



Colorado **Law**
UNIVERSITY OF COLORADO **BOULDER**

GETCHES-WILKINSON CENTER

FOR NATURAL RESOURCES, ENERGY, AND THE ENVIRONMENT

Newsletter | Fall 2020

RIGHTS OF INDIGENOUS PEOPLES

Implementing the United Nations Declaration on the Rights of Indigenous Peoples

By Kevin Miller (Law '20), American Indian Law Program Fellow



The Native American Rights Fund (NARF) and Colorado Law are moving into the next phase of their Joint Project to Implement the United Nations Declaration on the Rights of Indigenous Peoples in the United States (the “Project”). American Indian Law Program Director and Council Tree Professor Kristen Carpenter, with the support of Colorado Law Dean S. James Anaya, co-founded the Project in 2018. Today AILP faculty, staff and students are collaborating with the NARF in myriad ways to support Indigenous Peoples in efforts to implement the Declaration through education and advocacy.

Adopted by the United Nations General Assembly in 2007 and supported by 148 nations, the Declaration is a benchmark for protecting and advancing the rights of Indigenous Peoples. Enumerating Indigenous Peoples’ rights to self-determination, equality, property, culture, health, and economic well-being, the Declaration is a standard setting

Rights of Indigenous Peoples continues on page 3....

¹ UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295, available at: https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

FALL 2020 ISSUE

RIGHTS OF
INDIGENOUS PEOPLES
1, 3-4

MESSAGE FROM THE
EXECUTIVE DIRECTOR
2

NATIVE COMMUNITIES
& ENVIRONMENTAL
JUSTICE
5-9

WESTERN WATER
POLICY
10-14

ENERGY INNOVATION
15-16

FACULTY UPDATES
17

STUDENT UPDATES
18-19

IN MEMORIAM JOHN
HENRY SCHULTZ
20-21

GWC LEADERSHIP
AND STAFF
23

A Message from the Executive Director



Hello Friends of the Center!

In this time of extended uncertainty across our country, we hope this newsletter finds you and your loved ones safe and healthy.

Colorado Law is known for its exceptional faculty and curriculum examining environmental, energy, and natural resources law — and we have a longstanding reputation for academic excellence, experiential learning and fostering innovative problem solving. Serving as a bridge between academia and practice, the Getches-Wilkinson Center is driven by aspirations for deeper influence in law and applied policy. Embedded in our mission is an unwavering commitment to an equitable and inclusive vision of education and practice. So we are extremely pleased to share that Colorado Law has launched **The Anti-Racism and Representation Initiative** to confront racism and to advance the meaningful representation of people of color and other marginalized groups within the law school community and the legal profession.

“As educators of future lawyers who will have important roles in society that will inevitably bear on issues of equality and racial justice, and with our public service mission,” announced Dean S. James Anaya, “we have a special obligation to work to embed anti-racism in the legal education we provide, and to confront racism and inequality in society in every way we can.”

We invite you to learn more here: www.colorado.edu/law/anti-racism-and-representation-initiative

Like many of you, we have adjusted to the times to ensure the pandemic does not detract from meeting our goals. Our conferences are now webinars, our students are learning in a hybrid model of in-person and remote classes, and our two inaugural Water Fellows have been on-boarded virtually. Our mission remains bold and our dedication rises to meet evolving challenges.

In these unsettled times, we hope the good news in this newsletter brings you hope and good cheer. We can all use some of that.

A handwritten signature in blue ink that reads "Alice Madden".

Alice Madden, GWC Executive Director



Implementing the United Nations Declaration on the Rights of Indigenous Peoples

(Continued from page 1)



instrument. It calls upon states to enact changes in their legal systems to remedy historic injustices and ensure ongoing protections for Indigenous Peoples' rights.

Project partners at the NARF include **John Echohawk**, Executive Director, as well as attorneys **Sue Noe**, **Kim Gottschalk**, and **Brett Lee Shelton**, among others. Building on a 2019 conference gathering tribal leaders, lawyers, scholars, and students to discuss the role of the Declaration in federal Indian law, the Project published its first report:

“A Call to Action for Inspired Advocacy in Indian Country: Implementing the United Nations Declaration on the Rights of Indigenous Peoples in the United States.”

Recently, tribal leaders requested information on opportunities to foster compliance with the Declaration through tribal law development. Accordingly, in 2020, Colorado Law and NARF partnered with UCLA School of Law's Tribal Legal Development Clinic to develop the “Tribal Implementation Toolkit.” The Toolkit aims to provide practical, useful tools for tribes, their leaders, members, and lawyers to engage with the Declaration. Publication of the Toolkit later this year will correspond with a webinars to increase accessibility for interested parties.

Rights of Indigenous Peoples continues on page 4...

NARF/Colorado Law Team





Implementing the United Nations Declaration on the Rights of Indigenous Peoples

(Continued from page 3)

Colorado Law students, Alexandra Payan ('21), Taylor Schad ('21) (Cheyenne River Sioux Tribe), and Adam Spencely ('22) (Sault Ste. Marie Tribe), conducted extensive research and helped draft portions of the Toolkit, receiving feedback from Colorado Law faculty and NARF attorneys.

Among other points, the Toolkit and webinar series will highlight efforts to realize the Declaration's provisions regarding Indigenous Peoples' "free, prior, and informed consent (FPIC)." FPIC operates as a safeguard for protecting Indigenous Peoples' rights to self-determination and equality, along with land, resources, and culture. Under this standard, states must engage with Indigenous Peoples in meaningful consultation toward mutual agreement, free from duress or coercion, before undertaking legislative and administrative measures that may them.

The issue of FPIC has become prominent in disputes between governments, corporations, and tribes regarding development on and near Indigenous lands. Following months of protest and years of lawsuits, a federal court recently held that the Dakota Access Pipeline must conduct the Environmental Impact Statement long sought by the Standing Rock Sioux Tribe, Cheyenne River Sioux Tribe, and others in the region. Some Alaska Natives have recently expressed concern about the Trump Administration's decision to allow oil drilling in the Arctic National Wildlife Refuge, including lands where the Neets'ai Gwich'in people seek to protect caribou herds.

The failure of governments and developers to secure the free prior and informed consent of impacted tribes leaves Indigenous Peoples' rights to land, water, development, culture, and religion vulnerable to exploitation. In the absence of consultation and agreement, Indigenous Peoples must often protect their rights through protests and litigation, with human, economic, and social costs for all involved.

Accordingly, Indigenous leaders, governments, and industry alike have begun turning to the Declaration for its widely accepted standards and potential to inspire cooperative solutions. In one example, tribal leaders in Washington State worked with the Attorney General to develop a new policy embracing FPIC in state-tribal relations going forward. Other tribes have enacted their own tribal codes adopting the Declaration's protections for spiritual lands and cultural practices. These and other good practices will be highlighted in the forthcoming Tribal Implementation Toolkit.

With issues surrounding climate change and natural resources at the forefront of political discussions in 2020, the CUNARF Project to Implement the Declaration seeks to support tribes, advocates, and others toward aligning federal, state, and local Indian policy with global human rights standards. At the same time, the Project offers students an opportunity to learn about Indigenous Peoples and law development in practical contexts.

Additional resources can be found here:

<https://un-declaration.narf.org>

UN Human Rights Council, Expert Mechanism on the Rights of Indigenous Peoples: Free, prior and informed consent: a human rights-based approach, 10-28 September 2018, 10 August 2018, A/HRC/39/62, available at:

<https://undocs.org/A/HRC/39/62>

Nick Pelosi & Rebecca Adamson, First Peoples Worldwide, Inc., Indigenous Rights Risk Report (Nov. 2014), available at:

https://www.colorado.edu/program/fpw/sites/default/files/attached-files/indigenous_rights_risk_report.pdf

Carla F. Fredericks et al., Social Cost and Material Loss: The Dakota Access Pipeline, 55-56 (Univ. Colo. L. Legal Studies Res. Paper No. 19-1, 2018), available at:

https://www.colorado.edu/program/fpw/sites/default/files/attached-files/social_cost_and_material_loss_0.pdf

Getches-Wilkinson Center Faculty Receive Funding to Launch: Four Corners Environmental and Economic Justice

The GWC, through the efforts of Sarah Krakoff, Moses Lasky Professor of Law, and Julia Guarino, Interim Director Environmental and Natural Resource Law Clinic, secured an initial round of funding to launch a new non-profit initiative to serve communities in the Four Corners region during the transition to a zero-carbon economy. Four Corners Environmental and Economic Justice will support communities as they make the transition to a green and sustainable economy that honors culture and tradition while addressing the root causes of poverty.

The GWC's role will be to facilitate a community-based process of determining the new organization's goals and methods. A core principle is that community members and grass-roots advocates know best what kinds of support will allow them to break from unsustainable and unjust patterns of development. Community wisdom and vision will structure the organization from the outset.

The need for such an organization is clear. In mid-November 2019, the Navajo Generating Station (NGS), a 45-year-old coal-fired power plant, ceased production. The plant and the coal mines that fed it were central components of the Hopi Tribe and Navajo Nation's economies. The NGS closure resulted in the loss of several hundred well-paying jobs held by tribal members, many of whom are the sole wage-earners in families with few other employment options. The tribal governments also face serious revenue losses in the face of the closure. Coal revenue constitutes eighty-three percent of the Hopi Tribe's annual budget and a smaller but still significant percentage of the Navajo Nation's budget. The San Juan Generating Station, another coal plant on the eastern side of the Navajo Nation, is scheduled to close in 2022, which will cause further revenue losses to tribal communities and the border town of Farmington, New Mexico.

In a scenario that plays out in rural, resource-dependent communities across the country, those who have borne the environmental harms of the plant's legacy are also forced to bear the costs of its closure. These inevitable economic transitions have prompted the passage of a New Mexico law—the Energy Transition Act—aimed at achieving a zero-carbon economy without entrenching inequality. Tribal governments are engaged in similar planning and are investigating expanded solar plants as well as broad-based and multi-sector sustainable economic investments. These emerging laws and policies provide opportunities for communities to engage with and envision the changes that are underway, but resources and infrastructure are necessary to build capacity and focus the vision and talent of local activists and community members.



Four Corners Environmental and Economic Justice will be an important source of community-based leadership, mentoring, and employment in a region that has a dearth of non-profits dedicated solely to the needs of low-income people. The organization will cultivate local talent by hiring and training community members, ensuring the organization's long-term relevance to its constituents. Four Corners Environmental and Economic Justice will also provide training for grassroots leaders, build support for low-income individuals and families, and facilitate meaningful community engagement in

these vital changes as the region shifts to a zero-carbon economy.

This work is supported by a \$75,000 grant from the W.K. Kellogg Foundation <https://www.wkkf.org>. With this support, Four Corners Environmental and Economic Justice will help communities engage effectively with governments, non-profits, and the private sector during the imminent economic transition from a fossil-fuel economy to one that is economically and environmentally sustainable.





Conservation Conversations: A Multi-University Webinar Series

The GWC is proud to be a founding member of Conservation Conversations, a webinar series that is exploring the conservation challenges of the future and identifying specific policies, programs, and strategies to help secure the long-term health of the nation’s natural resources, wildlife, and landscapes, and broaden the benefits for all Americans. An unprecedented coalition of university centers from throughout the western United States is collaborating on this series. Each center has hosted a conversation.

Collaboration of nine university centers to highlight solutions in climate, conservation & environment



Visit www.conservationconversations.org to learn more and view past conversations.



August 25th, 2020 GWC Hosted: **Another Way of Knowing: Indian Tribes, Collaborative Management & Public Lands**

Background: The Presidential Proclamation establishing the Bears Ears National Monument in December of 2016 included two unique features that would ensure these lands, and the culture and history they contain, would be protected forever. Based on negotiations with a coalition of five Tribes (Hopi, Navajo, Uintah and Ouray Ute, Ute Mountain Ute, and Zuni), Bears Ears would be managed in an entirely new way, incorporating Native American traditional knowledge (TK). The proclamation also directed a form of collaborative management. The Secretaries of the relevant agencies were directed to meaningfully engage with the Commission (made up of a representative from each of the five Tribes) in developing and implementing the management plan and “shall carefully and fully consider integrating the traditional and historical knowledge and special expertise of the Commission.”

Steeped in on the ground experience, Daniel Cordalis, Jim Enote and Charles Wilkinson dove into the role that traditional knowledge and collaborative management can and should play in decision-making on public lands. They discussed lessons learned from Bears Ears National Monument, and specific recommendations about integrating collaborative management between tribes and federal agencies on public lands (and river basins). The speakers emphasized that modern tribes are sovereign governments and often have substantial scientific capacity. Tribes and their staff scientists are working actively to improve environmental conditions and can provide knowledge and capacity to improve natural resource management.



View the Conversation here:

<http://bitly.ws/9NFY>



Daniel Cordalis



Jim Enote



Charles Wilkinson

Daniel Cordalis a member of the Navajo Nation is a practicing natural resources and Indian law attorney who works closely with Tribes. Daniel also serves on the GWC Advisory Council.

Jim Enote a Zuni tribal member, is the CEO of the Colorado Plateau Foundation.

Charles Wilkinson is the Moses Lasky Professor of Law Emeritus and Distinguished University Professor Emeritus at Colorado Law. Emeritus at Colorado Law.

Acequia Assistance Project 2020 Update

By Johnsie Wilkinson 2L, and Natasha Viteri 3L

The COVID-19 pandemic has halted students' travel to San Luis to meet with Acequia members, but students are still diligently working on five new Acequia project matters, which include drafting by-laws, conducting title research, and investing the problem of Medicaid liens.

The Acequia Assistance Project, directed by Professor Sarah Krakoff, is an environmental justice project of the GWC. Partners include the Sangre de Cristo Acequia Association, Colorado Open Lands and **Peter Nichols** (Law '01), of counsel at Berg, Hill, Greenleaf & Ruscitti. Our mission is to assist low-income farmers in Colorado's San Luis Valley by protecting their water rights, ensuring their historic sustainable farming practices remain viable. The Acequia Assistance Project is in its 8th year of operation and was awarded \$8,000 from the CU Outreach Council this spring to continue our work.

In fall 2019, the Project hosted three trainings for new students, mostly incoming first years. We extend a big thank you to Colorado Law alumni **Eric Potyondy**, Fort Collins Assistant Attorney, for presenting Water Law 101, **Jennifer DiLalla**, partner at Moses, Wittemyer, Harrison and Woodruff, P.C., for presenting Colorado Water Law 101, and **Cassidy Woodard** and **Gunnar Paulsen** of Porzak, Browning & Bushong LLP for taking the time to present on Water Issues in the San Luis Valley. Following the fall trainings, 30 Colorado Law students traveled to San Luis, CO in January 2020 for the annual Congreso de Acequias. The Congreso is an annual gathering of Acequia members, policy advocates, and stakeholders in San Luis. Presentations covered hot topics around the valley from residents, conservation organizations, and government agencies. These included a keynote talk on Medicaid liens on family farms by Jillian Hishaw and a presentation by



Colorado Law students Virginia Sargent ('21), and Conor May ('21) on the lessons from their Water Export Project research. The Acequia Project's Water Export Research Group has spent more than a year studying the history of water export proposals in the San Luis Valley, including an ongoing effort by an organization calling itself "Renewable Water Resources," and the complex framework of legal protections that have been built up over the years in defense of the Valley's water. Their forthcoming paper documents the history, lays out the relevant law, and explains the tools that opponents of water export can draw on in their defense of the Valley's lifeblood. The Water Export Project findings were presented to the Rio Grande Basin roundtable on July 14, and the final paper will be out by the end of the summer. We also want to recognize and congratulate our past Deputy Directors, **Leah Fugere**, for graduating with the Class of 2020 and **Gregor MacGregor**, Class of 2019,

for starting a new position as a Water Associate at Moses, Wittemyer, Harrison and Woodruff, P.C. Finally, we want to acknowledge the current Deputy Directors, who include ourselves as well as Matt Nadel, 3L, and William Raley, 2L.

P.S. We are currently developing a new logo and will be producing apparel and stickers soon.

Please reach out to johnsie.wilkinson@colorado.edu if you are interested in seeing and purchasing our new merchandise to support the Project!



The Getches-Wilkinson Fellows Program is Launched!

We are so pleased to report that we have officially launched the Getches-Wilkinson Fellows Program, a first-of-its-kind initiative that will train the next generation of natural resource leaders. This intensive two-year program will immerse our two inaugural Water Fellows, Jaime Garcia and Chelsea Colwyn, in the real world challenges of water law and policy. They will address critical issues affecting western watersheds, conduct reform-oriented research on pressing issues in the field, and interact with public and private sector leaders to inform policymaking. Jaime and Chelsea will be actively engaged in water law reform in the public interest and will hone their leadership, communication, advocacy, and research skills. The overarching objective is to create a matchless educational and mentoring experience that will prepare them to become high-impact leaders in the field.

We want to extend our sincere thanks to the external members of our Water Fellows search committee for their dedication and generosity of their time: GWC Senior Fellow **Anne Castle** (Law '81), **Larry McDonnell** (Larry was the first full-time Director the Natural Resources Law Center – the precursor to the GWC), and GWC Board member **Mike Connor** (Law '93) – partner, WilmerHale.

The Inaugural Getches-Wilkinson Water Law Fellows



Chelsea Colwyn

Chelsea Colwyn fell in love with rivers the first time she went rafting on the Arkansas River in Colorado. Since then, she has turned her love for rivers into an academic and career focus. Chelsea has worked as a Fulbright Scholar in Adelaide, South Australia, studying environmental water buybacks, a Research Fellow with Vermont Law School's Water and Justice Program, studying the history of the US Forest Service and California water law, a Hansard Society Research Fellow at the London School of Economics, studying England's privatized water sector, and for American Rivers. She currently works as a tribal staff attorney, and teaches a public land management summer law course. Chelsea graduated from Dartmouth College in 2004, earned a master's in environmental law and policy from Vermont Law School in 2011, and a J.D. from Yale Law School in 2018, where she was selected as a Wyss Scholar for western conservation. In her free time, she loves being outdoors with her husband and two young daughters.



Jaime Garcia

Jaime Garcia is excited to join the Getches-Wilkinson Center as one of its newest fellows. Prior to accepting this position, Mr. Garcia was working as a litigation attorney for the Texas Commission on Environmental Quality in Austin, Texas. He received his Bachelor's Degree from the University of Texas at Austin and received his law degree from the Wake Forest University School of Law. Mr. Garcia is also an adjunct faculty member for Wake Forest's Masters in the Studies of Law program. He is excited to bring his experience and passion for preserving our natural resources to this fellowship. His love of outdoor pursuits drives his support and passion for increasing access and conservation of public lands and waters. When not practicing law, Mr. Garcia enjoys hiking and kayaking with his wife and their three dogs. In addition to their own dogs, he and his wife foster for local animal rescues.

Jaime Garcia joined the GWC in August and is already engaged with several partner organizations.

Thanks to GWC Senior Fellow Anne Castle, Jaime is working on Universal Access to Clean Water Project in the Colorado River Basin project recently launched by the Colorado River Water and Tribes Initiative (WTI). Guided by a broad-based leadership team, WTI seeks to enhance tribal capacity and advance sustainable water management in the basin through collaborative making. The corona virus pandemic has shone a light on disproportionate impact of COVID on reservations and the necessity of having access to safe water sources as a public health imperative. At the same time, the Black Lives Matter movement continues to raise the public consciousness regarding institutional barriers to basic rights most Americans take for granted. In light of this, the WTI launched this clean water access initiative to further raise awareness of the lack of adequate water and sanitation facilities in Native American communities in the Colorado River Basin and to emphasize the federal trust responsibility requiring progress on solutions. Jaime is working with the WTI team to identify past and current efforts by different actors to improve access to clean water in Native American communities. These case studies will help provide a roadmap of obstacles to avoid and best practices for future water access projects. Learn more about the clean water access initiative here: <http://bitly.ws/9NBU>

Jaime is also working on a joint project between American Rivers and the Grand Canyon Trust (GCT). The mission of GCT is “to safeguard the wonders of the Grand Canyon and the Colorado Plateau, while supporting the rights of its Native peoples.” American Rivers works “to protect wild rivers, restore damaged rivers and conserve clean water for people and nature.” Jaime is working with this team to explore ways to advance tribal-federal collaborative management in rivers across the West, such as potential application of the Wild and Scenic Rivers Act.

Jaime is joining the The Acequia Project, a joint effort by the GWC, Colorado Open Lands <https://coloradoopenlands.org>, and the Sangre de Cristo Acequia Association <https://www.coloradoacequias.org> to provide low or no-cost legal assistance to acequia communities found in southern Colorado – including four of the state’s poorest counties: Costilla, Conejos, Huerfano, and Las Animas. An acequia is a physical irrigation system (a ditch), and while treated like other water rights in the prior appropriation system, their governance system makes them unique. All irrigators along an acequia work together to ensure each land owners water needs are met. In times of water scarcity for example, ditches cooperate to ensure an equitable distribution of water, or when that is not physically possible, a sharing of fields. The Acequia Project represents dozens of community members every year, helping protect traditional and sustainable farming practices. Adding Jaime to the team will be of great value to the project’s intrepid pro bono attorneys, the law students they oversee, and to the acequia communities. (Learn more about The Acequia Project here: <https://www.getches-wilkinsoncenter.cu.law/curriculum/curriculum-and-student-info/acequia-assistance-project/>)

Chelsea Colwyn just recently joined the GWC in October and we will keep you updated on both of our Fellows’ work in future communications. And, we are happy to discuss potential partnerships if you think you have an appropriate project for our Water Fellows. Please reach out to alice.madden@colorado.edu to discuss.



coloradoopenlands.org

Photo Credit: John Fielder



A Leader in Western Water Law: GWC Senior Fellow, Anne Castle

Anne Castle (Law '81), has been a leading figure in western water law and policy for decades. “Anne is one of the quiet heroes,” Professor Sarah Krakoff explains, “she is brilliant, careful, and precise, and has that rare ability to look at complex problems and come up with practical and consensus-oriented solutions.”

Anne practiced water law with Holland & Hart in Denver for 28 years. From 2009 to 2014, Anne served as the Assistant Secretary for Water and Science in the U.S. Department of the Interior where she had responsibility for the Bureau of Reclamation and the U.S. Geological Survey. She spearheaded the department’s WaterSMART program, which provides federal leadership on the path toward sustainable water supplies. She was the driving force behind the 2010 Memorandum of Understanding among Interior, the Department of Energy, and the U.S. Army Corps of Engineers addressing the development of sustainable hydropower generation.

After leaving Interior, Anne hiked the 800-kilometer Camino de Santiago in Spain and then spent a spring quarter as a visiting fellow at the Woods Institute of the Environment at Stanford.

Since 2015, Anne has served as a Senior Fellow for the Center and we are honored to have her. As noted on page 11, Anne is engaged with the Colorado River Water and Tribes Initiative, including ensuring tribal access to clean water. A prolific writer, she remains deeply engaged in a broad range of western water policy issues, including agricultural water conservation and transfers, integrated land and water planning, and of course improved Colorado River management. This expertise makes her a sought after speaker on the future of the over-allocated Colorado River Basin and its many competing interests.

We at Colorado Law thank Anne for her years of public service and her generosity of time to the Center.

You can find links to her recent publications and talks here: <https://www.getches-wilkinsoncenter.cu.law/libraryarchive/recent-publications/>

“Anne Castle has, and continues to be, one of the bright lights who gives hope to addressing the West’s ongoing water challenges. Steeped in the law, with policy chops to boot, she applies that expertise in creative ways and always with a deft personal touch that finds common ground in bringing people together.”

— Michael Connor ('93), WilmerHale

GWC Water Webinar Series

For nearly four decades, the Getches-Wilkinson Center at the Colorado Law has hosted a summer conference exploring the major issues in water law and policy in the West. Due to COVID-19, we restructured the key elements of the proposed 2020 conference into a webinar series, held in concise sessions throughout the fall.

Meeting the Financial Challenges of Improved Water Management in the West

Improving the performance of water systems in western basins such as the Colorado River can entail a variety of expensive changes to infrastructure, policy and management. Throughout much of the 20th century water development era, federal appropriations were sufficient to cover major investments, but today, other sources of governmental and non-governmental funds and funding mechanisms are essential to improving water management and system performance. Determining the “how” and “who” of water financing raises several thorny questions about what approaches are most efficient, practicable, and equitable. In this event (produced online in multiple installments), we will explore issues such as the rise of creative funding mechanisms, the role of private investments and water markets, leveraging the resources of the business community, and the linkages between healthy landscapes, climate adaptation, and improved water management resiliency.

Webinar Sessions

- Expanding the Toolbox of Water Financing Options
- Water Markets and Private Investments in Western Agriculture: A Road Forward?
- A Role for the Business Community
- Investing in Healthy Headwaters

View the full series at: https://www.getches-wilkinsoncenter.cu.law/category/past_events/

Long-time GWC Water Leader to Retire

Dr. Doug Kenney, Director of the GWC's Western Water Policy Program, joined Colorado Law in 1996. And for many of those years, Doug organized bringing national experts to the law school for our renowned summer conference exploring the major issues in water law and policy – often focused on the numerous and evolving challenges facing the Colorado River Basin. Having to cancel the June conference for the first time in four decades, Doug did not skip a beat and put together a stellar webinar series this fall addressing the complexities of water management financing in the west.

Doug researches and writes extensively on multiple water-related issues and is the founder of the Colorado River Governance Initiative. He has served as a consultant to a variety of local, state, multi-state, and federal agencies, including several Interior Department agencies, EPA, the U.S. Forest Service, special commissions (e.g., the Western Water Policy Review Advisory Commission), and national governments and NGOs in Asia and Africa. Additionally, Doug has made presentations in 20 states (and DC), seven nations, and four continents.



“Doug Kenney has long been at the forefront of western water policy work,” said Professor Mark Squillace, “performing cutting edge research on the Colorado River and myriad other important water policy issues - and the West is a better place because of his work. Doug has also had remarkable success in bringing together water policy leaders for conferences and workshops, and these efforts helped to cement Colorado Law’s role as a leader in the water policy arena. Doug’s voice will be greatly missed. But even as he retires we trust that he will remain a stalwart friend of the Center and we look forward to engaging with Doug on the critical water issues that the West will confront in the future.”

Please watch for future communications about celebrating Doug’s almost 25 years of service to the Colorado Law and water policy communities (which we hope to do in person!).

EnergyTradeoffs.com



A group of legal scholars initiated [EnergyTradeoffs.com](https://energytradeoffs.com) program to promote awareness and discussion of difficult and contentious tradeoffs implicit in the rapid decarbonization of the energy sector, or any other green energy transition. It has since expanded to include the participation of a wider group of policy scholars from other disciplines. The mission of EnergyTradeoffs.com is purely educational. It has no commercial or political purpose. It is aimed at facilitating a deeper understanding among the energy and environmental policy community of the difficult tradeoffs that the green energy transition may entail. The working premise is that engaging with these tensions fairly and transparently is what scholars ought to do, and that doing so facilitates rather than impedes a successful green transition. EnergyTradeoffs.com is intended to offer a window into deeper analyses of those tradeoffs, in two ways. First, by featuring conversations with scholars and experts who grapple directly and honestly with tradeoffs — tradeoffs between energy reliability, energy affordability, and the environmental impacts of energy production, and the political and other tradeoffs inherent in any such transition.

Professor Sharon Jacobs administers the EnergyTradeoffs.com program in partnership with several of the leading academic energy programs in the nation including; the University of Texas' Energy Institute <https://energy.utexas.edu>, the Vanderbilt University Law School <https://law.vanderbilt.edu>, the SMU Dedman School of Law <https://www.smu.edu/law>, and the University of Texas School of Law <https://law.utexas.edu>.

At present, the site is overseen and administered by the following people:

Sharon Jacobs—University of Colorado

David Spence—University of Texas

James Coleman—Southern Methodist University

Shelley Welton—University of South Carolina

Jim Rossi—Vanderbilt University



Early Career Energy Scholars Workshop

On July 10th, Professor Sharon Jacobs convened energy scholars from across the country for the third annual Early Career Energy Scholars Workshop. This year, the gathering will be virtual. Ten law professors and researchers from schools including Harvard Law School, the University of Chicago Law School, Stanford Law School, and the University of North Carolina will present work and receive feedback. The workshop will be conducted in person again next summer in Boulder.

Energy Law and Regulation Student Papers

Students in this spring's Energy Law and Regulation course, taught by Professor Sharon Jacobs, wrote final papers on cutting-edge topics in energy law. 3L Noah Stanton wrote about challenges to the Millennium coal export terminal in Washington state and questioned whether courts should recognize states' authority to sue on behalf of largely private interests. 2L Leah Vasarheyli probed the relationship of unions to the Green New Deal, drawing on the work of CU Law Professor Ben Levin. 2L Liam Patton raised the issue of recycling and reuse of renewable generation infrastructure. Students also asked whether introducing competition into the electricity industry will propel the energy transition (2L Conor May), analyzed legal avenues for states to challenge energy infrastructure siting (3L Alex Haggerty and 2L Erin McLaughlin), and compared environmental review processes for energy infrastructure in the U.S. and in Spain (LLM Gabriela San Román). The students' work will be available later this year in a new repository on the GWC website.

Multi-Disciplinary Collaborations at CU

Kayla Carey and Nathan Stottler are graduate students in CU's Master of the Environment program specializing in Environmental Policy. They took Professor Sharon Jacob's Energy Law and Regulation class this past spring and are now preparing their capstone project, *Cooperatives at a Crossroads: The Generation & Transmission Cooperative Model*. The report analyzes the Generation & Transmission electricity cooperative model, examines the challenges and opportunities of cooperative exits, and investigates the role of cooperatives in the clean energy transition. The GWC is happy to help them meet their capstone requirements by sharing their work and helping them seek the input of interested parties. Kaya and Nathan have already published a blog about their study on the GWC webpage, and we will host a webinar on November 17th where they will present their preliminary findings and invite feedback on their work. The GWC will post their final paper on our website. Kayla and Nathan are expected to graduate in December.



Congratulations Professor Sharon Jacobs

Colorado Law is pleased to announce that faculty member Professor Sharon Jacobs has been awarded tenure. Achieving tenure is a great accomplishment in a faculty member's academic career and reflect their achievements in teaching, research, professionalism, and service to the community.

Sharon Jacobs joined the Colorado Law faculty in 2014 as an Associate Professor. Professor Jacobs graduated cum laude from Harvard Law School in 2009, where she was the Executive Articles Editor of the Harvard Law and Policy Review. After graduation, Professor Jacobs practiced in the energy and environmental regulatory groups at Covington & Burling LLP in Washington, D.C. She then spent two years as a Climenko Fellow and Lecturer on Law at Harvard Law School.

Professor Jacobs's research focuses on the impact of regulatory structure and process on policy outcomes in energy and environmental law. Recent projects have focused on agency decision-making in the context of electricity regulation, greenhouse gas policy, and species preservation; agency strategies to "bypass" federalism limitations in the context of programs to encourage management of electricity demand (demand response); and methods of adapting existing legal constructs to new actors in electricity markets. She teaches Environmental Law, Energy Law, Administrative Law, Legislation and Regulation, and related courses. Prior to attending law school, Professor Jacobs was a professional classical cellist.

Congratulations Professor Jacobs for all your accomplishments and thank you for your service to Colorado Law!



Welcome to the new Getches-Green Natural Resources and Environmental Law Clinic Director Jonathan Skinner-Thompson

Jonathan Skinner-Thompson joins Colorado Law as an Associate Clinical Professor and Director of the Getches-Green Natural Resources & Environmental Law Clinic. Jonathan also teaches Climate Change Law & Policy and writes on administrative and environmental law issues. His articles have appeared in the Duke, Stanford, Vermont, and Virginia environmental law journals, the ABA's Natural Resources & Environment magazine, and elsewhere.

Before joining Colorado Law, Jonathan was an attorney at the U.S. Environmental Protection Agency--first in the Office of General Counsel and then with the Office of Regional Counsel in Denver. Jonathan also has served in the U.S. Department of Justice's Environmental Defense Section and was an environmental associate with firms in New York and Seattle. For his federal service, Jonathan received the Administrator's Award for Excellence, a Special General Counsel's Award, and the Assistant Attorney General's Award for Excellence, among others.

Jonathan graduated cum laude from Duke University School of Law and with high honors from the University of California, Berkeley.

Founded in 1978, the Getches-Green Natural Resources and Environmental Law Clinic is one of the country's first environmental law clinics. Students in the Clinic engage in litigation and related advocacy efforts, most commonly on behalf of national or local environmental groups. Clinic students draft pleadings and briefs, counsel their clients, develop case theories and legal strategies, participate in settlement negotiations, and occasionally, present oral arguments in federal court.

Alex Hamilton (Law '21) Named 2020 Wyss Scholar



Colorado Law student Alex J. Hamilton is this year's Wyss Scholar. Hamilton, a dual JD/Master of Science in Environmental Studies candidate, is Colorado Law's third Wyss Scholar. He plans to pursue a career in federal land-use planning. The Wyss Scholarship, given to one Colorado Law student each year,

supports graduate-level education for promising leaders in Western land conservation. Recipients receive generous financial assistance to cover the full cost of one year of law school, as well as funds for internship opportunities, research assistance, and postgraduate support. Eric Dude ('19) was selected as the school's inaugural Wyss Scholar in 2018 and Leah Fugere ('20) was selected as the second recipient in 2019.

Kevin Miller (Law '20) Join American Indian Law Program



The American Indian Law Program at Colorado Law is delighted to announce the appointment of Kevin Miller as the program's fellow for 2020-21. Kevin is a graduate of California State University San Bernardino (CSUSB) and the University of Colorado Law School. A first-generation high school graduate, Kevin earned a

B.A. in Media Studies alongside a B.A. in Public Relations from CSUSB before relocating to Boulder to take advantage of the opportunities in American Indian law and international human rights offered at Colorado Law.

As an undergraduate, Kevin worked as a program assistant with CSUSB's Queer and Transgender Resource Center, coordinating educational panels and formal diversity training events to ensure informed and compassionate treatment of the LGBTQ community in the Inland Empire region of Southern California. He brought his passion for advocacy with him to Colorado, where he served as the student liaison to the Colorado LGBT Bar Association and the gender and sexuality liaison for the University of Colorado Boulder Student Government. In recognition of this work, Kevin was named a Summit Scholar in 2018 by the Colorado LGBT Bar Foundation, and was honored at the Colorado LGBT Bar Association's annual awards gala.

Kevin's passion for advocacy and the advancement of human rights led him to Colorado Law's American Indian Law Clinic, where he spent two years as a student attorney working with a group of Native Hawaiian advocates on issues of Indigenous rights and Hawaiian Trust Land use. This experience set Kevin on the course to complete a graduate certificate in American Indian law, and he looks forward to spending the next year as Colorado Law's American Indian Law Program Fellow.

Kevin will work with the American Indian Law Program's director and faculty, the Center for Native American and Indigenous Studies, and Colorado Law's Native American Law Students Association. In addition, Kevin will continue the work of outgoing fellow Danielle Lazore-Thompson on the joint University of Colorado - Native American Rights Fund Project to Implement the United Nations Declaration on the Rights of Indigenous Peoples in the United States.



Environmental Law Society

It was fantastic virtually meeting so many 1Ls at our interest meeting and ushering in our new 2020-2021 officers! ELS looks forward to hosting a diverse set of remote events throughout the year, including an Election discussion, Comment Party, and Career panel, at which local attorneys will explain different career avenues in environmental law. We are excited to work with the GWC to build on our momentum and ensure that students have access to the broad array of environmental and natural resources programs at Colorado Law. We also look forward to building new engagement with other student groups to bring a robust focus to issues of environmental justice. Please reach out to the GWC if you are interested in attending a networking event with ELS members this year! For an updated list of our planned ELS events, please follow us on Facebook. Law students can also look for us on Canvas, or MyLaw. Find out more online at: <https://www.colorado.edu/law/tab-student-group-environmental-law-society-els>

Native American Law Students Association

The Native American Law Students Association at Colorado Law sends a big welcome to the Class of 2023 as well as a Congratulations to the Class of 2020 on their recent graduation! NALSA has been busy the last few months planning events for this academic year that accommodate our new normal for community gatherings. All of our events will be remote this semester, but we have made it our goal to be even more engaged in the law school community. We have a Native Voting Rights panel planned for the beginning of October to coincide with the upcoming election. This panel will discuss the particular issues that Natives and Tribes are facing regarding access to voting and equal rights. We are planning on hosting some Virtual Fireside Chats during Native American Heritage Month, the topics of these chats are still being discussed, but keep an eye out for that information. Unfortunately, we have decided to cancel Harvest Feast this year, but we are hopeful for the spring. We are very optimistic and excited for the new year and cannot wait to meet the new class of students!

If you would like to keep up with our events and outings, please follow us on Facebook at <https://www.facebook.com/CULAWNALSA/> and if you have any questions feel free to contact Taylor Schad at taylor.schad@colorado.edu.

Colorado Natural Resources, Energy, & Environmental Law Review

The mission of the Colorado Natural Resources, Energy, & Environmental Law Review has always been to provide a forum for natural resources, energy, and environmental law and policy on local, regional, and global scales. ELR is determined to carry through this mission despite the significant changes the law school is facing due to COVID-19. Environmental, natural resources, and energy law is one of the most relevant and constantly-changing areas of law, and ELR seeks to give updates and foster discussions on the various important topics that fall under this umbrella of topics. This year our volume will deal with, among other things, the topic of environmental justice and climate change.



John Henry Schultz
(Colorado Law '53)

John Henry Schultz (Econ, Poli. Sci '51) (Law '53) passed away on April 5th surrounded by family in the comfort of his own home in Lafayette, Colorado. His beloved wife of over 57 years, Cynthia Hyde Schultz, died in 2011.

John had a successful oil & gas title law practice for over 40 years, and made a huge impact on the field. But he also believed in having as much fun outside of work as possible. Following competing on the CU gymnastics team, John loved skiing, racquetball, bowling, water-skiing, horseback riding, duck hunting, and most importantly fly-fishing. He became an accomplished oil and acrylic painter with over 100 original paintings ranging from landscapes to portraits.

His legacy includes substantial generosity to higher education. John and Cynthia supported the University of Colorado, the Law School, and the GWC through multiple avenues.

In 2004, they established the John H. Schultz and Cynthia H. Schultz Law Scholarship Fund, the second-largest scholarship fund at the law school. This includes the Schultz Wildcat Scholarship, a full-tuition scholarship for a student interested in a career in natural resources law, environmental law, and/or energy law. They made an exceptional \$2 million contribution to create and endow Colorado Law's Loan Repayment Assistance Program (LRAP), which helps alleviate student loan debt for those entering careers in public service. John always stressed to each recipient that the help they receive today should be considered a loan that they need to repay to help future generations.

We at the GWC are so appreciative of the Schultz family's generosity. In 2007, the **Schultz Lecture in Energy** was launched to support an annual lecture by scholars in energy or natural resources law. This endowment allows the GWC to bring thought leaders from across the country – like Harvard Law Professor Jody Freeman and FERC Commissioner Colette Honorable – to address thorny emerging issues. The family's continued generosity means that this lecture can be free and open to the public. The format includes a public reception following the talk, providing the opportunity to continue a lively discussion, as well as a dinner with the speaker, the Schultz family, the Dean, GWC faculty, and several law students.

When asked why he had given so much to the University, he simply responded, "Because it is necessary."

And beyond these high-impact gifts, John was an engaged member of the Colorado Law community. He was active as a Lunch & Learn mentor with incoming 1Ls, and he met with the deans and others regularly to support and further the goals of the students and school as a whole. We will miss this extraordinary man but are exceedingly proud to help carry on his legacy.

**John Schultz accepting the Dean Edward C. King
Making a Difference Award at the 2013
Law Alumni Awards Banquet.**



The generosity of John H. and Cynthia H. Schultz has supported over 70 students and will continue to do so for future generations.



Their generosity helped create the Loan Repayment Assistance Program (LRAP) at Colorado Law (to help alleviate student debt), funded Lectureship Series at both Colorado Law and the CU Medical School, and endowed several fellowships. When asked why he had given so much to the University, he simply responded, "Because it is necessary." John led an exceptional life. He will be sorely missed, not only by his loving family and friends, but also by all those whose lives were made better from knowing such a kind, loving, funny, generous, and inspiring man. Due to the COVID-19 Pandemic, Memorial Services for John are currently undetermined but we will update you when there is an opportunity to celebrate his life.

The John H. and Cynthia H. Schultz Lecture in Energy

The Schultz Lectureship Series on oil and gas, energy, and natural resources provides valuable information to policymakers, practitioners, business executives, and the academic community on emerging issues in the field. The lectureship fund was made possible by the generosity of John H. and Cynthia H. Schultz.

Watch for information on the next Schultz Lecture in Energy in early 2021.

Enjoy past Schultz Lectures at:

https://www.getches-wilkinsoncenter.cu.law/category/past_events

Getches-Wilkinson Center Dean's Match Challenge

Like many universities, CU Boulder is facing significant budgetary challenges due to the impacts of the COVID-19 pandemic. In line with campus policy, the law school has implemented several cost-saving measures such as pay reductions, but these ongoing challenges will continue to require creativity, resilience and shared solutions. This is where you come in! Your tax-deductible donation has never been more important, and will provide the support for the GWC to continue to thrive in these times of uncertainty.

As we face these new challenges, we are extremely pleased to announce that **Dean Anaya is providing matching funds for our end-of year giving campaign. Every donation pledged the GWC through December 31 will be matched to a maximum of \$25,000.** As you can see from this newsletter, the GWC's impact is continuing to grow. Your gift will shore up our positive momentum.

The GWC's longstanding commitment to excellence is propelled by the dedication of our Colorado Law community. Your investment strengthens the GWC's impact: providing critical funding that allows us to deliver cutting-edge research, build collaborations with thought leaders throughout the country, and deliver critical outreach and education.

Donations can be made online: www.giving.cu.edu/GWC or feel free to contact Shaun LaBarre at shaun.labarre@colorado.edu or 303.492.1286 to discuss other means to give.



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Colorado **Law**

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Founded in 1983 as the Natural Resources Law Center (NRLC) and now known as the Getches-Wilkinson Center for Natural Resources, Energy and the Environment, the Center is the oldest and preeminent law school institute in the country dedicated to natural resources law. The Getches-Wilkinson Center has expanded upon the legacy of the NRLC with a broader agenda and aspirations for deeper influence in law, policy and practice. We proudly support our mission:

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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