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Natural Resources Journal, New Mexico Law Review & US-Mexico Law Review, Annual Reports 2000 - 2001

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THE UNIVERSITY OF NEW MEXICO SCHOOL OF LAW
ANNUAL REPORT JULY 2000-JUNE 2001
ROBERT J. DESIDERIO, DEAN

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STAFF APPOINTMENTS AND SEPARATIONS

Visitors

Two visitors joined the law faculty during the fall semester: Aliza Organick taught in the Southwest Indian Clinic and Jeffrey Pokorak taught Evidence Trial Practice. Ms. Organick had previously represented coal and uranium miners in New Mexico, Arizona, Colorado and Utah. Professor Pokorak was a faculty member at St. Mary's University Law School where he was co-director of St. Mary's Clinical Law Programs.

Permanent Faculty

Professor Charles DuMars retired from the law faculty at the end of the 2000-01 academic year.

Associate Professor Jose L. Martinez stepped down as Director of the Clinical Law Program. He remains on the faculty. Professor Antoinette Sedillo Lopez was named to replace Professor Martinez as Clinic Director.

Raquel Montoya-Lewis joined the law faculty as a Lecturer III and Legal Writing Instructor. Prior to coming to UNM, Ms. Montoya-Lewis served as an associate judge with the Isleta Tribal Court and practiced Indian law with the firm of Williams, Janov & Cooney.

Adjuncts

The Law School continued to strengthen its ties with the legal community. The following adjunct professors taught during the year: Jacquelyn Archuleta-Staehlin, Simons, Cuddy &

- Designed and implemented Excel time-keeping spreadsheet used by DA Clinic students
- Produced various Microsoft Access databases:
 - Order tracking for Law Review Journal, Natural Resources Journal, and US Mexico Journal
 - Patron Request database to track missing library books
 - Simplified process of importing monthly Acquisitions list from Libros system to publication on the Law Library web page using Access
- Web Projects
- Law school web site now ADA compliant as per Federal mandate
- New web pages:
 - ADR page
 - Indian Law Web - in progress
 - Clinical Law Program - playing an active roll in helping the director reassess clinic procedures in anticipation of implementation of new case management software
- Revised Intranet to provide better organization and faster access to needed information
- Established new procedures for student organization elections to ensure continuity of website officer information and presidents list
- Established streamlined method for purchasing software from CIRT, making the accounting process more efficient
- Worked with Admissions Director and Registrar to transfer 2004 admitted students into SoLAR database and to create balanced 1L groups

NEW MEXICO LAW REVIEW

The Editorial Board of the New Mexico Law Review for 2000–2001 adopted as its mission the publication of three issues of the Law Review for Volume 31, the first of which is a special issue devoted to the proceedings of the Tenth Circuit Judicial Conference held in Santa Fe June 29 through July 1, 2000. Working from transcriptions of speeches and panel discussions that took place during the conference, our student editors worked long and hard to turn the spoken word into clear and cohesive articles that are footnoted to provide authority for the information presented. As The Honorable Paul J. Kelly, Jr. and The Honorable Robert H. Henry, Circuit Judges for the Tenth Circuit Court of Appeals and co-chairs for the Conference Program Committee, stated in their introduction to this issue of the Law Review,

The press of business, ethical concerns, and inadequate opportunities conspire to prevent judges, lawyers, and law professors from having meaningful interactions outside the courtroom. The difficulty of interaction results in several problems that might be improved if these groups could talk, and talk frankly. Judges sometimes become frustrated with rules that aren't always followed, lawyers become frustrated with rules, and law professors become frustrated with the lack of audiences for what they write. Additionally, practitioners and judges rarely get to discuss the practical implications of newly decided cases in a non-adversarial setting.

The 2000 Tenth Circuit Judicial Conference, which convened in Santa Fe, New Mexico, June 29 through July 1, was perhaps the most ambitious practitioner's conference the circuit has held. Responding to suggestions from individual judges and the Attorneys' Advisory Committee, as well as the academy and the bar, the Program Committee tried to provide something for everyone. The conference resulted in much needed dialogue in formal and informal settings. It was calculated to allow the bench and bar to discuss frustrations, suggest improvements, and in general to get to know one another better. Candid discussions between practitioners and judges gave each group a better idea of what the other expects and why. Apart from practice, brief presentations in the Renaissance tradition provided a sampling of exciting developments in other law-related areas.

To extend the blessings—and important suggestions—of this event to ourselves and our posterity, the Program Committee obtained the invaluable participation of the University of New Mexico School of Law. The *New Mexico Law Review* assisted with the logistics of recording the conference and agreed to publish much of the conference, and this issue fulfills that latter commitment....

With the upcoming publication of Volume 31, #3, the Editorial Board for 2000–2001 will have fulfilled its goal of publishing three issues of the *New Mexico Law Review*.

The *Law Review* Editorial Board for 2001–2002 has adopted a three-pronged mission: (1) reaffirm the journal's mission to serve practitioners in New Mexico while contributing to legal scholarship on a national level, (2) improve the image and prestige of the journal in the local and national legal community, and (3) implement structural changes in the Editorial Board and transition the 2002–03 Editorial Board in a manner that will improve editorial efficiency and timely production of the journal.

The Editorial Board took a hard look at the original mission of the *Law Review*—to provide a forum for scholarship on issues relevant to New Mexico—and re-dedicated the *Law Review* to that purpose. We will focus one entire issue of Volume 32 to articles on New Mexico law. We are fortunate to have several distinguished members of the New Mexico bench, bar, and law school faculty contributing articles to this issue, and therefore expect it to be well-received in the local legal community. Enhancement of the prestige of the *Law Review* as a true scholarly journal will hopefully be a byproduct of the esteemed authors contributing to the New Mexico-focused issue.

In addition to focusing on New Mexico legal issues, we felt that the *Law Review* needed to contribute to the national dialogue on legal issues through a symposium issue. This year we chose to focus a symposium issue on the implications of Internet technology on traditional areas of law. We have accepted articles on the subject from scholars at major institutions across the country as well as student writers on the Editorial Board. We are hopeful that the symposium

will reaffirm the *Law Review's* presence on a national level as a significant and high-quality journal.

Through extensive bylaw amendments, the Editorial Board revamped the functions of certain positions on the *Law Review*. There are no longer Notes & Comments Editors overseeing student writing. Instead, the Student Articles Editor and the student-writers' faculty advisors are in charge of supervising student writers as they pen their casenotes. There are no longer multiple Lead Articles Editors. Instead, Manuscript Editors are primarily responsible for editing professional work under the supervision of a single Lead Articles Editor who oversees all outside article submission review and acceptance. The duties of the Editor-in-Chief and Managing Editor stay substantially the same. We are hopeful that these structural changes will streamline the production process by reducing editorial redundancies and promoting more efficiency among the editors, thereby increasing the likelihood of timely production of the *Law Review*.

In addition to changing the structure of the Editorial Board, the *Law Review* anticipates transitioning the 2002-03 Editorial Board earlier than in past years. We intend to give the printer-production aspects of Volume 32, Issue #3, due out in June of 2002, over to the new Board in order to give them on-the-job training on how to put out an issue of the *Law Review*. We hope that this will promote a smoother transition than in past years when the new Board has been given the reins without any practical training in how to put out the *Law Review*. This change in the *Law Review* culture will also eliminate the onerous task of wrangling up post-3L editors after graduation to help put out the Summer issue of the *Law Review*.

The *Law Review* will hold the 2nd Annual Distinguished Law Review Alumni Awards banquet honoring Mary Walters. The banquet is in the planning stages and will be held in February 2002. The Banquet will be institutionalized as an annual affair and will hopefully enhance the presence of the *Law Review* and the School of Law in the local legal community.

NATURAL RESOURCES JOURNAL

NRJ Staff

The four issues published by the NRJ during this year represent both the old and the new format for the *Journal*. Volume 40, #3, the Summer 2000 issue, included an eclectic mix of articles on topics such as forest trusts, water management in the Mekong River basin, middle Rio Grande resource planning, utilities regulation in the Mariana Islands, wildlife management in Africa, emission markets, WTO species protection, and governing New Mexico's acequias.

Volume 40, #4, the Fall 2000 issue, was a special issue of the *Journal* on water issues. This issue, guest edited by Kate Berry, a geographer from the University of Nevada, Reno, presented issues of water use and management on the U.S./Mexico border from Nogales, Arizona, and Nogales, Mexico, to the border area of Baja California and has elicited a response in the form of letters to the editor, a response we hope to see more of in the future.

Beginning with its Winter 2001 issue, Volume 41, #1, Professor Em Hall became the editor-in-chief of the NRJ. His goal for the *Journal* is to strengthen its content and change its format to include an introduction, an opening essay, and a revitalized book review section. Each issue now opens with an essay by a leading current writer in different natural resource areas. As freewheeling as they are scholarly, these opening essays generally set the stage for the more specialized and academic articles that follow in each issue. Thus far, writers as diverse as Arizona State's Stephen Pyne, whose essay on rethinking prescribed burns appeared in this first issue of Volume 41, and Chicago-Kent's Dan Tarlock, whose essay will appear in an upcoming issue of the *Journal*, among others, have contributed opening essays on subjects as far ranging and basic as the role of fire and water in the twenty-first century. Each issue will also contain at least two reviews of the many books published in the natural resources area. Volume 41, #1, also contained articles on scrap tire disposal, the prudent operator standard for oil and gas leases, regulating the land application of sewage sludge and septage, Russian federation law on protecting natural areas, and regulatory schemes for balancing alternative interests in areas such as Grand Canyon National Park.

The opening essay for Volume 41, #2, the Spring 2001 issue, is by William deBuys, and in the words of Professor Hall in his introduction to this issue, "deBuys brings a breadth and depth to his subject that is matched by the grace of his writing. His essay [in Volume 41, #2] encompasses the past, present, and future of the Rio Grande in as few words as the river has water." This essay caught the attention of Rio Grande Restoration, an NGO in the Albuquerque area, and they have ordered 100 reprints of the essay to share with New Mexico legislators at the 2002 session of the legislature. Along with the opening essay and several book reviews, Volume 41, #2, also includes articles on water management in large basins such as the Colorado River basin; the use of a GIS for determining water allocations; conservation easements (this article is accompanied by a shorter piece on another method of land conservation – transfer of development rights); United States and Canadian fisheries conflicts; and the silvery minnow, the endangered species act, and the waters of the middle Rio Grande.

The next issue of the *Journal* will again present a lead article and accompanying shorter pieces that provide commentary and insights into the topic covered in the larger piece. The *Journal* hopes to continue utilizing this format in the future to present differing points of view on a given topic. In his introduction for this upcoming issue, Professor Hall has also encouraged our readers to contribute letters to the editor that further this essential point and counter-point dialogue.

In November of 2000 the *Natural Resources Journal* celebrated its fortieth anniversary with a boisterous gathering that brought together past, present, and future contributors to the *Journal* at the home of our late editor-in-chief, Al Utton. This celebration provided a time to pay homage to the *Journal's* long inter-disciplinary tradition, to recall past accomplishments, and to rededicate the *Journal* to its mission of serving both the legal and the natural resources communities.

In honor of the *Journal's* forty years, an annual textbook scholarship fund was established. Generous contributions from many people involved with the *Journal* during its first forty years

were greatly appreciated and helped to build the fund. The NRJ Textbook Scholarship will be awarded to an NRJ member who has exhibited outstanding dedication to the *Journal*. The first recipient of this scholarship will be announced in the fall of 2001.

During the forty years that the *Journal* has been in existence, we have gone from being a rather unique publication to "one of the pack." In order to boost sales and promote the *Journal*, the *Journal's* Business Manager is in the process of developing a direct-mail list consisting of organizations and persons who deal directly with natural resources issues. Business reply cards have been printed and are included in any individual copies of the *Journal* that are ordered. During the spring semester of 2001, an NRJ student attended a national water conference in order to promote both sales of the *Journal* and interest in writing for the *Journal*. It is our plan to continue these efforts to maintain our visibility in the national and international natural resources arena.

With the fall semester of 2001, Professor Hall will also be taking over the reins of the course work closely tied to the *Natural Resources Journal*, the Advanced Writing in Natural Resources class. Professor Hall envisions this class, which will now be one semester of class work and one semester of independent study, as a training ground for both editors and writers for the *Journal*. Students will learn the fine art of editing and proofing while also working on research and groundwork for their own writing. During the next semester's independent study, Professor Hall will work with the students to aid them in producing a publishable piece of writing for the *Journal*.

With the publication of the Volume 41 of the *Natural Resources Journal*, the *Journal* has renewed its commitment to provide a cross-disciplinary approach to a wide range of resource issues. Each issue will begin with an introduction by the editor-in-chief in which he will invite the reader to consider the issues presented and provide feedback to the editors of the *Journal*. Each issue will then contain an opening essay; a variety of articles drawn from different disciplines, each of which has sound technical content but is accessible to the non-specialist; and a book review section, providing *Journal* readers with broadly focused assessments of recent publications in the many areas that touch on natural resources. The *Journal* will expand the number of book reviews as it assembles a cadre of reviewers over the next year. Beginning with the Winter 2002 issue of the *Journal*, the book review section will also include one expanded review of several books on a natural resource topic.

It is the hope of everyone associated with the *Journal* that the more open-ended essays, the traditional scholarly and carefully referenced articles, the book reviews, and the point-counter point dialogues we are encouraging will continue to make the *Natural Resources Journal* a valuable experience for our students and a valuable resource for our readers.

UTTON TRANSBOUNDARY RESOURCES CENTER

The Department of Energy grant funds were received by the Utton Center in December 2000 and in June, 2001, Ms. Marilyn C. O'Leary accepted the position as Director.

At the request of Sandia National Laboratories' Cooperative Monitoring Center the Utton Center continues to explore possibilities of collaborating with them on transboundary water issues. CMC has significant technical expertise in monitoring and modeling water supply parameters, and their technical skills and knowledge could be joined in a pilot project to provide fact-based decision-making for resource managers in the Middle Rio Grande. This project would support our contention that in order to reach long-lasting solutions to riverine disputes all stakeholders and an interdisciplinary team of experts must be included in the process.

A meeting is planned to bring together a multi-disciplinary team of experts from the United States and Mexico to identify border issues needing research by the Utton Center. The issue of cooperation on groundwater use has emerged as a preliminary concern. This team will address critical water issues that need attention from the kind of multidisciplinary support the Utton Center can provide.

Ambassador Alberto Székely represented the Utton Center at the Symposium on Impacts of Climatic Variations on Water Resources: A Focus on Border Regions in July 2000. The title of his talk '*Can Mexico and the US deal with climate variability before they deal with their mounting agenda of pending transboundary water issues?*' explored the pressing need to resolve cooperation issues between the two countries, issues that have needed resolution for more than two decades. Ambassador Székely also represented the Utton Center at the Annual Meeting of the American Ground Water Scientists and Engineers in December, 2000. He spoke on '*Interjurisdictional Ground Water Management: Conjunctive Use Water Quality Protection and Competing International Needs.*'

Professor Charles DuMars, who has been the Acting Director of The Utton Center, continued his work on the World Bank Groundwater Management Advisory Committee, seeking to develop ways for that organization and the Utton Center to work jointly on projects.

The De Santa Fe (Granada) A Santa Fe (New Mexico) Seminar – the seventh exchange seminar in the series begun in 1992 – was scheduled for October 2001 and the program arrangements were complete for four professors to visit from Spain. However, the bombing in New York City on September 11th and subsequent uncertainties with regard to travel, necessitated its postponement. The Vice Rector and two professors from the Universidad de Extremadura, who were planning to observe the seminar as part of the development of an exchange program with their School of Law, also cancelled their travel. A search is underway to find another date for this program.

U.S.-MEXICO LAW INSTITUTE

The Ninth Annual Conference of the United States-Mexico Law Institute, Inc. was held in Santa Fe, New Mexico, October 26-28, 2000.

Professor Ralph Folsom of the U. of San Diego School of Law introduced issues of technical barriers to U.S.-Mexico trade including the appropriate standards to be used for sanitary, phyto-sanitary and technological products. Lic. José Agustín Portal who was a member of the

Mexican negotiating team for Chapter 9 which covers the subject discussed the history and challenges for Mexico. Ms. Geri Word, an international trade specialist from the U.S. Department of Commerce presented the U.S. perspective on the issues.

The operations of the Mexican Commission on Economic Competition and recent decisions of the Mexican Supreme Court affecting these operations were reviewed by Lic. Omar Guerrero Rodriguez, Lic. Valdes Abascal, and Lic. Leon Ricardo Elizondo Castro, all of Mexico City. Professor Alfred Mathewson of the UNM School of Law presented the American perspective on antitrust laws and enforcement.

Professor Michael Gordon of the University of Florida acted as Moderator for a panel reviewing hypothetical cases of U.S. lawyers seeking to practice law in Mexico and Mexican lawyers seeking to practice law in the United States. The panelists from Mexico and the United States agreed that, in spite of six years of efforts to achieve the openness promised by NAFTA for the rendering of professional services by nationals of one country in the other, the obstacles remained considerable, particularly in the United States. Stephen Nelson who has been the chief U.S. member for the American Bar Association team negotiating with his counterparts from Canada and Mexico participated.

After updating, the presentations were published in the United States-Mexico Law Journal in the Spring, 2001. The Journal is edited by students of the University of New Mexico School of Law

The United States-Mexico Law Institute Inc. is a not-for-profit corporation organized in 1992 in cooperation with the American Bar Association Section of International Law & Practice for the purposes of promoting research on legal problems common to the United States and Mexico, studying the administration of justice in both countries, and providing a regular forum for attorneys, judges, and legal scholars to meet and share opinions on professional issues with their counterparts.

CAREER COUNSELING AND PLACEMENT

The Director of Placement and Career Resources resigned at the end of May 2000.

INSTITUTE OF PUBLIC LAW

Among all of the contract and grant work completed this academic year by staff of the Institute of Public Law, significant achievements are as follows:

Center for Wildlife Law

Continued publishing the *Wildlife Law News Quarterly* with funding from subscriptions including many from law school libraries as well as from grants.

Convened and facilitated meetings on biodiversity planning for New Mexico with funding from the Maki and Thaw Foundations.