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Natural Resources Journal, Annual Report 1996 - 1997

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**ANNUAL REPORT FOR THE
NATURAL RESOURCES JOURNAL (NRJ)
(July 1996 - June 1997)**

Issues Published the 1996-1997 Year

By the end of this fiscal year the Natural Resources Journal will have published six volumes:

- International River Basins (Part 1 and Part 2)
- Volume of articles on Economic and Natural Resources Policy, Ecosystem Management, International Fish and Wildlife, and Monitored Retrievable Storage. This volume includes a series of pieces on the proposal by the Mescalero-Apache Tribe to provide short term, above ground storage of utility-related nuclear waste. The series came about because one of the Lead Articles Editors, Margret Carde, realized that one of the articles the Journal had accepted on this topic was very controversial. She decided to solicit responses to it from persons with alternative views on the subject. As a result, the Journal received responses from Wendell Chino, President of the Mescalero Tribe; Grace Thorpe, National Environmental Coalition of Native Americans; Kristen Schrader-Frechette, Distinguished Professor of Research Policy and Environmental Science and Policy, University of South Florida; and Scott Northard, a utility executive.
- Electric Industry Restructuring
- Exploring the Future of Oil and Gas Law

We will also have published notes or comments from seven of the editors. We will have all twelve staff members complete the writing of their notes or comments thanks to the efforts of Notes & Comments Editors: Cathy Pasterczyk, Heather Saffell, Reeve Swainston and Brian Thomas.

The Natural Resources Journal Sponsored Two Symposia

Last August, through the work primarily of Processing Editor, Jeff Albright, the Journal co-sponsored with the Reddy Corporation, a symposium for federal, state and local government decisionmakers to discuss issues flowing from increased competition in generation of electricity. Speakers included lawyers, economists, academics, utility and consumer representatives. The keynote speaker was Alfred Kahn, Economics Professor Emeritus at Cornell University.

Last Halloween, through the work primarily of Administrative Editor Joel Carson with help from Jeff Albright and the Lead Articles Editors (Margret Carde, Jocelyn Drennan, and

Patrick McDaniel) as well as staff member Scott Klundt, the Journal held an oil and gas law symposium. This was co-sponsored with the Law School and supported in part by a grant from the Rocky Mountain Mineral Law Foundation. It was organized around the visit of Professor John Lowe, from Southern Methodist University, first Leon J. Karelitz Visiting Professor of Oil and Gas at the Law School. This Chair for Visiting Professors in oil and gas was recently endowed by Frank and Marie Gorham. Joel Carson, Scott Klundt and Professor Kelly visited with numerous oil and gas lawyers in Albuquerque, Roswell, and Santa Fe to survey what they thought were the hot topics in oil and gas law study today. Proceedings from the symposium are being published in Volume 37 #2 and Volume 37 #3 of the Natural Resources Journal.

Other Important Events That Occurred This Year

- On Thursday, March 27, 1997, the Natural Resources Journal sponsored its first annual NRJ Breakfast. Invitations were sent to all past and presents editors of the journal. The breakfast was a big success and will be held annually on the last Thursday in March.
- Cathy Pasterczyk, with the help of Alan Zaben of Sandia Labs created a home page for the Natural Resources.
- The Journal recruited three new staff members -- Kathy Blackett, Jeffrie Minier and Germaine Temple -- through tryout this past December. The tryout was conducted by Joel Carson, Jocelyn Drennan and Brian Thomas.
- Changes were made to the notes and comments writing process. Instead of writing just a note under the auspices of the NRJ, now there is a seminar in the curriculum called Advanced Writing in Natural Resources that staffers are required to take. It is also open to all second and third year students. Writing a note in the context of this course gives students access to more instruction in scholarly writing and allows students to have their writing qualify for the Advanced Writing Requirement.
- A new policy has been adopted that allows non-NRJ staffers who take the Advanced Writing Course to use the writing they produced through the course in lieu of the tryout package memo to apply for membership on the NRJ staff. Three of our new staff members were accepted to NRJ in this way.
- Next semester, Advanced Writing in Natural Resources will be cross listed in the graduate schools of the Economics Department and the Communications and Journalism Department, and we anticipate the possibility that graduate students from those disciplines will write an article and become NRJ staff members.
- One of the NRJ editors, Margret Carde, was invited to present the comment she published in the Journal at a conference in Washington, D.C., on "Risk Management Policy and Analysis."

- In a decision issued in February of this year, the U.S. Supreme Court cited to and quoted from an NRJ article. The decision was *General Motors Corp. v. Tracy*, Tax Commissioner of Ohio, 117 S.Ct. 811, 820 (1997) and the Court cited to Bob Swartwout's article, *Current Utility Regulatory Practice from an Historical Perspective*, 32 Nat. Res. J. 289 (1992), regarding state and local regulation of the electric industry.

- We have collaborated with four students in UNM's Anderson School of Management who studied our manuscript editing process as part of one of their courses in Information Management Systems. They did a thorough analysis of how we process our manuscripts and researched available alternatives. They reported to us on how we can restructure our process. We are excited about what we have learned and are making software and process changes that promise to make it easier and more efficient for all of us.

- We have made small changes to our format in our "assorted articles" issues. We will put topic headings in the table of contents—somewhat like *Time* and *Newsweek* magazines—that allow readers to see at a glance the topics of the included articles, so they can more easily scan the table of contents for articles of interest.

NRJ 1996-1997 Staff

Editor-in-Chief

Professor Suedeen G. Kelly
University of New Mexico

Editor Emeritus

Professor Albert E. Utton
University of New Mexico

Lead Articles Editors

Margret Carde, Jocelyn Drennan, Patrick McDaniel

Processing Editor

Jeff Albright

Notes and Comments

Cathy Pasterczyk, Heather Saffell, Reeve Swainston, Brian Thomas

Administrative and Special Issue Editor

Joel Carson

**ANNUAL REPORT FOR THE
NATURAL RESOURCES JOURNAL (NRJ)
(July 1996 - June 1997)**

Natural Resources Journal Celebrates 35th Anniversary

By the end of this fiscal year the Natural Resources Journal will have published five volumes:

International River Basins (2 issues)

Volume of assorted articles, including a series of pieces on the proposal by the Mescalero Tribe to provide sort term, above ground storage of utility-related nuclear waste.

On February 16, 1996, the University of New Mexico School of Law honored past and present members of the *New Mexico Law Review* and *Natural Resources Journal* at a celebration dinner which marked the 35th Anniversary of the *Natural Resources Journal*. Dr. Helen Ingram, University of Arizona, Associate Editor for Political Science and Administration for the *Natural Resources Journal* provided the keynote address.

In her remarks, Dr. Ingram emphasized "the need for different disciplines to speak to each other and the need for multidisciplinary teams to tackle important and complex subjects like water." She recognized the *NRJ* for supporting the careers of cross disciplinary scholars by publishing their works and for providing a superb source of readings for researchers. She also highlighted the importance of the publication in addressing transboundary and international environmental issues. Her *Comments* are published in 36 NATURAL RESOURCES JOURNAL 145 (Winter 1996).

Other remarks were provided by Thomas W. Christopher, Dean UNM School of Law (1965-1971) and *New Mexico Law Review* founder; Tom Popejoy, Jr., *New Mexico Law Review* first editor and founder; and Professor Suedeem G. Kelly, present Editor-in-Chief of the *Natural Resources Journal*. Dean Christopher noted that "40 years ago, few in the law or educational worlds gave much thought to the problems and needs in natural resources, minerals, water, the water table, soil for crops, forage for animals and birds, coal, iron, aluminum, phosphate, fish in the sea. Pretty much all of this was taken for granted." UNM's *Natural Resources Journal* was on the leading edge, "pointing the way in focusing law school attention on the needs and pressing opportunities." Dean Christopher's comments are also published in 36 NATURAL RESOURCES JOURNAL 148 (Winter 1996).

Professor Al Utton, Editor Emeritus of the *NRJ*, served as Master of Ceremonies. Dr. Ingram, Professor Utton and the other speakers were presented with awards in recognition of their many contributions to both the *New Mexico Law Review* and *Natural Resources* over the years.

***Professor Al Utton Passes the NRJ Editor-in-Chief Reins
to Professor Suedeem G. Kelly***

The *NRJ* baton was passed from Professor Al Utton to Professor Suedeem Kelly at the beginning of this year. Professor Utton had served as advisor and Editor-in Chief since its inception. He remains Editor Emeritus for the journal and Director of the International Transboundary Resources Center.

Professor Suedeem G. Kelly has taught utility, energy, natural resources, and administrative law at UNM since 1986. From 1983-1986, Professor Kelly served as Commissioner and then Chairwoman of the New Mexico Public utility Commission. Before moving to New Mexico in 1978, Ms. Kelly worked in a Washington D.C. based non-profit corporation. After four years in private practice, Ms. Kelly began work for the New Mexico Office of the Attorney General in 1982. Ms. Kelly received her J.D., *cum laude* at Cornell Law School in 1976, and her B.A. in chemistry at the University of Rochester in 1973.

Under Professor Kelly's leadership, the 1995-96 editorial staff revised the *NRJ* staff manual, conducted regular training for newly inducted members, developed a detailed planning and publication schedule, and began planning for several special symposia. A two-volume special issue devoted to "International River Basins" is presently being published under the combined efforts of Professors Kelly and Utton.

NRJ 1995-1996 Staff

Editor-in-Chief

Professor Suedeem G. Kelly
University of New Mexico

Editor Emeritus

Professor Albert E. Utton
University of New Mexico

Associate Editor for Economics

Allen V. Kneese
Resources for the Future
Washington, D.C.

*Associate Editor for Political
Science and Administration*

Helen Ingram
University of Arizona

Managing Editor

Patricia Woods

Business Manager

Barbara A. Jacques

Lead Articles Editors

Cheryl Bada, Lorelei Lein, Arne Leonard

Notes and Comments/Processing Editors

Pierre L'Évy

Administrative and Special Issue Editor

Jennifer Olson

Staff

Jeff Albright	Jocelyn Drennan	Heather Saffell
Cindy Aragon	Isamu Inohara	Denise Soto
Bryan Biedscheid	Elizabeth McCourt	Reeve Swainston
Margret Carde	Patrick McDaniel	Brian Thomas
Joel Carson	Catherine Ellen Pasterczyk	Mary Wollmann
	Melanie Patten	

NRJ Staff Manual and Certificate Program

The 1995-1996 *NRJ* staff developed a new manual for use by students and staff. It outlines student publication policies, staff responsibilities, processing criteria and standards, and administrative procedures. The manual also outlined the requirements for the UNM Natural Resources Certificate Program. The program is a concentration in the area of natural resources. Requirements include 12 hours of natural resources-related courses plus four units of NRJ credits. Six credit hours may be taken outside the law school in approved resource-oriented courses. The program is not mandatory for the NRJ staff. For the graduating class of 1996, the following students earned their Natural Resources Certificate:

Cheryl Bada	Lorelei Lein	Arne Leonard
Pierre L'Évy	Jennifer Olson	

Publication Year

The publication year of the *Natural Resources Journal* included the following:

Volume 35, No. 3 - Summer 1995:

Contingent Valuation Methodology in the Natural Brian R. Binger,

<i>Resources Damage Regulatory Process: Choice Theory and the Embedding Phenomenon</i>	Robert Copple, Elizabeth Hoffman
<i>Decentralization and Modernization in Mexico: The Management of Water Services</i>	Jose Estaban Castro
<i>Constitutional Framework for Water Regulation in Mexico</i>	Jose Ramon Cossio Diaz
<i>Fishing for Compromises through NAFTA and Environmental Dispute-Settlement: The Tuna-Dolphin Controversy</i>	Diana Hurwitz
<i>The Management of Shared Water Resources in Latin America</i>	Terence R. Lee
<i>When Should an Administrative Enforcement Action Preclude a Citizen Suit Under the Clean Water Act?</i>	Arne R. Leonard
<i>Property Rights and the Economic Logic of Wildlife Institutions</i>	Dean Lueck
<i>Changing the Balance in Western Water Law? Montana's Reservation System</i>	Mary McNally, Olen Paul Matthews
<i>Nuclear Waste Dumping in the Oceans: Has the Cold War Taught Us Anything?</i>	Kristin Moody-O'Grady
<i>United States v. Rohm and Haas Company: Under CERCLA, Government Cannot Collect Expenses for Overseeing Private Party Cleanups (Casenote)</i>	Elizabeth M. Wee
<i>The Unfunded Mandates Reform Act of 1995: Where will the New Federalism Take Environmental Policy? (Essay)</i>	Denise D. Fort
ROBERT C. BALLING, JR., THE HEATED DEBATE (Book Review)	Stephen A. Thompson

Volume 35, No. 4 - Fall 1995:

<i>Fulfilling the Promise: Reconsidering and Reforming the California Endangered Species Act</i>	Lynn E. Dwyer, Dennis D. Murphy
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- State and Tribal Water Quality Standards Under the Clean Water Act: A Case Study* Denise D. Fort
- Transborder Emissions Trading between Canada and the United States* Fredric C. Menz
- The Evolution of Water Rights* Anthony Scott,
Georgina Coustalin
- Federal Agency Management Plans are "Ongoing" Actions under Endangered Species Act's Section 7: Pacific Rivers Council v. Thomas and Northwest Forest Resources Council (Casenote)* Cheryl Bada
- Arsenic and Old Lace: The EPA should not have approved a Water Quality Standard for arsenic that is below natural background levels in City of Albuquerque v. Browner (Casenote)* Cyndi Mojtabai

Volume 36, No. 1 - Winter 1996:

- Setting the Environmental Policy Agenda: The Case of Ecosystem Management* Richard Haeuber
- Water Resources Planning in a Federation of States: Equity versus Efficiency* Charles W. Howe
- Balancing Efficiency with Equity: Determining the Public Welfare in Surface Water Transfers from Acequia Communities* John F. Klein-Robbenhaar
- Eminent Domain, "Public Use," and the Conundrum of Original Intent* Buckner F. Melton, Jr.
- Florida Game and Fresh Water Fish Commission v. Flotilla, Inc. (Casenote)* Holly R. Harvey
- Determining what is in the Public Welfare in Water Appropriations and Transfers: The Intel Example (Casenote)* Susanne Hoffman-Dooley

The Future of High-Level Nuclear Waste Disposal, Sonny Swazo
State Sovereignty and the Tenth Amendment: Nevada
v. Watkins (Casenote)

Remarks by Helen Ingram, University of Arizona, Helen Ingram
Associate Editor for Political Science and
Administration for the Natural Resources Journal
(Comment)

Remarks by Thomas W. Christopher, Dean, UNM Thomas W. Christopher
School of Law 1965-71 (Comment)

Volume 36, No. 2 is at the printer for publication. Manuscripts for Volume 36, No.'s 3 and 4 are in various stages of editing and processing. They will be published as the summer and fall editions.

Forthcoming Symposiums - Special Issues

Electric Bypass Policy Symposium, August 1-2, 1996:

NRJ staff members have been involved in planning and coordination for a UNM School of Law sponsored symposium on Electric Industry Bypass Policy. The symposium explores the important public policy issues that are arising as the electric industry embarks on its transition to competition. The presentations and written essays will be published in a forthcoming special issue of the *Natural Resources Journal*. Details will be provided in next year's annual report. The State Bar has approved 11.5 CLE credits for this symposium.

Oil and Gas Symposium, October 31-November 1, 1996:

"From the Wellhead to the Courtroom: Exploring the Future of Oil and Gas Law" is the title and focus for the Oil and Gas Symposium to be held Oct. 31-Nov. 1. Topics include royalty issues, inverse condemnation of federal oil and gas lease rights, oil and gas development on state lands, and tribal considerations. The presentations and papers will likely be published in the spring issue of the *NRJ*. Details will be provided in next year's annual report.