



NATURAL RESOURCES & ENVIRONMENTAL LAW PROGRAM

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NREL clinic helps clients win stronger community air pollution protections



Students in UNM's Natural Resources and Environmental Law (NREL) Clinic represented the Center for Civic Policy and NAVA Education Project—organizations focused on promoting welfare of communities of color, and particularly Native American communities—in a formal rulemaking in front of the state's Environmental Improvement Board (EIB) on proposed regulations to limit ozone precursors from oil and gas infrastructure. A main goal of the Clinic's intervention was to propose changes to the rule that would require more frequent leak detection and repair for facilities near where people live, work, and play. Nearly a dozen clinic students represented their clients in the various phases of the development of these rules during the past three years.

On May 27 the EIB adopted a final rule with provisions requiring more frequent inspections for leaks on wells within 1000 feet of where people live, work, and play — a big win for the clinic's clients. “Too many New Mexico communities are experiencing the serious health impacts of oil and gas pollution,” said Joseph Hernandez, Diné Energy Organizer for client NAVA Education Project. “[The] adoption of strict air pollution rules will help protect overburdened communities at the fence lines of oil and gas operations.”

In addition, the NREL Clinic's work was a key contributor to the development of the Community Energy Efficiency Development (CEED) Block Grant Act, which was enacted by the state legislature this past February. Funded with \$10 million, the CEED Block Grant Act will provide more flexible funding to local governments to target energy efficiency improvements to communities with the highest energy burden. Over the past several years NREL students drafted text for the bill, developed legal memoranda explaining how the bill meets state constitutional requirements, and testified in front of state legislative committees.

Prof. Gabe Pacyniak led supervision of the clinic's students in this work on both of these issues.

Students Explore Environmental Concerns on U.S.-Mexico Border



[UNM students tour the *colonia* of Doña Ana on a trip organized by Cliff Villa as part of the Border Environment program].

In late April students and faculty traveled to the Borderlands region of New Mexico, Texas, and Mexico to learn firsthand about environmental issues affecting people living in underserved communities as part of UNM's Border Environment Program.

The experiential learning trip was organized by Prof. Cliff Villa for students in his spring Environmental Justice and International Environmental Law classes, and also provided an opportunity for faculty and students to meet with potential clients for UNM's NREL Clinic.

Program participants visited the New Mexico colonias of Doña Ana, Mesquite, Vado, Chaparral, and Anapra. Alum Israel Chavez (Class of 2019) of the Doña Ana Village Association provided students an overview of the history of colonias and organized a tour and meeting with area leaders, including Diego Medina of the Piro-Manso-Tewa Tribe and Oscar Vasquez Butler, former County Commissioner. Students also met with community members and stakeholders in Sunland Park, NM. Throughout the day, students learned about legal issues facing communities in these areas, such as lack of municipal status and basic services such as adequate drinking water, electricity, and sanitation.

The next day trip participants crossed the border into Ciudad Juárez, Mexico, and visited several sites including the border wall, a neighborhood where sewage flowed through the streets, and a reverse osmosis plant providing safe drinking water to the Mexican colonia of Anapra.

The trip was supported by the Foundation for Natural Resources and Energy Law.

Faculty publications, appearances, and service



[Elizabeth Elia, Gabe Pacyniak, Joe Schremmer, Cliff Villa, and Reed Benson all participated in the 20th Institute for Natural Resources Law Teachers hosted by the Foundation for Natural Resources and Energy Law]

Cliff Villa's article, [No "Box to be Checked,"](#) tracing the development of legal principles for environmental justice through case law, was published at 30 NYU Environmental Law Journal 157 (2022). He taught courses in Environmental Justice and International Environmental Law in Spring 2022. In April, Cliff presented a paper at Lewis & Clark's symposium commemorating the 50th anniversary of the Clean Water Act. His paper, *Don't Blame the Flint River*, examines the achievements of the Clean Water Act for improving urban waters plus the limitations of the statute for ensuring protection of EJ communities.

Joe Schremmer has recently authored or co-authored the following: "The Law of Oil and Gas: Cases and Materials" (11th ed. Foundation Press 2021) (with Patrick H. Martin, Bruce M. Kramer, Keith B. Hall, and Tara K. Righetti); "Regulation of Refining and Marketing (the "Downstream" Sector)," in *The Law of Environmental Protection* (2022); "Waste and the Governance of Private and Public Property," 93 U. Colo. L. Rev. 609 (2022) (co-authored with Tara K. Righetti); "Rediscovering the Doctrine of Waste and Common Law Environmental Governance," *Nat. Resources & Env't.* (Winter 2022) (co-authored with Tara K. Righetti); and "Regulating Natural Gas Venting and Flaring as Waste: A Review of the New Mexico Approach," 20 *Oil Gas & Energy L. Intelligence* 1 (2021). He is also looking forward to the publication of "A Unifying Doctrine of Subsurface Property Rights," 46 *Harv. Env't. L. Rev.* (forthcoming 2022).

Reed D. Benson had his latest article, *A Contentious Mission: Water Supply and Corps of Engineers Reservoirs*, published at 32 DUKE ENVIRONMENTAL LAW & POLICY FORUM 247 (2022). It reviews the Corps' water supply authorities and practices, examines the Corps' failed effort to adopt a national Water Supply Rule, and analyzes legal and policy issues regarding water supply from existing Corps projects. Benson spoke on "Five Federal Lands Fundamentals" at The Foundation for Natural Resources and Energy Law's public lands conference in Santa Fe. He also provided an overview of the Endangered Species Act at the annual CLE program of the New Mexico Bar's Natural Resources, Energy and

Environmental Law Section. He serves as Co-Chair of the Planning Committee for The Foundation's 2022 Water Law Institute, set for November 4-5 in San Diego.

Elizabeth Elia taught her Business Planning class with a special focus on renewable energy development. The upper level seminar combined real property, land use, business associations, electric utility regulation, and real estate finance to examine the legal and practical issues influencing small- and large-scale solar and wind project development today. On August 9th from 10:30 – 11:30 Mountain Time, she will moderate the ABA's Real Property Trusts and Estates section's free Professor's Corner webinar discussion on current issues in citing renewable energy projects. Please plan to join in!

Gabe Pacyniak presented his work-in-progress *Keeping All the Lights On: A Roadmap To Universal Service* at Arizona State University's Sustainability Conference of American Legal Educators, the 2022 AALS annual conference, the Energy Policy Institute's 10th Annual Conference, and at the Vermont Law School's Colloquium on Environmental Scholarship. In March, Gabe was appointed to New Mexico's Climate Change Task Force Technical Advisory Group. He also received grants to conduct research on environmental justice impacts of large greenhouse gas emitters and to support legal analysis of state implementation of climate policies.

UNM listed in top 30 schools for environmental law

New Mexico Law broke into the top 30 in the annual *US News and World Report* ranking of best schools for environmental law. After two years of being ranked in the mid-30s for environmental law, UNM is now tied (with Virginia) for 29th. In addition, New Mexico received its fourth straight A+ for environmental law from *preLaw* magazine, one of sixteen schools nationally to earn that grade based on environmental law offerings for students.

Student news: Hartrick Scholar; Foundation scholarships; summer stipends

Molly Samsell, Class of 2023, has been named the 2022 Hartrick Scholar by the Institute for Energy Law for her article on a New Mexico case implicating interstate jurisdictional issues in conservation regulation. The article is entitled 'Oil's Well That Ends Well—An Application for a New Mexico-Texas Transboundary Well and Its Implications'. As the Hartrick winner, Molly will receive a \$2,500 cash award and her article will be published in the 73rd Annual Proceedings of the Institute on Oil & Gas Law.

Tim Baker and Cheyenne Trujillo, both Class of 2023, received scholarship awards from The Foundation for Natural Resources and Energy Law (formerly Rocky Mountain Mineral Law Foundation). They were two of 36 recipients of Foundation Scholarships, chosen from 100 applicants studying law in the US and Canada. In addition, Trujillo received one of three Frances Hartogh Diversity Opportunity Scholarships, awarded to students who are from historically under-represented groups and who have worked to address inequality.

Two UNM students received stipends to support otherwise-unpaid work with conservation groups in Summer 2022. Jackie Munro, Class of 2024, has a job with the New Mexico Environmental Law Center, and Kate Tara, Class of 2023, has a position with American Rivers. The NREL Program makes these awards through a competitive application process, supporting summer work with a government agency or nonprofit organization. This year's summer stipends are funded in part by a generous donation from the Natural Resources, Energy and Environmental Law Section of the New Mexico State Bar.



[UNM Law Class of 2022 students who graduated with the Natural Resources and Environmental Law Certificate, along with NREL Program Director Reed Benson.]

Recent Events: John Leshy, Women of Standing Rock, and Renewable Energy Development



[Former Interior Solicitor and Professor John Leshy]

Former Interior Solicitor and Professor John Leshy visited UNM for a public presentation on his new book *Our Common Ground: A History of America's Public Lands*. Before his lecture, Leshy met with a group of students and faculty for an informal question-and-answer session. UNM's *Natural Resources Journal* will be publishing a transcript of Leshy's remarks, along with a review of his book written by University of Montana Professor Sandra Zellmer.

Recent UNM SOL graduate and NREL Certificate recipient Wašté Wi Young, former UNM Prof. Jeanette Wolfley, and director Shannon Kring were featured commentators for a screening of *End of the Line: Women of Standing Rock*. The documentary tells the story of the role that Young—a former Tribal Historic Preservation Officer of the Standing Rock Sioux Tribe—and other women played in organizing the 2016 protests against the Dakota Access Pipeline. Wolfley also discussed the importance of the legal challenges brought by the Tribes and supported by various amici against the pipeline, including a brief filed by UNM's NREL clinic. Cliff Villa served as the MC for the event, which was sponsored by the Native American Law Students Association.

Elizabeth Elia moderated a CLE panel discussion on Renewable Energy Development hosted by the UNM School of Law's Business Law Society and Natural Resources and Environmental Law Committee. Panelists included Laura Sanchez, Chief Policy and Legal Advisor for PNM (New Mexico's largest Investor Owned Utility); Kelsey Rader, Sustainability Officer for the City of Albuquerque; and Joan Drake, Member of the Renewable Energy Practice Group at Modrall Sperling, LLC.

UNM Hosts 10th Circuit Oral Argument in Pueblo of Jemez v. United States



[*Pueblo of Jemez v. United States* involves a claim of aboriginal title to lands that are now Valles Caldera National Preserve, shown here in winter.]

On Friday, May 20, the 10th Circuit Court of Appeals sat in a special session at the UNM School of Law to hear oral arguments in two New Mexico-related cases, including *Pueblo of Jemez v. United States*. In this high-profile and long-running case the Pueblo of Jemez asserts a claim to unextinguished and continuing aboriginal title to the lands that are now the Valles Caldera National Preserve. The May oral argument was the second time that the case has reached the 10th Circuit, with this appeal focused largely on whether the federal district court correctly interpreted the 10th Circuit's prior decision on remand. The case drew a full house, with members of the Jemez Pueblo, local practitioners, and law students in attendance.

About the 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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