring 2014, Sarah was a research assistant for the Utton Center and contributed to the research on water policy and water resource issues for articles in *Water Matters!*, our publication distributed to the New Mexico legislature each session. She also worked on the Native American Water Rights Settlement (NAWRS) database.

This summer she will complete a legal internship at the Southwest Regional Office of the Solicitor for the U S Department of the Interior. She is one of three recipients to be awarded a stipend for her summer work by the Natural Resource and Environmental Law Program.

Sarah will spend next semester as one of six students selected to participate in the School of Law's Washington D.C. Experiential Enrichment Program, where she will complete a legal externship in the field of American Indian natural resource law.

Spring Continuing Legal Education Lectures

Lectures are hosted by the Natural Resources and Environmental Law

Program and the Utton Center with the support of the Natural Resources, Energy, and Environmental Law Section of the New Mexico Bar Association. CLE credits can be earned for these lectures.



The Hon. Ignacia Moreno

"Environmental and Natural Resources Issues in Indian Country" - Ignacia Moreno

The Honorable Ignacia S. Moreno, former Assistant Attorney General, Environment and Natural Resources Division, U S Department of Justice, spoke to faculty, students, and members of the legal community at the University of New Mexico School of Law on April 7.

Ms. Moreno was nominated by President Barack Obama to be Assistant Attorney General for the Environment and Natural Resources Division in 2009. As head of the Environment Division, former Assistant Attorney General Moreno was considered the nation's top environmental lawyer. She was the first Latina to lead the Division in its nearly 104-year history.

In a dynamic discussion of environmental and natural resources issues in Indian Country, Ms. Moreno reviewed the progress made to date and an agenda for the next two years. This agenda includes water adjudications, pollution in Indian country, climate change, sacred sites, tribal trust litigation settlements, and the safe and responsible development of a domestic source of energy.



Elephant Butte Dam, 2013 (courtesy of Ed Polasko, National Weather Service)

"Two Views of Rio Grande Water Litigation" - Assistant Attorney General Stephen Farris and Las Cruces

attorney Steve Hernandez

Texas recently sued New Mexico and Colorado in the U S Supreme Court over the Rio Grande Compact. Texas claims that it's not receiving its portion of water under the compact.

A related case, *New Mexico v. United States*, was filed on August 8, 2012, in the New Mexico federal district court. The case concerns a 2008 Texas court settlement and an alleged violation of the calculation of New Mexico credit water under the Rio Grande Compact by the Bureau of Reclamation.

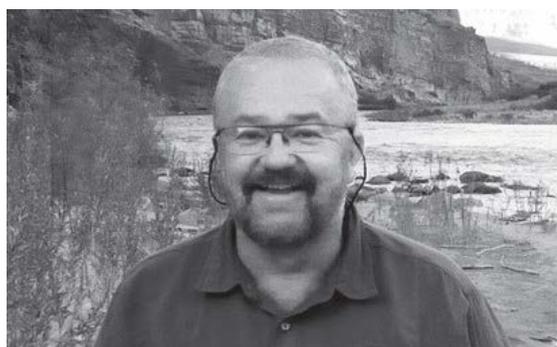
The settlement, titled the "Operating Agreement for the Rio Grande Project," was negotiated among Elephant Butte Irrigation District, El Paso County Water Improvement District No. 1 (EP No. 1), and the Bureau of Reclamation.

This related case has been stayed due to the filing of the *Texas v. New Mexico and Colorado* Supreme Court case.

The outcome of these cases will be important for all irrigators and water consumers along the Rio Grande but especially for water users in southern New Mexico.

This program featured two experienced New Mexico attorneys who offered their positions on these water disputes. Stephen Farris is an Assistant Attorney General of New Mexico and director of the AG's Water, Environment, and Utilities Division. Steve Hernandez represents the Elephant Butte Irrigation District.

This presentation can be viewed online at: https://lawmedia.unm.edu/public/special_events/2012_Natural_Resources_Speaker_Series/index.php --choose "Rio Grande Water Litigation Debate."



NM Ass't Atty General Stephen Farris



Steve Hernandez at NMSU [photo credit: Robin Zielinski -- Las Cruces Sun-News]



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Utton Center Newsletter

Thank you for your interest and participation in the Utton Center's activities and efforts to improve the status of water resources in the State of New Mexico. For further information, please see our website <http://uttoncenter.unm.edu/>. If you have ideas, requests or suggestions for our next newsletter, please contact the Utton Center at the information listed above. You are a valued resource to the center and our community. Thank you!

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