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Winter 2013

Getches Wilkinson Center Newsletter, winter/spring 2013

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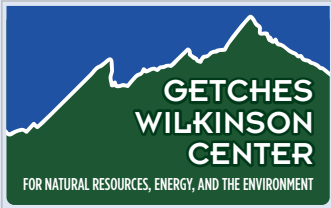
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Getches-Wilkinson Center Collection

GETCHES WILKINSON CENTER FOR NATURAL RESOURCES,
ENERGY, AND THE ENVIRONMENT NEWSLETTER, winter/spring
2013 (Getches-Wilkinson Ctr. for Natural Res., Energy,
and the Env't, Univ. of Colo. Law Sch.).

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Center for Natural Resources, Energy, and the
Environment (formerly the Natural Resources Law
Center) at the University of Colorado Law School.



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Dear Friend,

The University of Colorado Law School is now preparing for its third generation of leadership in natural resources, energy, and environmental law. Back in the 1950s, **Clyde Martz** joined our faculty and literally wrote the first casebook on natural resources law—no such book existed so he created one. In the 1960s, **Joseph Sax**, who has since emerged as one of the leading scholars in the field, replaced Martz on the Colorado Law faculty, with Martz transitioning to practice law at Davis Graham & Stubbs, where he founded the natural resources law practice there and mentored a generation of natural resources law practitioners. With Martz and Sax, Colorado Law established a reputation in this field before most schools even recognized such an area of law. And after Sax left Colorado Law, Jim Corbridge later joined the faculty to pick up the mantle of natural resources law and policy leadership.

In the 1970s, David Getches joined the Colorado Law faculty, later recruiting his friend and collaborator Charles Wilkinson to join Colorado Law in the 1980s and establishing the foundation for a second generation of leadership. In 1982, Clyde Martz, along with David Getches, Marvin Wolf, and a number of Colorado Law leaders, created the Natural Resources Law Center (NRLC). The inspiration for the Center was to provide thought leadership in research, problem solving, collaboration, and public education in the fields of Western water, public land management, oil and gas, and mining law—and to underscore how all of these areas were connected and related to environmental policy.



Charles Wilkinson and David Getches on a fishing trip near Dubois, WY, in the early 1980s.

Over the course of the three decades since the NRLC's founding, those fields have expanded, diversified, and grown more complex. Moreover, the then-novel insight that these fields were interconnected has become a truism. With this has also come the recognition that these fields are global in their reach.

When I took over as Dean in July, 2011, David Getches related to me that the natural resources, energy, and environmental law faculty, which had grown →

→ to include Sarah Krakoff, Lakshman Guruswamy, Mark Squillace (who also acted as Executive Director of the NRLC), William Boyd, and Michael Soules, in addition to David and Charles, needed to rethink how they engaged with one another and the Center. In particular, David wanted to ensure that the Center could play the role of convener and platform for the faculty's expanding and diverse activities. And he wanted to make sure that the students involved with the Center and its dedicated staff—including long-time Senior Research Associates Doug Kenney and Kathryn Mutz, and Program Manager Heidi Horten—would be better integrated with our faculty working in this area.

Since Clyde Martz's time, the field (and correspondingly our faculty and staff's work) had grown to include classes, research, policy papers, and casebooks in areas ranging from environmental justice to international energy development. To that end, David proposed a planning process to elevate the Center and spark the Law School's next phase of leadership in the areas of environmental, natural resources, and energy law. Before he could lead that process, David passed away from pancreatic cancer, leading me to undertake this effort not with David, but for David.

As the faculty worked together, with the effective facilitation of Dennis

Donald (a friend and colleague of David's) to develop an enhanced mission for the Center—to provide the core of the Law School's efforts in natural resources, energy, and environmental law and policy—I thought about the appropriate name for the Center. The faculty was clear that the Center needed to reflect the breadth of their work in natural resources, energy, and the environment. And they also quickly embraced that we should not only honor David, but also Charles, whom David valued as a partner, friend and collaborator. For a sense of their special relationship, see Charles' tribute to David at a conference we recently held to celebrate David's scholarly contributions. <http://lawweb.colorado.edu/events/mediaDetails.jsp?id=3818>

As we moved forward to inaugurate the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment, I recognized that we were setting out an ambitious agenda for Colorado Law's third generation of leadership in this area. That agenda includes building on our status as thought leaders by convening high level conferences (including our flagship efforts honoring Clyde Martz); engaging more effectively with a broad set of stakeholders (in government, industry, practice, non-profit organizations, and academia); and continuing to hire top quality scholars and teachers. Of course, our energy

in this area continues to be supported and inspired by our students. For our Colorado Law leaders in this field, starting with Clyde Martz and David Getches and continuing to William Boyd and Michael Soules (our most recent hires in this area), the quality of our students and their interest in these fields has continued to be an inspiration. At the end of the day, our efforts to raise our game—and ensure that the vision of an enhanced center is realized—are for them.

In terms of raising our game, the appointment of Brad Udall as the renamed Center's Director is a very promising first step. As you read this newsletter, including about Brad and his excitement about leading the Center, please consider how you can engage with Colorado Law and enable our newly named Getches-Wilkinson Center for Natural Resources, Energy, and the Environment to thrive. As always, our community is a great source of strength and we will need you as the Center enters into its fourth decade and Colorado Law embarks upon a third generation of leadership.

Cheers,



Phil Weiser
Dean

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A 21st Century Institution for Natural Resources, Energy, and the Environment

{ BY CHARLES WILKINSON }

Colorado Law has long been known for its excellence in, and commitment to, the field of natural resources law, and the Natural Resources Law Center has been a research and outreach leader in the field for 30 years. As just one example, the NRLC's annual conferences on water law and public land law became the premier forums for addressing those issues so critical to the American West. In more recent years, Colorado Law also has developed several robust programs in environmental, Indian, energy, and international law outside of the NRLC organizational framework.

For example, Colorado Law's Center for Energy and Environmental Security has successfully engaged communities around the world to bring appropriate sustainable energy technologies to some of the one-third of the world's population that survive with little or no access to beneficial energy for cooking, heating, water sanitation, illumination, transportation, or basic mechanical needs (see page 14). The Energy Innovation Initiative brings together leaders from government, law, finance, industry, and academia to develop innovative approaches to our energy security and sustainability challenges across a range of sectors (see page 10). And in Indian law, our outstanding faculty, research fellows, and students have been supporting tribal resources managers with research and assistance on water, land, and fisheries matters and on strategies to mitigate and adapt to climate change (see pages 12-13).

Brad Udall will continue the long tradition of high-quality directors, from Mark Squillace back to Larry MacDonnell. Brad really lights it up with his extraordinary expertise, determination, goodwill, and enthusiasm for our mission.

From the beginning the Center has benefited from the advice and support of a distinguished and highly participatory board of advisors. Leaders in the field will continue to play a prominent role on the Advisory Council for the Center under the chairmanship of Michael Gheleta.

Michael has been a leader and wise counselor throughout the reorganization, and we are grateful for his efforts and those of his fellow members of the Advisory Council during this time.

The Getches-Wilkinson Center for Natural Resources, Energy, and the Environment will be grounded in the successful legacies of both the NRLC and our other existing programs. But it will be driven by a broader agenda and our aspirations for deeper influence by producing even more high-quality and cutting-edge research to help identify and solve natural resources, energy, and environmental challenges. We will improve our coordination and collaboration with students, scholars, attorneys, members of nonprofit organizations, tribal leaders, members of the scientific communities, business leaders, representatives of governments at all levels, and the general public to address important, complex issues in these fields. In that spirit, we will continue and expand our traditional role as a valued convener.

OUR COMMITMENTS AND AMBITIONS ARE CAPTURED IN THE CENTER'S MISSION STATEMENT →

Serving the people of the American West, the nation, and the world through creative, interdisciplinary research, bold, inclusive teaching, and innovative problem solving in order to further true sustainability for our lands, waters, and environment.

With these words as our guide and a new organization to enable us, the Getches-Wilkinson Center will break new paths into the frontiers of natural resources, energy, and environmental law and policy through research, education, and convening. ♦

A MESSAGE from the Chair of the Advisory Council

{ BY MICHAEL GHELETA }

One of the enduring strengths of Colorado Law, and particularly its natural resources program, is the continued involvement and support of alumni and practitioners in the field. For the past several years, I have had the great privilege of serving as Chair of the Advisory Board of the Natural Resources Law Center.

I immediately encountered the NRLC upon arriving at the law school as a student in the mid-1980s, and over the years have enjoyed and professionally benefited from attending and participating in Center conferences and programs. Over time, and especially in recent years, the Center's advisors have generously contributed their time and expertise to the law school. We have grown to include a diverse and distinguished group of professionals involved in natural resources law and vitally interested in maintaining the law school's excellence in this area.

The Advisory Council of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment will continue these historic roles and involvement. I look forward to continuing to chair the Advisory Council as this dynamic transition unfolds. It is our collective hope that the traditional strength of our advisory role in the school's natural resources program will continue and indeed be enhanced as we venture into the future. We all look forward to the challenges ahead. ♦



DIRECTOR'S CORNER

{ BY MARK SQUILLACE }

For the past eight years I have had the great pleasure of serving as the Director of the Natural Resources Law Center. The Center has prospered during this time in no small part because of the accomplishments of our small but dedicated staff. Senior Research Associate Doug Kenney, who leads our Western Water Policy Program, deserves special praise for the great work that he has done to promote smarter water resource policies for the 21st century. His current work on Colorado River governance shows particular promise for helping our region solve the difficult problems that Basin managers face as climate change threatens to exacerbate water supply and demand projections that were already proving to be unsustainable.

Over her long tenure at the Center, Senior Research Associate Kathryn Mutz has played a critical role on many Center projects and programs. Her current project, however, may well be her most ambitious. A few years ago, some of you came to the Center with a simple idea: Why not develop a data base of information about best management practices used for oil and gas development in the Rocky Mountain region? Kathryn listened and synthesized your ideas, with the help of a diverse advisory board of stakeholders, into a major Center project that has attracted praise both nationally and internationally, and all of the credit for this goes to Kathryn. Her tenacity

and skill in developing and managing this program have been remarkable and the Center will undoubtedly reap great benefits from her work for many years to come.

Although funding for our Red Lodge Clearinghouse Project has waned, we are rightly proud of the prominent role that the Center played in helping to make the Red Lodge website the premier place on the internet for civic engagement in natural resources law and policy. Our current project leader, Heather Hansen, has proved to be a gifted writer and she deserves enormous credit for her role in keeping the project afloat even as our funding has declined.

In the midst of all of this great work, I have tried to keep my own hand in the Center's mission of promoting progressive resource policy. Over the past several years, my work has covered a range of topics including most prominently, water transfers policy, wetlands policy, environmental decision-making (especially in the context of climate change), and more recently, federal coal policy. This Fall, I spent a sabbatical semester at the University of Edinburgh in Scotland, where I worked on a project on coal, climate change, and agency decision-making. I also co-taught a class in comparative environmental law. The teaching experience was especially fascinating with 14



students hailing from 12 different countries all over the world.

For most of my tenure at the Center, all of the Center's substantive work was made possible by our extraordinary office manager, Heidi Horten. In addition to managing our accounts, Heidi was the point person for all of our outreach programs including our annual Martz Summer Conference. Many of you came to know Heidi in her role as conference coordinator. As many of you also know, Heidi was in a serious car accident earlier this year and despite a remarkable recovery, she has not yet been able to return to the Center. Heidi has been sorely missed but we all share in the hope for her continuing progress and for the prospect that she might someday rejoin the Center staff in some capacity.

In addition to our permanent staff, I must also acknowledge the important contributions made by our student research assistants. Well over 100 of our students have served in this capacity during my tenure as Director and neither our work nor our summer conferences would be possible without their contributions. Our students merit special praise this past summer for stepping up and taking over much of the work that has traditionally been handled by

Heidi Horten. We simply could not have pulled off the 2012 summer conference without their initiative and hard work, and I am indebted to them for their selfless contributions that helped make our 2012 conference a huge success.

This somewhat lengthy review is a prelude to acknowledging what many of you already know. Our Natural Resources Law Center is now evolving into the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment. In addition to honoring our two prominent colleagues in the field of natural resources and environmental law, the new name reflects the increasingly complex and interwoven world of natural resources, energy, and environmental law and policy, and it allows us to take in the outstanding work of several other Colorado Law faculty who have developed impressive research programs in these fields of study.

Now as we transition to the Getches-Wilkinson Center, I am stepping down as the Center Director. I will remain at Colorado Law as a regular member of our faculty and a member of the Center's Board. I am thrilled, however, that the Center is being placed in the capable hands of our new Director, Brad Udall. I have known Brad since I first came to Colorado in 2005, and I have

enormous respect for him and what he has accomplished as the Director of the Western Water Assessment. Brad brings his considerable talents to this new position, but perhaps more importantly, he offers an expansive vision and a contagious level of enthusiasm for the Center that seem destined to ensure its long-term success. I look forward to working with Brad and helping him in whatever way I can to make the Getches-Wilkinson Center the best that it can be.

It was back in November of 1982 that Clyde Martz led a group of distinguished leaders in the field of natural resources law and policy toward a decision to establish the Natural Resources Law Center at the Colorado Law School. Their vision was for a Center that would engage policymakers and academics alike on the important natural resources issues of the day and inform and influence policy on those critical issues. The Center's success is a tribute to the foresight of early leaders of this idea like Clyde Martz, Jim Corbridge, and David Getches. The Getches-Wilkinson Center will build on this success and continue Colorado Law's leadership in natural resources, energy, and environmental law. I look forward to many more fruitful years working with the Center to make it the best of its kind in our nation. ♦

BRAD UDALL SELECTED AS DIRECTOR

In April, Brad Udall will become the first Director of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment. Brad Udall currently is the Director and Principal Investigator of University of Colorado Western Water Assessment, located at the National Oceanic and Atmospheric Administration's Earth Science Research Laboratory in Boulder, Colorado. For the last ten years, Brad has been on the research faculty at CU with an appointment through the Cooperative Institute for Research in Environmental Sciences (CIRES).

Brad brings a very successful career in natural resources science and policy to the helm of the Getches-Wilkinson Center. His work on water, climate change, land, and environmental issues is well-known and has been influential throughout the West and in Washington, D.C. He has provided Congressional testimony, has co-authored federal and state publications on water and climate, and is currently an Intergovernmental Panel on Climate Change contributing author. He also is currently a co-principal investigator for two new Department of the Interior Climate Science Centers, one based in Colorado and one in Arizona. He spent four months in Adelaide, South Australia, as a visiting scholar studying Australian water reforms in 2011.

"We conducted a nationwide search and we found the ideal candidate in our backyard," said Associate Professor William Boyd, who led the search committee effort. "Brad is the whole package—a natural leader, a pragmatic and creative thinker, and someone who is deeply committed to solving our most pressing natural resources, energy, and environmental problems. With his leadership and the strong support of the Center's Advisory Council and community, the Getches-Wilkinson Center is well-positioned to significantly enhance Colorado Law's legacy of creative, interdisciplinary research; bold, inclusive teaching; and innovative problem solving."

"I am honored by the opportunity to work with such tremendous faculty members, an important legacy, and a Center that bears the name of two giants in the field, David Getches and Charles Wilkinson," stated Brad Udall. "I am also proud to follow in the footsteps of the Center's outstanding past Directors, including outgoing Director Mark Squillace. With Dean Weiser's support, Charles' wisdom, expertise from our outstanding faculty and staff, passion from our terrific students, and Leslie Brodhead's energy as Program Coordinator, I have no doubt that the Center is going to make significant contributions to solving the pressing natural resource problems of our state, region, nation, and the globe." ♦

*Leslie Brodhead
and Brad Udall*



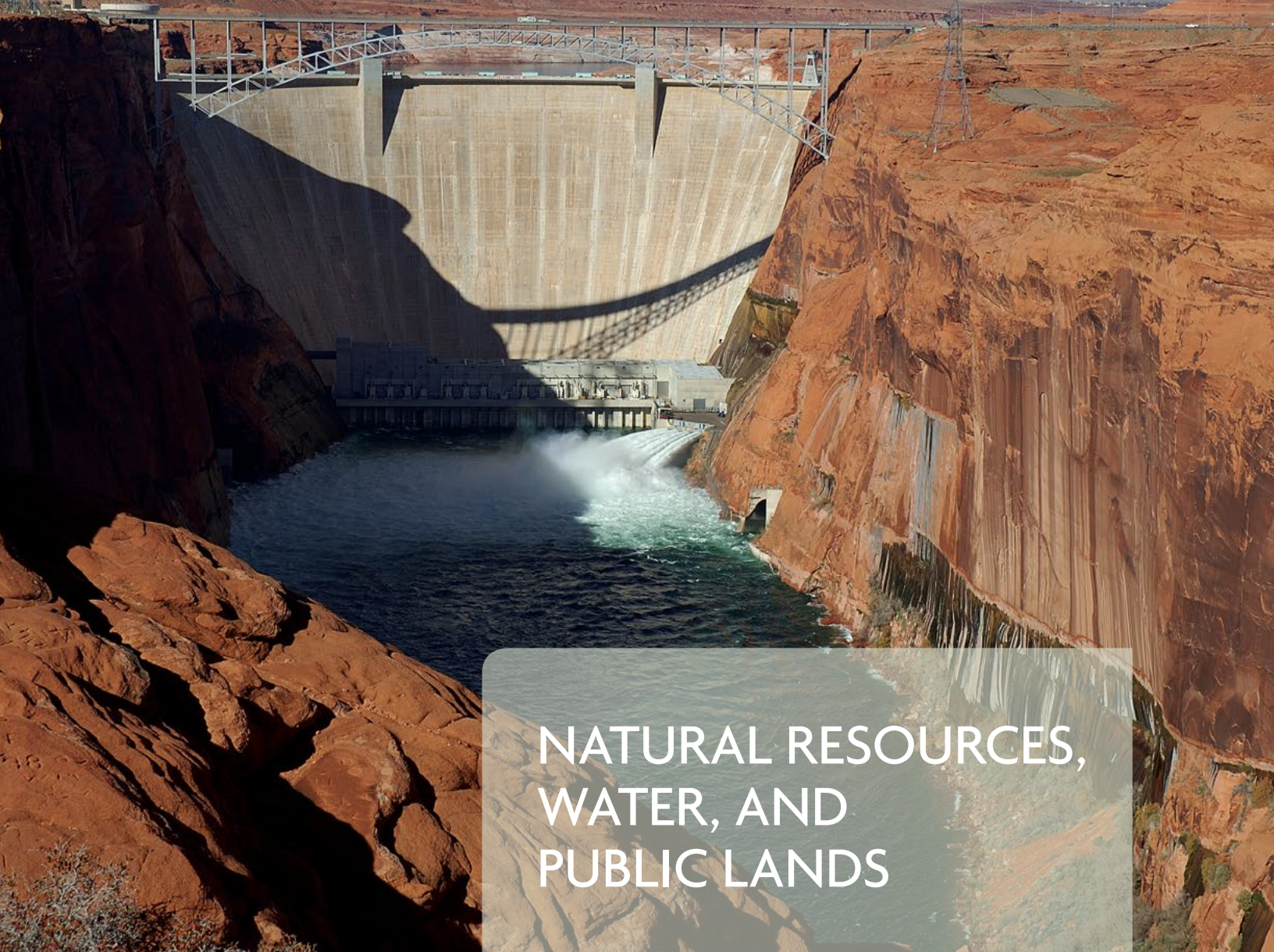
LESLIE BRODHEAD APPOINTED AS PROGRAM COORDINATOR

Leslie Brodhead will be joining the Getches-Wilkinson Center as the Program Coordinator. Leslie has spent the last fifteen years working with the National Park Service, most recently at Rocky Mountain National Park, serving as the park's Interim Volunteer Program Coordinator. As an Interpretive Park Ranger, Leslie has worked at seven different national parks, presenting programs and developing interpretive media focusing on natural resources issues, including wildlife biology, ecology and climate change.

Leslie developed a cadre of important management and planning skills in her work with the National Park System, overseeing visitor programming and operations at various national parks. She also quickly showed herself to be a leader among her peers, serving as a Guest Instructor for the National Park Service nation-wide training program, leading sessions on team-building and leadership. From 2004-2008, she served as a member of the Long Range Strategic Planning team at Independence National Historical Park, culminating in receiving the Bronze Medalist Award from the Federal Executive Board for Government Excellence.

"Leslie brings great energy, talent, and passion to this position," new Director Brad Udall said. "I am very much looking forward to working with her to make the Center a standout enterprise at the University of Colorado and at Colorado Law."

"I am thrilled to be able to serve the university and the community as part of the Getches-Wilkinson Center," stated Leslie. "It is a privilege to be able to honor the legacy of two distinguished men, David Getches and Charles Wilkinson, with the important work we will be pursuing for the future. I am also honored to work with Brad Udall, someone I consider to be the ideal person to lead the Center towards working for greater engagement and eventual solutions to our important natural resource and environmental concerns." ♦



NATURAL RESOURCES, WATER, AND PUBLIC LANDS

*Our Natural Resources, Water, and Public Lands Program continues to build on the more than 30 years of research and service of the Natural Resources Law Center. **Mark Squillace**, who served as Director of the Natural Resources Law Center for eight years, Directs the Program. **Doug Kenney** heads up our Western Water Policy Program, **Kathryn Mutz** our Intermountain Oil & Gas BMP Project, and **Heather Hansen** our Red Lodge Clearinghouse.*



THE WESTERN WATER POLICY PROGRAM

{ BY DOUG KENNEY }

The longstanding tradition of water resources research at the Natural Resources Law Center continues, and will remain a key focal area of the Getches-Wilkinson Center. This work, organized under the name Western Water Policy Program, is currently heavily focused on issues of Colorado River governance, water law reform, the water-energy nexus, and climate change adaptation.

Our most active project is the Colorado River Governance Initiative, which has generated a variety of professional papers and presentations, several white papers and technical memos (now available through our Colorado River Information Portal: <http://www.waterpolicy.info/projects/CRIP/index.html>), and a recent article in *Environmental Law*.

Also noteworthy is our recent book entitled “The Water-Energy Nexus in the Western United States” (2011, *Edward Elgar Publishing*). Publications on water transfers reform, public interest protections, and conservation disincentives are also forthcoming, as are papers on the use of tribal water rights being prepared by our first Getches Fellow, Julie Nania (’11).

www.waterpolicy.info

THE RED LODGE CLEARINGHOUSE

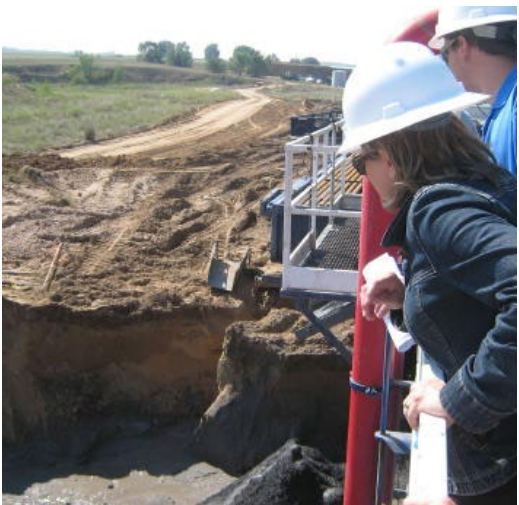
{ BY HEATHER HANSEN }

Throughout the spring and summer, our research associates kept Red Lodge Clearinghouse going strong. Much of the work done by our six-member crew included researching and writing about comment opportunities open to the public. Their adept analyses helped readers to understand core issues and to comment more effectively to various federal and state agencies.

Cori Hach (’14) combed agency websites to find comment opportunities. Emi Estelle (’14) waded into the debate over motorized vehicles in Yellowstone and weighed the costs on a community of protecting woodland caribou. TK Keith (’14) was our drilling expert, looking closely at the federal rule for hydraulic fracturing as well as a heated ban on it in a Front

Range city. Brian O’Neill (’14) wrote about a controversial ski resort expansion and made the case for rolling out renewables in developed areas. Erin Eastvedt (’10) looked at a Utah law that would require plaintiffs to compensate developers for litigation delays, and at the debate over some high-profile species being considered for ESA protection. Heather Hansen continued her oversight of RLCH and continued to draw new users to the site with her essays on a pipeline to Las Vegas, forest thinning and putting the West on a low-carbon diet, all of which appeared on the *High Country News* website.

www.rlch.org



INTERMOUNTAIN OIL AND GAS BMP PROJECT – AND BEYOND

{ BY KATHRYN MUTZ }

The staff of the NRLC developed the Intermountain BMP Project in 2007 with private funding and a well-rounded board of advisors. The project focuses on providing information on best practices for the five-state region of Colorado, Montana, New Mexico, Utah and Wyoming. For the past three years, the BMP Project has operated as a partner with the Environmentally Friendly Drilling Project (EFD Project) with a grant from the Research Partnership to Secure Energy for America (RPSEA). The Intermountain BMP Project is alive and well at www.oilandgasbmps.org, providing access to information through a database of best practices, resource and laws pages, and various workshops on both conventional and unconventional oil and gas development.

As unconventional gas development – and the controversies surrounding it – expands throughout the country and the world, the BMP Project is expanding with it. In 2011-2012, NRLC staff, including recent Colorado Law graduate Matt Sura ('11), worked with EFD Project colleagues and the U.S. Agency for International Development, the State Department, and the Government of Ukraine to evaluate the potential impacts of shale gas development in Ukraine. As part of that effort, Sura and Kathryn Mutz (BMP Project director) evaluated the ability of Ukraine to regulate shale development in a sustainable manner. (For copies of project documents, see the IRG website at http://www.irgltd.com/Our_Work/Projects/Europe_Eurasia.html). In late 2012, Mutz shared this experience and the importance of BMPs for sustainable development with the Colombian government in a workshop in Bogotá.

For the next few years, the Getches-Wilkinson Center will continue work on oil and gas BMPs both in and beyond our region. BMP Project staff, including website and database manager Sara Watterson, will continue to work with EFD Project colleagues with RPSEA funding on a new Technology Integration Project (TIPs). TIPs will focus on integrating environmentally conscious technology in shale plays throughout the country, including the Piceance Basin in western Colorado. New project contributor Matt Samelson ('11) will focus on comparative law analysis for the project. The BMP staff will also be working with colleagues from CU Boulder and Denver, Colorado State University, Colorado School of Mines, and other research institutions around the country with funding from the National Science Foundation (NSF). As part of NSF's Sustainable Research Network, the project, led by Joe Ryan of CU Boulder's engineering department, will study social, ecological and economic aspects of the development of natural gas resources and the protection of air and water in the Rocky Mountain Region. (http://www.nsf.gov/news/news_summ.jsp?cntn_id=125599&org=NSF&from=news)

For both projects, the staff of the Getches-Wilkinson Center and their student research assistants will be focusing on providing an unbiased source of technical information, case studies, and analyses of the laws and regulations necessary for sustainable development. The public outreach aspects of both projects will include preparing information for Colorado residents and local governments impacted by new developments. This work will be supported in part by a grant from the CU-Boulder Outreach Committee.

www.oilandgasbmps.org ♦



ENERGY AND ENVIRONMENTAL POLICY INNOVATION

Professor William Boyd directs the program on energy and environmental policy innovation at the Getches-Wilkinson Center. The program supports research, analysis, and ongoing activities in the United States and throughout the world to build networks for collaboration, cross-jurisdictional learning, and innovative policy approaches to pressing energy and environmental problems.



ENERGY INNOVATION INITIATIVE

{ BY WILLIAM BOYD }

Professor Boyd serves as the faculty director of Colorado Law's Energy Innovation Initiative, www.energy-innovation.org, a joint venture of the Getches-Wilkinson Center on Natural Resources, Energy, and the Environment and the Silicon Flatirons Center on Law, Technology, and Entrepreneurship. Established in 2011, the Initiative brings together leaders from government, law, finance, industry, and academia to address key aspects of the energy innovation challenge and develop new approaches and solutions across a range of sectors. Drawing on Colorado Law's deep expertise in technology, entrepreneurship, energy and natural resources, the Initiative supports research and analysis on the critical policy, regulatory, and business aspects of the energy innovation challenge;



training for students and professionals; and an ongoing series of public lectures, workshops, and conferences.

Over the last two years, the Initiative has hosted Senator Jeff Bingaman, FERC Commissioner Tony Clark, celebrated author and energy expert Daniel Yergin, former Colorado Governor Bill Ritter, DOE senior advisor Lauren Azar, CEQ deputy for energy and climate Jason Bordoff, and many others to address various aspects of the energy challenge, and has convened conferences and workshops on smart grid, the role of public utility commissions (PUCs) in clean energy innovation, the changing energy mix, and financing energy innovation.

The Initiative is also supporting and participating in ongoing research collaborations on grid modernization, PUCs and clean energy innovation, and unconventional natural gas development. On this last topic, Professor Boyd, along with Energy Innovation Initiative Senior Research Fellow Elizabeth Paranhos, participated in a recent multi-author study led by the Joint Institute for Energy Analysis (JISEA): *Natural Gas and the Transformation of the U.S. Energy Sector: Electricity* (<http://www.nrel.gov/docs/fy13osti/55538.pdf>). The Initiative has developed partnerships with NREL, JISEA, CU-Cleantech, and the Renewable and Sustainable Energy Institute (RASEI), and is supported by Holland & Hart LLP, Fulbright & Jaworski LLP, Wilkinson Barker Knauer, LLP, Simple Energy, and Tendril.

www.energy-innovation.org

GOVERNORS' CLIMATE & FORESTS TASK FORCE (GCF)

{ BY WILLIAM BOYD }

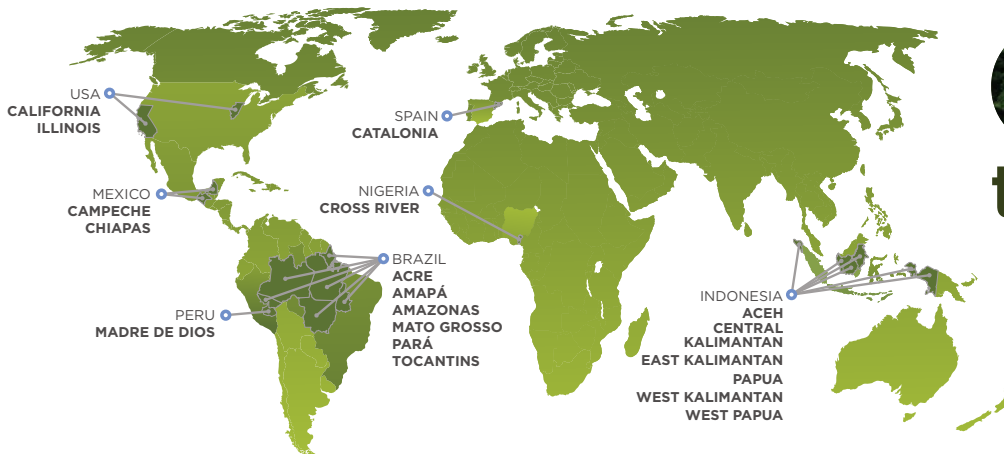
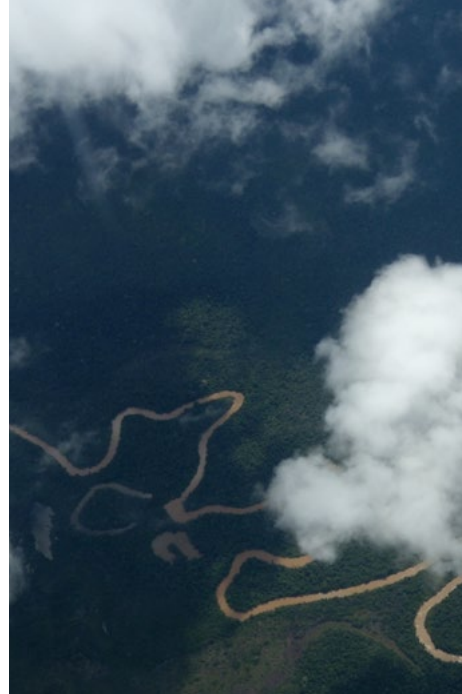
With ongoing support from the Gordon & Betty Moore Foundation, the ClimateWorks Foundation, and the Norwegian Agency for Development Cooperation, Professor Boyd and his team (Julie Simmonds, Carly Hernandez, and Amelia Peterson) continue to lead the Secretariat for the Governors' Climate and Forests Task Force (GCF), www.gcftaskforce.org. Established in 2009, the GCF is a unique subnational collaboration between 19 states and provinces from Brazil, Indonesia, Mexico, Nigeria, Peru, Spain, and the United States that seeks to advance jurisdictional programs for reducing emissions from deforestation and land use and to link these activities with emerging greenhouse gas (GHG) compliance regimes and other pay-for-performance opportunities.

More than 20% of the world's tropical forests are in GCF states and provinces, including more than 75% of Brazil's and more than half of Indonesia's. The GCF includes states and provinces that are leading the way in building comprehensive, jurisdiction-wide approaches to reducing deforestation and low emissions development as well as the only jurisdiction in the world (California) that is considering provisions that would recognize efforts to reduce emissions from deforestation and forest degradation (REDD+) as part of its GHG compliance system.

The GCF focuses on all aspects of the effort to reduce emissions from deforestation and establish lasting frameworks for low emissions development by sharing experiences and lessons across leading states and provinces, synchronizing efforts across these jurisdictions to develop policies and programs that provide realistic pathways to forest-maintaining rural development, supporting processes for multi-stakeholder participation and engagement, and securing financing for jurisdictional programs from a range of sources, including pay-for-performance public finance, carbon markets, and ongoing efforts to decarbonize agro-food supply chains.

The GCF has also established an independent GCF Fund to support collective needs and innovative proof-of-concept activities in GCF states and provinces and has secured an initial seed grant from the U.S. Department of State for the Fund. Key partners in the GCF effort include IDESAM (Brazil GCF coordinator), Kemitraan (Indonesia GCF Coordinator), ProNatura Sur (Mexico GCF coordinator), IPAM (GCF science and technical advisor), Climate Focus (European Partnerships), Carnegie Institution for Science, Woods Hole Research Center, Google Earth Engine, and many others.

www.gcftaskforce.org ♦



GCF

task force



NATIVE COMMUNITIES AND ENVIRONMENTAL JUSTICE

*For decades, Colorado Law has had strong connections with Native communities throughout the West. Our faculty has particularly close ties to American Indian nations in the Colorado Plateau region, and several recent teaching, research, and service projects reflect that relationship. The Native Communities and Environmental Justice Program is a natural continuation of the Law School's many strengths in these areas. Professor **Sarah Krakoff** is the Director of the Program.*

TEACHING → For the past several years, the Law School's Advanced Natural Resources Seminar has focused on the Colorado Plateau, and Professors Sarah Krakoff, Charles Wilkinson and Mark Squillace have each led week-long field trips with their students throughout the high deserts, canyons, forests, and rural communities of the region. The seminars and the field trips generate student interest in writing papers that address current problems in the region. Last spring, one student analyzed proposed legislation that would have settled the Navajo and Hopi Nation's water rights to the Little Colorado River. On the field trip, she learned that Navajo tribal members who lived on Black Mesa, the area that would have been most affected by the settlement, lacked adequate information about the details of the proposal. She did her research and wrote her paper with them in mind, sending the final product to tribal members to assist them with their grass-roots efforts to educate their communities. Another student read about the gap in ground-level ozone regulation in the Uintah Basin of southern Utah. She wrote a paper that analyzed the legal framework, and assessed the EPA's proposed changes to address a regulatory gap. These are just two examples among many. Each year, our capstone seminar takes students into the field to meet the people and visit the communities where natural resource and environmental conflicts play out.

The students immerse themselves in the people and landscapes affected by the laws and policies they have studied, and engage in analysis and problem solving that position them to be leaders on these issues when they graduate.

RESEARCH → American Indian nations will suffer some of the more severe impacts from climate change, notwithstanding that they have contributed little to global greenhouse gas emissions. Colorado Law faculty, research fellows and students have been drafting climate change mitigation and adaptation reports based on regional information, and have been reaching out to tribal environmental and natural resources managers to provide research and assistance. An interdisciplinary team of researchers, including Julie Teel, Karen Cozzetto, and Julie Nania ('11) has constructed a database on climate change and drought resources, and has also produced particularized drought analyses for the Navajo Nation. In spring, 2013, Sarah Krakoff and Julie Nania will co-teach a seminar on renewable energy development on the Navajo Nation, a course designed to provide targeted guidance to the Navajo Nation's executive branch. In addition, Professor Krakoff published an article in a peer-reviewed journal on tribes and climate adaptation.

(*Radical Adaptation, Justice, and American Indian Nations* 4 Environmental Justice 207 (2011)).

SERVICE → In the Pacific Northwest, the Federal District Court has retained continuing jurisdiction in *U.S. v. Washington*, the 1974 decision that, among many other things, awarded the treaty tribes in the Puget Sound area 50% of the salmon runs. Today, most of the filings involve intertribal disputes over fisheries. The tribes would like, rather than going to federal court, to resolve these disputes under their own sovereignty and traditions. At a general meeting of all 20 tribes in March 2011, the tribes established a work group of tribal chairs to develop an alternative system. Professor Charles Wilkinson was brought in as facilitator.

The work group has been very active and the tribes are close to adopting an alternative dispute resolution system of their own making to handle all or nearly all of these disputes. The system would include high-level, council-to-council sessions, usually held in traditional longhouses. If adopted, the system would be memorialized by a formal treaty signed by all 20 tribes.

This past summer, two second-year law students volunteered their time to work with Peter Nichols ('01), Sarah Parmar

of Colorado Open Lands, and *pro bono* attorney Ryan Golten to draft a legal handbook for members of Acequia communities in Colorado. Acequias are traditional Hispanic ditch communities that administer water according to customs that pre-date Colorado statehood. The students, Nate Miller and Jens Jensen, completed an initial draft of the handbook and hope to finalize and help to distribute their final product throughout southwestern Colorado. Under the guidance of Professor Sarah Krakoff, the students hope to continue this important work on behalf of Colorado's acequia members to recruit additional students and seek funding to expand the project.

Law students and professors are also involved in supporting Doug Vilsack ('08) in his efforts to distribute solar lights to the 18,000 households on the Navajo Nation that lack electricity. Doug's non-profit, Eagle Energy, relies on volunteer work by law students to conduct outreach, analyze program data, and do fundraising to reach communities that U.S. policies have left behind. Sarah Krakoff joined forces with Beth Osnes, a professor in the Theatre Department, and received a University Outreach grant to provide funding for aspects of Eagle Energy's work. ♦





Energy and Environmental Security

*The Energy & Environmental Security Program seeks to improve energy and environmental security for the world's poor. Under the leadership of Professor **Lakshman Guruswamy**, we offer a synthesis of bottom-up and top-down technical solutions, actions, and policies that demonstrate, for example, how non-carbon based Appropriate Sustainable Energy Technologies (ASET's) can address energy poverty.*

ENERGY JUSTICE AND THE OTHER THIRD

{ BY LAKSHMAN GURUSWAMY }

Access to energy is a pre-requisite for lasting social and economic development. The Other Third—around 2 to 3 billion people worldwide—have little or no access to beneficial energy for cooking, heating, water sanitation, illumination, transportation, or basic mechanical needs. Their energy poverty exacerbates ill health and economic hardship, leads to millions of deaths, and reduces educational opportunities, particularly for women and children.

Specifically, access to efficient and affordable energy services is a prerequisite for achieving the Millennium Development Goal (MDG) relating to poverty eradication. In response, the United Nations has declared 2012 the “International Year of Sustainable Energy for All” and announced a goal of universal energy access by 2030. It is worth emphasizing in this context that electricity is indisputably the ultimate, achievable goal when seeking access to energy. However, the daunting costs and time necessary to “leapfrog” from biomass and kerosene to electricity render it the final goal, but not necessarily the first step in accessing beneficial energy. Appropriate Sustainable Energy Technologies (ASET's), such as clean combustion technologies, simple filtration systems, and photovoltaic illumination, can provide interim access to beneficial, life-saving energy.

The Center for Energy and Environmental Security (CEES) is predicated on energy justice, and is working to develop practical strategies and solutions for moving the Other Third toward a global sustainable energy future—a future based on appropriate sustainable energy technologies. Three of our projects show the way:

- 1. Ayaviri, Peru.** Now in its third year, this project illustrates the feasibility of addressing both global warming and energy poverty simultaneously through the deployment of improved cookstoves and community development. It demonstrates a replicable, bottom-up approach to improving energy access.
- 2. The Partnership for the Relief of Energy Poverty (PREP)** seeks to promote collaboration among multiple stakeholders for the commercial design, fabrication, deployment, and use of ASET's through the creation of regional alliances around the world.
- 3. Energy Justice Conferences, 2009, 2010, 2012.** Three path-breaking conferences and two volumes, one published and the other forthcoming, have laid the foundations for addressing the energy poverty of the Other Third.

A fourth project—integrating this work into the Getches-Wilkinson Center—promises to increase our capacity to help communities near and far to provide energy and justice to the Other Third.

www.colorado.edu/theotherthird ♦

RECENT PUBLICATIONS

WILLIAM BOYD

- *Genealogies of Risk: Searching for Safety, 1930s-1970s*, 39 *ECOLOGICAL LAW QUARTERLY* 895 (2012).
- *Law, Environment, and the Non-Dismal Social Sciences*, 8 *ANNUAL REVIEW OF LAW & SOCIAL SCIENCE* 183 (2012) (with Douglas A. Kysar & Jeffrey J. Rachlinski).
- *The Curious Case of Greening in Carbon Markets*, 41 *ENVIRONMENTAL LAW* 73 (2011) (with James Salzman).
- *Ways of Seeing in Environmental Law: How Deforestation Became an Object of Climate Governance*, 37 *ECOLOGICAL LAW QUARTERLY* 843 (2010), selected for publication in 43 *LAND USE & ENVIRONMENTAL LAW REVIEW* 295 (2012).
- *Natural Gas and the Transformation of the U.S. Energy Sector: Electricity*, Joint Institute for Strategic Energy Analysis, NREL/TP-6A50-55538, (NREL 2012) (with J. Logan, G. Heath, E. Paranhos, H. Carlson, K., and J. Macknick).
- *Overview of Subnational Programs to Reduce Emissions from Deforestation and Forest Degradation (REDD) as Part of the Governors' Climate and Forests Task Force*. EPRI, Palo Alto, CA. 1023811, 1-160 (2012) (with D. Nepstad, J. Niles, A. Azevedo, T. Bezerra, K. Schwalbe, B. Smid, C. Stickler, R. Vidal).
- *Reframing REDD+*, Instituto de Pesquisa Ambiental da Amazônia (IPAM), 1-22 (2012) (with D. Nepstad, P. Moutinho, A. Azevedo, T. Bezerra, B. Smid, M. Stabile, C. Stickler, O. Stella).

LAKSHMAN GURUSWAMY

- *Energy Poverty*, 36 *ANNUAL REVIEW OF ENVIRONMENT & RESOURCES* 139 (Nov. 2011).

DOUGLAS KENNEY

- "Equity and the Colorado River" in *Environmental Law* (2012) (with Jason Robison).
- "The Water-Energy Nexus: A Problem or Opportunity?" in *Colorado Water*, (Sep./Oct. 2012).
- *The Colorado River and the Inevitability of Institutional Change*, 32 *PUBLIC LAND & RESOURCES LAW REVIEW* 103 (2011) (with Sarah Bates, Anne Bensard, & John Berggren).

- *The Water-Energy Nexus in the Western United States* (2011) (ed. with Robert Wilkinson).
- *Relative Costs of New Water Supply Options for Front Range Cities: Phase 2 Report* (2011) (Report to the Colorado Water Conservation Board).
- "The Water-Energy Nexus and the Downfall of the Supply-Side Paradigm" in 3 *THE WATER LEADER* 14 (2011).
- *Technical Memo: Respective Obligations of the Upper and Lower Basins Regarding the Delivery of Water to Mexico: A Review of Key Legal Issues* (March 2012).
- *Technical Memo: Does the Upper Basin have a Delivery Obligation or an Obligation Not to Deplete the Flow of the Colorado River at Lee Ferry?* (April 2012).

SARAH KRAKOFF

- *Inextricably Political: Race, Membership and Tribal Sovereignty*, 87 *Washington Law Review* 1041 (2012).
- *Tribes, Land and Environment* (with Ezra Rosser, eds) (Ashgate Publishing, 2012)
- *American Indian Law: Cases And Commentary*, 2nd ed. (Thomson/West, 2010) (with Anderson, Berger & Frickey)
- *Planetarian Identity Formation and the Relocalization of Environmental Law*, 64 *Florida Law Review* 87 (2011)
- *Radical Adaptation, Justice and American Indian Nations*, *Environmental Justice* 207, Volume 4, no. 4, (2011)
- *Tribal Civil Jurisdiction over Nonmembers: A Practical Guide for Judges*, 81 *Colorado Law Review* 1187 (2010)
- *The Last Indian Raid in Kansas*, 98 *California Law Review* 1253 (2010)
- *When And How to Analyze Climate Change Under the National Environmental Policy Act*, Rocky Mountain Mineral Law Foundation Special Institute on NEPA and Climate Change Manual, October, 2010 (with Stuart C. Gillespie)

KATHRYN MUTZ

- *BMPs for Minimizing Environmental Impacts: A Resource for Communities, Government and Industry* (2011) (with K.L. Rice, L. Walker, A.C. Palomaki, and K.D. Yost). Society of Petroleum Engineers, SPE-147503, Annual Technical Conference and Exhibition held in Denver, Colorado, USA, 30 October–2 November 2011.

MARK SQUILLACE

- *Water Transfers for a Changing Climate*, 53 *NATURAL RESOURCES JOURNAL* ____ (2013).
- *The Tragic Story of the Federal Coal Leasing Program*, 27 *NATURAL RESOURCES & ENVIRONMENT* ____ (Winter, 2013).
- *The Strip Mining Handbook* (2nd ed., forthcoming).
- *The NEPA Litigation Guide* (2d ed. 2012) (ed. with Albert M. Ferlo & Karin P. Sheldon).
- "NEPA and Climate Change" (with Alexander Hood), in *The NEPA Litigation Guide* (2d ed., 2012).
- *The Water Transfers Solution*, 42 *ENVIRONMENTAL LAW REPORTER* 10800 (2012).
- *The Judicial Assault on the Clean Water Act*, *FEDERAL LAWYER*, July 2012, at 33.
- *NEPA, Climate Change, and Public Lands Decision Making*, 42 *ENVIRONMENTAL LAWYER* 469 (2012) (with Alexander Hood).
- "Accounting for Water Rights in the Western United States" in *International Water Accounting: Effective Management of a Scarce Resource* (2011).
- *Water Transfers for a Changing Climate* (2011) (Report for the National Oceanic and Atmospheric Administration).

CHARLES WILKINSON

- *Heeding the Clarion Call for Sustainable, Spiritual Western Landscapes: Will the People Be Granted a New Forest Service?*, 33 *PUBLIC LAND & RESOURCES LAW REVIEW* 1 (2012) (with Daniel Cordalis).
- *Cases and Materials on Federal Indian Law* (6th ed. 2011) (with David H. Getches, Robert A. Williams, Jr. & Matthew L. M. Fletcher).
- *The People Are Dancing Again: The History of the Siletz Tribe of Western Oregon* (2010). ♦



Getches-Green Natural Resources and Environmental Law Clinic

{ BY MICHAEL SOULES }

In recent months, student attorneys in the Clinic have provided representation in a variety of cases and other matters. The Clinic is currently litigating two cases in federal court, one aimed at protecting roadless areas in a Colorado national forest from off-road vehicle use, and the other challenging a proposed coal strip mine in Wyoming. In the latter case, student attorney Jacob Marx recently gave a strong oral argument on an important procedural motion; the court subsequently ruled from the bench in our favor.

The Clinic also continues to represent clients in several matters aimed at protecting sensitive wildlife habitat from the effects of oil and gas drilling. Student attorney Elizabeth Joyce, together with other conservation advocates, recently persuaded the Bureau of Land Management to defer oil and gas leasing on all or parts of twelve parcels of land in northwest Colorado. These deferrals protect crucial habitat for the greater sage grouse, a candidate for listing under the Endangered Species Act. ♦



→ STUDENTS SUPPORT A PRODUCTIVE SUMMER OF RESEARCH AND OUTREACH

Every summer, the Natural Resources Law Center has benefitted tremendously from the work of student research assistants. This summer, the Center's summer research program was very productive, thanks to the work of 18 research assistants.

The Western Water Policy Program benefitted from the contributions of several student research assistants this summer. Brandon Dittman, Marc Scanlon, Julia Guarino, and Logan Callihan all worked extensively on the Colorado River Governance Initiative, focusing primarily on issues of water marketing in the basin.

Throughout the summer, two law students worked with the Intermountain Oil and Gas BMP Project. Josh Kruger and Luke Mecklenburg added materials to the BMP Project website, including sections on federal, state and local regulatory changes. They also worked closely with Matt Sura developing a landowner's guide to Colorado oil and gas development and conducting forums with landowners and local governments to improve the level of understanding of development and its regulation. Both represented the NRLC at Colorado Oil and Gas Conservation Commission meetings to develop new regulations on setbacks. Their work was funded in large part by the CU-Boulder Outreach Committee. Two additional RAs, Ashley Palomaki and Kristen Rice, worked and contributed *pro bono* hours to prepare presentations for conferences on unconventional gas development sponsored by the Institute for Energy Law and the Colombian government.

Red Lodge Clearinghouse benefitted greatly from the work of Emi Estelle, TK Keith, Brian O'Neill and Cori Hach, who identified, researched, and interpreted a number of proposals that were open for public comment on topics such as renewable energy, endangered species, recreation on public lands, mining, and conservation incentives.

Laura Brown, Holli Crane, Matt Tieslau, Anshul Bagga, Tyler Gerk, Dan McCarl, and Lisa Smith worked with NRLC Director Mark Squillace on the hot topic of water transfers, supporting two articles that came out of that work: *The Water Marketing Solution*, 42 ENVTL. LAW REP. 10800 (2012) and one in the *Natural Resources Journal* (forthcoming). Rebecca Sher worked with Professor Squillace on coal policy and a forthcoming article on the subject (2013 issue of *Nat. Res. & Env't.*).

→ COLORADO LAW JOURNAL TO EXPAND ITS REACH ALONG WITH THE GETCHES-WILKINSON CENTER

The Colorado Journal of International Environmental Law & Policy ("CJIELP") is changing its name and broadening its scope. Beginning in 2013, CJIELP will become the Colorado Natural Resources, Energy, and Environmental Law Review ("Environmental Law Review"), which will provide a forum for natural resources, energy, and environmental law and policy on local, regional, and global scales. The last issue of CJIELP

will be published as Volume 24, Issue 1 in the fall of 2012 and the first issue of the *Environmental Law Review* will be published as Volume 24, Issue 2 in the spring of 2013.

CJIELP was founded in 1989 as a publication primarily devoted to public international environmental law. As the great environmental issues of our times are increasingly addressed at multiple levels of governance through disparate bodies of law, *CJIELP* gradually broadened its scope to include these approaches without changing its title. The *CJIELP* Board of Editors believes that the new title will not only reflect this broader scope, but will also position the publication to attract articles about the most pressing natural resources, energy, and environmental issues for years to come. The *Environmental Law Review* will continue to publish articles about public international environmental law and global environmental problems. We anticipate featuring an international article in every issue of the *Environmental Law Review*.

The *Environmental Law Review* is also beginning a partnership with the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment. The Board of Editors looks forward to working with the Center on symposia and lectures, material from which will be published in the *Environmental Law Review*. Please look for the final issue of *CJIELP* this fall and the first issue of the *Environmental Law Review* in the spring of 2013.

→ **REPORT FROM COLORADO LAW'S ENVIRONMENTAL LAW SOCIETY**

The Environmental Law Society at Colorado Law is an organization of law students interested in the field of environmental law and policy. The purpose of ELS is to foster connections between students, professors, and the greater environmental and natural resources community. ELS enhances

the formal legal education by exposing students to learning opportunities beyond the classroom and by encouraging student engagement of environmental issues and law through scholarship, activism, and volunteerism.

On October 13, 2012, the Environmental Law Society at Colorado Law held its second annual Race Judicata, a 5k race (with costumes!) on the CU campus. We had a great turnout, and thanks to a generous pledge from a donor to match our year's fundraising efforts, the race raised over \$1,400.

Race Judicata and other ELS fundraisers support the ELS summer fellowship, which provides funding for students doing unpaid or underpaid work in environmental public interest positions. Last year's fellowship recipient Mitch Sickon used the award to support his work for the United States Department of Justice, Environmental and Natural Resources Division, Indian Resources Section. His work involved legal research on a number of tribal water claims (involving tribes such as the Navajo, Chickasaw and Choctaw, Confederated Salish and Kootenai, and Klamath) concerning a number of unique legal issues (from the legislative intent of 19th century laws to the legality of American Indian water leasing to security bonds protecting defendants from the potential damages of wrongfully-issued preliminary injunctions).

ELS also recently put on a "non-profit environmental attorney" career panel. We had representatives from Western Resource Advocates, Earthjustice, and the Environmental Defense Fund on hand to talk about their careers in environmental law and to answer questions from the law students in the audience. We plan on holding two more career panels throughout the year, focusing on private-sector and government environmental law career opportunities. We are also

organizing field trips and service trips for the spring.

ELS will also be hosting another fundraiser on Friday, March 8, at 8:00 PM: a trivia night at the World Famous Dark Horse Bar and Grill in beautiful Boulder, CO. We would love to see you all there!

→ **VISITING SCHOLARS BRING EXPERTISE AND COMPLEMENTARY AGENDAS TO THE CENTER**

The Center hosted four visiting scholars during 2012. Visiting Assistant Professor Scott Miller arrived in late summer to support the Center, research federal land exchange policies, and teach at Colorado Law. Professor Miller served as Senior Counsel to the U.S. Senate Energy and Natural Resources Committee since 2003, and will continue to work with the Center's staff, Governing Board, Advisory Council, and students through the academic year.

Fulbright Scholar Adam Webster, a PhD candidate in law at the University of Adelaide in Australia, spent the Fall Semester with the Center researching how interstate water disputes have been resolved in the United States with a view to determining how the legal solutions may assist in the resolution of similar disputes in Australia.

Professor Hikaru Suzuki of Hokkai-Gakuen University in Japan returned to the Center to research wolf reintroduction efforts in the United States. Professor Suzuki previously spent more than a year as a visiting scholar at the Center beginning in 2002.

Professor Caixan Cui, an associate professor in the College of Humanities at the Northwest Agriculture and Forest University in Yangling, China, spent time at the Center studying American environmental and natural resources law with a particular focus on rural agricultural communities. ♦

UPCOMING EVENTS

→ RECONCILIATION IN THE UNITED STATES IN LIGHT OF THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

JANUARY 24, 2013 • 5 TO 6 PM
COLORADO LAW
BOULDER, CO

S. James Anaya, U.N. Special Rapporteur on the Rights of Indigenous Peoples

*Over the course of his distinguished career, S. James Anaya has represented indigenous peoples from North and Central America in landmark cases before the highest domestic courts and international bodies. Deeply involved in the 25 year effort to draft the U.N. Declaration on the Rights of Indigenous Peoples, Anaya was appointed Special Rapporteur in 2008, and is charged with investigating and reporting on the situation of indigenous peoples around the world. Anaya is the author of seminal scholarly texts, including *Indigenous Peoples in International Law* (Oxford 2006), and serves as Regents Professor and James J. Lenoir Professor of Human Rights Law & Policy at the University of Arizona James E. Rogers College of Law. We are deeply honored to host the Special Rapporteur at Colorado Law and hope you will join us for this important event.*

→ WATER, OIL, AND GAS 101

APRIL 10, 2013 • 8:30 AM - 4:00 PM
CBA-CLE CLASSROOM
1900 GRANT STREET, SUITE 300, DENVER, CO

This full-day program, cosponsored by the Getches-Wilkinson Center, the Rocky Mountain Land Use Institute (Sturm College of Law, University of Denver), the Colorado Bar Association CLE, and White & Jankowski, LLP, will be the first of a 3-part series focusing on water, oil and gas issues of critical interest in Colorado. Topics will include treatment, recycling and disposal of water, and purchasing water from municipalities. Tentative dates for additional programs are June 7 and August 16. CLE credits available.

→ CLYDE MARTZ SUMMER CONFERENCE

AUGUST 15-16, 2013
COLORADO LAW
BOULDER, CO

Arizona v. California at 50: The Legacy and Future of Governance, Reserved Rights, and Water Transfers

*The 2013 Martz Conference again returns our focus to the Colorado River Basin, and specifically to the 50th anniversary of the landmark decision in *Arizona v. California* (1963). While the case was an important landmark in the still-evolving relationship between these two Lower Basin states, it remains most salient today by the way it codified federal rights and responsibilities, especially in the areas of federal (including tribal) reserved rights, the role of the Interior Secretary in Lower Basin water management, and the ability of Congress to allocate and reallocate water. It also modified the Upper Basin/Lower Basin relationship in important ways, especially regarding the treatment of Lower Basin tributaries. Moving forward, several types of potential management innovations in areas such as governance and water transfers will hinge on the framework outlined, in part, by this decision.*

In order to avoid a conflict with the ABA's annual water conference that has been moved to early June, we have rescheduled the conference from its traditional time to mid-August. Please join fellow water professionals and members of the public in a discussion of these legal and policy issues at the annual Clyde Martz Summer Conference at Colorado Law on August 15th and 16th, 2013, in Boulder, Colorado. ♦

RECENT EVENTS

On **April 26-27, 2012**, Colorado Law honored David H. Getches with a symposium to celebrate his life and legacy of trailblazing scholarship. **"A Life of Contributions for All Time"** (<http://lawweb.colorado.edu/events/mediaDetails.jsp?id=3818>) (featured a keynote address by Distinguished Professor Charles Wilkinson entitled, "Hero for the People, Hero for the Land and Water: Reflections on the Enduring Contributions of David Getches." Top scholars in the fields of natural resources, water, and American Indian law reflected on Dean Getches's contributions and their own insights into these fields, including Professor John Leshy, John Echohawk, Professor Carole Goldberg, Professor Joe Sax, Professor Rebecca Tsoie, Justice Greg Hobbs, Professor William Rogers, and others.

During the symposium, Colorado Law unveiled the **David H. Getches Collection**, a digital archive of his scholarship, academic speeches, congressional testimony, and litigation. The symposium reflected the broad range of David's interests and impact. For example, Professor Armando Guevara-Gil of Pontificia Universidad Católica del Perú spoke of the geographic reach of David's work, including his volunteer trip to South America to meet with Peru's dictatorial President Alberto Fujimori in a successful effort to convince him not to sign a bill that would have resulted in the dispossession of the water rights of indigenous peoples. Former U.S. Senator Tim Wirth spoke of many challenges facing our country and concluded that David's "life's work demonstrated that the law, the legislature, and the courts can be made to work for the disadvantaged, the disenfranchised, and the environment."

The proceedings of the symposium will be published in the University of Colorado Law Review (*Volume 84; Issue One (2013)*). →

→ THE FUTURE OF NATURAL RESOURCES POLICY

December 6, 2012 - This forum provided a post-election perspective on some of the challenges and opportunities that natural resources, public lands, and energy policymakers in Washington are likely to face in the next four years. An expert panel discussed the dynamics in the Department of the Interior, the Department of Agriculture, and Congress, and how their evolving policies are likely to affect Colorado in the coming years. Moderated by Charles Wilkinson
Panelists:

- ◇ JAY JENSEN, *Associate Director for Land & Water Ecosystems, White House Council on Environmental Quality*
- ◇ SCOTT MILLER, *Visiting Assistant Professor, Colorado Law; former Senior Counsel, Senate Committee on Energy and Natural Resources (2003-2012).*

<http://lawweb.colorado.edu/events/details.jsp?id=4446>

→ MONITORING AND PROTECTING GROUNDWATER DURING OIL AND GAS DEVELOPMENT

On **November 26, 2012**, 100 stakeholders convened at Colorado Law and via webcast to discuss the Colorado Oil and Gas Conservation Commission's (COGCC) proposal to develop new, statewide regulations for baseline sampling and monitoring of groundwater near new oil and gas wells. The workshop discussed potential impacts of oil and gas development on groundwater, various state rules that protect groundwater, and rule changes proposed by COGCC and others.

<http://www.oilandgasbmps.org/workshops/COGCCgroundwater/index.php>

→ FINANCING ENERGY INNOVATION

On **November 9, 2012**, Colorado Law hosted a half-day conference with leading experts from law, industry, and finance to explore various aspects of energy innovation finance in the United States and its implications for clean energy deployment and competitiveness. Panelists assessed federal and state policy supports (tax credits, loan guarantees, etc.), private investment in clean energy, and project finance; specific issues and challenges in key sectors (wind, solar, smart grid, etc.) and strategies for securing finance in the current climate; and the role of government support and industrial policy in leading countries around the world, the development of new models for energy innovation finance, and the connections with trade law and international competitiveness.

<http://lawweb.colorado.edu/events/details.jsp?id=4237>

→ THE CHANGING ENERGY MIX

On **October 23, 2012**, FERC Commissioner Tony Clark keynoted a half-day conference that explored some of the dramatic changes taking place in the energy sector, including evaluations of the evolving market structure of the electric power sector, the implications of unconventional natural gas for the electric power sector, and the challenges and opportunities facing investments in electricity transmission and storage.

<http://lawweb.colorado.edu/events/mediaDetails.jsp?id=4366>

→ ENERGY POLICY FROM A FEDERAL LEGISLATIVE PERSPECTIVE 5TH ANNUAL SCHULTZ LECTURE

On **October 8, 2012**, Senator Jeff Bingaman, the Chairman of the Senate Committee on Energy and Natural Resources, spoke at Colorado Law on "Energy Policy from a Federal Legislative Perspective". Senator Bingaman discussed the need for and elements of a comprehensive energy policy, as well as the challenges within Congress in developing such a policy. Senator Bingaman's speech and the revealing question and answer session with Dean Phil Weiser that followed can be viewed through <http://lawweb.colorado.edu/events/details.jsp?id=4063>.

→ 2012 ENERGY JUSTICE CONFERENCE AND TECHNOLOGY EXPOSITION

On **September 17 and 18, 2012**, Colorado Law's Center for Energy and Environmental Security (see page 14) held a conference to evaluate the much-heralded UN conference on Sustainable Development: Rio+20, which took place in June 2012. The conference focused on a number of defining and previously unexplored issues to promote the UN call of Sustainable Energy for All. The conference agenda included speeches by Dr. Kandeh Yumkella (Chairman of UN Energy and the Director General of the United Nations Industrial Development Organization), Timothy Wirth (President of the UN Foundation), and others.

→ REINVENTING FIRE: BOLD BUSINESS SOLUTIONS FOR THE NEW ENERGY ERA

On **September 12, 2012**, Colorado Law hosted Robert "Hutch" Hutchinson and James Newcomb of the Rocky Mountain Institute for a discussion of their multi-year project, "Reinventing Fire". The project offers a detailed analysis of and roadmap for navigating the United States' economy through the end of the fossil-fuel era. The project is the fruit of work by dozens of scientists, engineers, architects, economists, business experts, and other practitioners.

<http://lawweb.colorado.edu/events/mediaDetails.jsp?id=4235>

→ A LOW-CARBON ENERGY BLUEPRINT FOR THE AMERICAN WEST 2012 CYDE MARTZ SUMMER CONFERENCE

On **June 6-8, 2012**, the Natural Resources Law Center's summer conference explored how we might increase energy supplies even as we reduce carbon emissions, with a particular focus on the American West. During the conference, speakers explored the global and national-level legal and policy changes that may be necessary to achieve a low-carbon future. The agenda included discussions on the role of energy conservation, water, natural gas, electricity transmission, financial investments, carbon sequestration, and general climate policy.

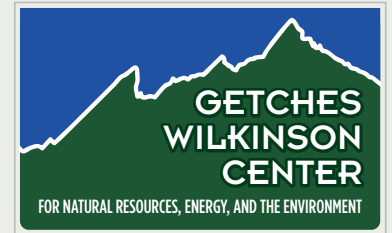
<http://lawweb.colorado.edu/law/centers/nrlc/Conference%20Material/2012%20Conference%20Material/2012%20NRLC%20Summer%20Conf.%20FINAL%20PROGRAM.pdf>

→ DRAFTING MODEL LAWS ON INDOOR POLLUTION FOR DEVELOPING AND DEVELOPED NATIONS

On **July 12 and 13, 2012**, experts convened at Colorado Law to demonstrate the extent to which a model law could help address the global problem of indoor air pollution from inefficient cook stoves. The air pollution that results from inefficiently burning biomass as fuel for cooking has serious health and climatic consequences. The symposium produced two sets of Model Laws and commentaries to help nations solve the problem, and the commentaries will be published in the Colorado Natural Resources, Energy, and Environmental Law Review.

<http://lawweb.colorado.edu/events/details.jsp?id=4210> ◇

*Serving the people of the
American West, the nation,
and the world through creative,
interdisciplinary research,
bold, inclusive teaching, and
innovative problem solving
in order to further true
sustainability for our lands,
waters, and environment.*



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