



SCHOOL  
OF LAW

NATURAL RESOURCES &  
ENVIRONMENTAL LAW PROGRAM

A scenic landscape photograph of a river flowing through a forested area with a rainbow in the foreground. The text 'Natural Resources & Environmental Law' is overlaid in large white letters.

# Natural Resources & Environmental Law

Through the Natural Resources Program, the UNM School of Law strives to prepare students to be leaders who will participate in the key decisions that affect the environment, either as employees within various federal, state, tribal and local agencies who have regulatory authority over natural resources and the environment, or with the private entities and nonprofit organizations that appear before them.

## In This Newsletter

SUMMER 2021

- [UNM Alumni Reach Great Heights in Natural Resources Law](#)
- [UNM Clinical Program Represents Pueblos in Fight to Protect Clean Water in New Mexico](#)
- [Faculty Scholarship and Presentation Updates](#)
- [UNM Welcomes National Leaders in Environmental Justice to Discuss Cumulative Impacts on Overburdened Communities](#)
- [Another Year of High Marks for the NREL Program](#)
- [Two UNM Law Students Receive Natural Resource Scholarships](#)
- [NREL Clinic Student Earns Top Honors](#)
- [11 Graduates Earn NREL Certificate](#)
- [Three Students Receive Stipends for Summer Work](#)



# UNM Alumni Reach Great Heights in Natural Resources Law



**Deb Haaland** was appointed by President Biden and confirmed by the Senate as Secretary of the Interior. As an enrolled member of the Pueblo of Laguna and with Jemez Pueblo heritage, she became the first Native American ever to serve as secretary of a U.S. cabinet agency.

“This historic nature of my confirmation is not lost on me, but I will say, it is not about me. Rather, I hope this nomination would be an inspiration for Americans – moving forward together as one nation and creating opportunities for all of us,” Haaland said during her Senate confirmation hearing.

Haaland now leads a federal agency that oversees nearly 500 million acres of surface land - a majority of the nation’s public lands, waterways, wildlife preserves, national parks and mineral wealth – a role that has tremendous significance for the 574 federally recognized tribes. The department also manages 70,000 employees and nearly 280,000 volunteers.

Haaland was elected to the U.S. House of Representatives from New Mexico in 2018, and served in Congress as Chair of the Subcommittee on National Parks, Forests and Public Lands. A UNM Law graduate in 2006, she delivered the commencement address at the School of Law’s 2019 graduation ceremony.



**Stuart Butzier** was appointed President of the Rocky Mountain Mineral Law Foundation, and is currently serving a one-year term in that role. Now in its 66th year, the RMMLF is a collaborative educational non-profit organization dedicated to the scholarly and practical study of law and policies relating to traditional and renewable energy, mining, water, public and Indian lands, environmental protection, and other related disciplines.

“It is a distinct honor and privilege in these challenging times to serve this global learning community in a leadership capacity,” Butzier said. Following completion of his term as President, Butzier will remain on RMMLF’s board of directors, with a lifetime appointment as a Trustee of the organization.

Butzier is currently the Vice President and Managing Director of the Santa Fe office for the New Mexico-based firm Modrall Sperling, and Chair of its Mining Practice Group. The Natural Resources, Energy, and Environmental Law Section of the State Bar of New Mexico named him Natural Resources Lawyer of the Year in 2018.

Since graduating from UNM Law in 1989, Butzier has been an active alumnus who often attends events at the law school. He has served on the UNM Law Alumni Association Board of Directors, taught as an adjunct professor, guest-lectured in several classes, and mentored students interested in natural resources law. “Along with everything else he has done, Stuart has been a great supporter of UNM Law and our NREL Program,” said Professor Reed Benson.



# UNM Clinical Program Represents Pueblos in Fight to Protect Clean Water in New Mexico

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

)  
 )  
 PUEBLO OF LAGUNA, PUEBLO OF )  
 JEMEZ, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. )  
 )  
 MICHAEL REGAN, in his official capacity ) COMPLAINT FOR VIOLATIONS  
 as Administrator of the United States ) of the ADMINISTRATIVE  
 Environmental Protection Agency, ) PROCEDURE ACT, the CLEAN  
 UNITED STATES ENVIRONMENTAL ) WATER ACT, and FEDERAL  
 PROTECTION AGENCY, TAYLOR N. ) TRUST RESPONSIBILITIES.  
 FERRELL, in his official capacity as )  
 Acting Assistant Secretary of the Army for )  
 Civil Works, UNITED STATES ARMY )  
 CORPS OF ENGINEERS, )  
 )  
 Defendants. )



**I. INTRODUCTION**

1. The Pueblo of Laguna and the Pueblo of Jemez (together, "the Pueblos") are both federally recognized tribes that have resided on lands now within the state of New Mexico since time immemorial.

2. For both Pueblos, water that flows through their lands are necessary for domestic and agricultural uses. Such waters are also essential for cultural and ceremonial practices. The Pueblo of Laguna depends on clean water for irrigation and domestic purposes, and its traditions include ceremonial practices in which members of the Pueblo consume water. The Pueblo of Jemez likewise utilizes clean water for agriculture and domestic purposes, and its water supports

On March 26, 2021, on behalf of the Pueblo of Laguna and Pueblo of Jemez, the UNM Clinical Law Program filed a civil complaint challenging a Trump-era rule that substantially weakened protections for water quality in New Mexico. The Trump Administration’s Navigable Waters Protection Rule, which took effect in June 2020, weakens or altogether eliminates federal Clean Water Act protections for ephemeral and intermittent streams, which make up nearly all the water in New Mexico. Clinical law students from the UNM Southwest Indian Law Clinic (SILC) and the Natural Resources and Environmental Law (NREL) Clinic, together with clinical faculty, worked with attorneys from the Pueblos in filing the suit. In challenging this rule, the Pueblos argue that the 2020 rule ignores the U.S. Government’s trust responsibilities to Indian tribes and violates the Administrative Procedure Act. The Pueblos joined a list of other challengers to the 2020 rule, including the Navajo Nation and the State of New Mexico. The Biden Administration recently announced its intent to repeal or replace the Trump rule, and the UNM Clinical Law Program looks forward to a resolution that will restore protections for Pueblo waters and other waters in New Mexico.



## Faculty Scholarship and Presentation Updates



Prof. Joseph Schremmer’s (L) article “Pore Space Property” was recently named a finalist for the Thomson Reuters’ 2021 Land Use & Environment Law Review; Prof. Cliff Villa (R) was recently featured in Bloomberg Law video on

“The Long Fight for Environmental Justice” and will be speaking on the topic at the 2021 Rocky Mountain Mineral Law Foundation Annual Institute

**Reed D. Benson** completed his tenth year as Director of UNM’s Natural Resources & Environmental Law Program. With co-authors Burke Griggs and Dan Tarlock, he welcomed publication of the new 8<sup>th</sup> edition of *Water Resource Management* (Foundation Press 2021). Reed also reported for SCOTUSblog on the Supreme Court’s decision in *Texas v. New Mexico*, an original-jurisdiction action involving a dispute over the Pecos River Compact. At the request of the sponsor, he twice testified as an expert witness in support of HB 95, a bill in the New Mexico Legislature that would have required the State Engineer to consider the impacts of climate change in allocating water. Reed will complete his term on the Rocky Mountain Mineral Law Foundation board this year, but will remain on the planning committee for the RMMLF Annual Water Law Conference, scheduled for Santa Fe in November 2021.

**Elizabeth Elia** presented her work-in-progress on Hybrid Servitudes and the Police Power at the Rocky Mountain Junior Scholars Conference. The article argues that the most prevalent forms of servitudes in the US today are enforced by courts not merely as private contracts that run with the land, but also as a delegation of private police power to regulatory bodies. This spring, Elizabeth has been working with New Mexico housing advocates on environmental justice legislation to end source of income discrimination in residential rental housing. She also launched a “Property Perspectives” student-led discussion series intended to give law students an opportunity to discuss how doctrinal property law conflicts or comports with their world views and cultural understandings of property. The first two discussions of the series focused on American Indian perspectives on property and on Land Grants-Mercedes in New Mexico.

**Gabe Pacyniak** presented his work-in-progress *Administering Climate Justice* at the 2021 AALS annual conference, at a December 2020 workshop on The Climate Crisis: Legal Safeguards for Justice and Security hosted by Elisabeth Haub School of Law at Pace University; and at the University of Utah’s Rocky Mountain Junior Scholars Conference in November 2020. This past year Gabe also worked with legislators and advocates in New Mexico to develop the [Utility Affordability and Relief Act](#), which would have established a COVID-19 arrears forgiveness program, a community energy efficiency block grant program for local governments, and would have authorized low-income utility rates. He is also currently working to update a [grid modernization report](#) for New Mexico’s Energy, Minerals, and Natural Resources Department. Gabe was recently appointed to the Albuquerque Energy Council, which is tasked with implementing a city-wide energy conservation program to reduce reliance on fossil fuels.

**Joseph Schremmer** had two papers published, [Pore Space Property](#), 2021 Utah L. Rev. 1 (2021), which deduced principles from the common law of oil and gas and water to discern a definition of property rights in the pore space of subsurface rock formations, and [Crystal Gazing: Foretelling the Next Decade in Oil and Gas Law](#), 66 Rocky Mtn. Min. L. Inst. 5-1 (2020), which explores developing legal topics including pore space ownership and use, ownership and regulation of produced water from oil and gas extraction, regulatory takings of oil and gas property, and the effects of Covid-19 on oil and gas leases and contracts. *Pore Space Property* was recently named a finalist for the Thomson Reuters’ 2021 Land Use & Environment Law Review, placing it in the top 13 environmental law articles published last year according to LUELRL’s expert reviewers. Joe also recently placed a new article, [Waste and the Governance of Private and Public Property](#) in Volume 93 of the *University of Colorado Law Review* (forthcoming 2022) (with Tara K. Righetti). The article delves into various common law doctrines pertaining to waste of natural resources to discover their underlying principles.

**Cliff Villa's** article, *Remaking Environmental Justice*, appeared in the Loyola Law Review in January 2021 and is now available for downloading [here](#). After exploring the origins and evolution of the environmental justice movement, the article encourages further investigation of environmental justice concerns through the lens of vulnerability theory. Cliff is currently working on a paper to present at the 2021 Rocky Mountain Mineral Law Foundation Annual

Institute, tracing the development of policy and case law on environmental justice that may help lawyers represent clients in the natural resources sector. Between January and April 2021, via Zoom, Cliff gave presentations on environmental justice to the law schools of the University of Montana and Detroit Mercy, to high school and elementary schools, to EPA alumni, and to the ABA SEER 50th Spring Conference on Environmental Law. Cliff was also recently highlighted in a Bloomberg Law feature on [“The Long Fight for Environmental Justice.”](#) While serving as a supervising attorney in the UNM Natural Resources and Environmental Law clinic, Cliff helped oversee the completion and filing of a civil complaint on behalf of tribal clients challenging the Trump rule on Waters of the United States. This Spring, Cliff also received the unanimous support of his faculty colleagues for granting tenure and promotion to full professor.

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## UNM Law Welcomes National Leaders in Environmental Justice to Discuss Cumulative Impacts on Overburdened Communities

UNM School of Law & Los Jardines Institute  
**Environmental Justice:  
CUMULATIVE  
IMPACTS  
POLICIES**  
YOU ARE INVITED TO JOIN US  
FOR A DISCUSSION ABOUT CUMULATIVE  
IMPACTS POLICIES AND HOW THEY CAN  
HELP EJ COMMUNITIES  
This course has been approved by the New Mexico Minimum Continuing  
Legal Education Board for 1 hour of INTERMEDIATE credit.  
**GUEST SPEAKERS**  
  
**Richard Moore**  
Co-Coordinator of Los  
Jardines Institute  
Albuquerque, NM  
  
**Dr. Nicky Sheats**  
Director of the John S. Watson  
Institute for Urban Policy and  
Research at Kean University  
Both of our guest speakers have just recently been appointed  
to the White House Environmental Justice Advisory Council!

On April 7, 2021, UNM Law welcomed two national leaders in environmental justice for a discussion of cumulative impacts of pollution on local communities. Richard Moore, from Los Jardines Institute of Albuquerque, and Dr. Nicky Sheats, of the John S. Watson Institute for Urban Policy and Research in New Jersey, were both recently appointed by the Biden Administration to serve on the new White House Environmental Justice Advisory Council. The presentation on April 7 focused on the problem of cumulative impacts of air pollution on low-income communities and communities of color. Dr. Sheats discussed accelerating policy initiatives to address cumulative impacts, including recent ordinances and legislation in New Jersey. The UNM event drew a wide and diverse audience that included law students, lawyers, community activists, and the public health community.

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## Another Year of High Marks for the NREL Program



UNM earned its third straight A+ rating in Environmental Law from *preLaw* magazine, which bases its grades on the offerings and opportunities that law schools make available to students. Only sixteen schools nationally earned an A+ in Environmental Law for 2022.

In the annual *US News and World Report* rankings, UNM tied for #34 in Environmental Law. The *US News* specialty rankings are based on reputation, and UNM essentially held its position after climbing 17 spots in last year's Environmental Law standings.

"We are happy to see New Mexico get national recognition, but our main focus is helping our students gain the knowledge, skills and experience to prepare for strong careers in environmental law," said NREL Program Director Reed Benson.

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## Two UNM Law Students Receive Natural Resource Scholarships



Rachel Grabenstein



Damian "Shapes" Padilla

The Rocky Mountain Mineral Law Foundation has awarded scholarships to two UNM Law Students. Rachel Grabenstein and Damian "Shapes" Padilla, both Class of '22, will receive scholarships from RMMLF, a nonprofit organization dedicated to education and scholarship in natural resources law.

Padilla, of Isleta Pueblo, received the Equity and Inclusion Scholarship. RMMLF recently established this award in an effort to expand access to careers in natural resources law and improve diversity in that field. Black and Indigenous law students from any U.S. or Canadian law school can apply for the Equity and Inclusion Scholarship, and Padilla was one of two selected to receive this new award.

Grabenstein received a RMMLF Scholarship for the second straight year. She is believed to be the first UNM student to earn repeat awards from RMMLF, which awards scholarships competitively to applicants from 35 law schools in the U.S. and Canada. This year nearly 100 students applied, and 36 students received awards totaling over \$275,000.

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## NREL Clinic Student Earns Top Honors



At the annual Honors & Awards event for graduating students, Kristen Burby received one of UNM Law's top prizes: the award for the year's most outstanding student in the law school's Clinic program. Kristen served in the NREL Clinic, and won the award for her extraordinary work on the Clean Water Act lawsuit recently filed on behalf of Laguna and Jemez Pueblos (see related story). The award's prestige comes not only from UNM's ranking as a top-ten clinical program, but also because all third-year students are required to spend a semester in Clinic.

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## 11 Graduates Earn NREL Certificate



UNM Law celebrated its Class of 2021 with an in-person commencement, and although it looked and sounded very different than the usual graduation ceremony, it was still a festive occasion. Eleven graduates wore forest-green stoles over their black robes, having earned the Natural Resources and Environmental Law Certificate. The Certificate recipients were Kristen Burby, Arianne DePauli, Christopher Hall, Katie Holcomb, Dharma Khalsa, Sarah McLain, Riley Norris, Jari Rubio, Paula Vance, Aaron Villanpando, and Zacary Wilson-Fetrow.

# Three Students Receive Stipends for Summer Work



UNM's Natural Resources and Environmental Law Program has awarded stipends to three students who will work this summer in otherwise-unpaid positions for nonprofit organizations or government agencies. The students and their summer 2021 employers are:

- Todd Filler (right), for a full-time position with WildEarth Guardians
- Athena Shapiro (center), for a full-time position with the New Mexico Environment Department
- Annie Watts (left), for a half-time position with the New Mexico Wilderness Alliance

The NREL Program makes these awards through a competitive application process, providing stipends to two or three students who will do summer work in the field of natural resources and environmental law.

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[lawschool.unm.edu/natres-envlaw](https://lawschool.unm.edu/natres-envlaw)



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