

Save the Date!

2011 Clyde Martz Summer Conference



Navigating the Future of the Colorado River

JUNE 8-10, 2011

**UNIVERSITY OF COLORADO LAW SCHOOL
Wolf Law Building ■ Boulder, Colorado**

This conference will examine current laws and policies governing Colorado River management, highlight new developments and studies that will inform future decisions, and explore a broad range of options for addressing the identified challenges and opportunities. The forward-looking conference focuses on one broad question: *What future do we envision for the Colorado River, and what will it take to get there?*

Keynote Addresses:

June 8 at 5:30 PM: **Patricia Mulroy**, Southern Nevada Water Authority (Las Vegas, NV) on *“And Then There Was Little Left to Fight About. Can We Get Through the Worst of Times?”*

June 9 at 9:00 AM: **Michael Connor**, Commissioner U.S. Bureau of Reclamation (Washington, DC)

Program & Registration:

<http://www.colorado.edu/law/centers/nrlc/events/index.html>

Questions: 303-492-1286; nrlc@colorado.edu

Sponsored by:



Environmental & Engineering Consultants

IN THIS ISSUE . . .

Page 1	Current Events
Page 2	Director's Corner Recent Programs
Page 3	Research Activities
Page 4	FOCUS on NRLC Board of Advisors

WHO WE ARE

The NRLC was founded in 1982 as a non-partisan entity to promote intellectual discourse and identify practical and effective solutions for issues through legal research, outreach, and education. The Center provides real and immediate policy information for natural resources decision-making, as well as addresses the long-term and incremental nature of more fundamental policy reform.

STAFF

Mark Squillace, Professor of Law and Director of the NRLC

Heidi Horten, Program Manager

Douglas Kenney, Sr. Research Associate

Kathryn Mutz, Sr. Research Associate

Judson Brehmer, Project Manager, Red Lodge Clearinghouse

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Director's Corner



Mark Squillace, Professor of Law and Director

These are busy times at the NRLC, but we are seeing a buzz about our work like no time since I became Director in 2005. **Doug Kenney** leads the way with his work on Colorado River governance. Doug got quite a reception for a speech he gave before the Colorado River Water Users Association in Las Vegas last December. He spoke about his research, the dire realities about water supplies on the Colorado River, and his ideas for rethinking the River's future. Alex Chadwick from National Public Radio described it as "one of the worst received talks that I have ever seen." But Doug clearly hit a nerve and has triggered a robust debate over the future of the River. That's just what we are trying to do. Elsewhere in this newsletter you will find more information about our 2011 Martz summer conference, which builds off the work Doug has been doing. I hope you will be able to join us as we continue the discussion and debate.

Doug has also been relaying the seemingly noncontroversial message that the cheapest way for cities to meet increased water demand is through conservation. But this too has been met with pushback, perhaps because of the dependence of water providers on selling their water. This issue that warrants discussion, and Doug's pioneering work on graduated block-rate pricing helps point the way to a possible solution: "*Relative Costs of New Water Supplies for Front Range Cities*" on the [NRLC website](http://www.colorado.edu/law/nrlc/): (www.colorado.edu/law/nrlc/).

Kudos also to **Judson Brehmer** and **Heather Hansen** who have positioned our Red Lodge Clearinghouse website as the leading resource for civic engagement on natural resources policy. Thanks to Judson's hard work, the newly designed website is eye-catching and easy to use. And Heather Hansen has done wonders for the RLCH blog and has managed to attract links from several other sites, including the *High Country News*. Speaking of Red Lodge and civic engagement, I have been getting quite a bit of attention for my lengthy blog posting on [the proposed new Forest Service planning rules](#). At the Forest Service's invitation, I participated in a National Forum on the draft rules in Washington, D.C. on March 10.

NRLC's project website on oil and gas best management practices continues to grow in size and importance thanks to **Kathryn Mutz**, **Sarah Watterson**, and a cadre of students. While I was attending a program on "fracking" in the Marcellus Shale in New York a couple of weeks ago, several participants were excited to hear about this website and the information that is there. Whereas some of the issues facing oil and gas development in the East differ from those here in the West, there is no doubt much we can learn from each other.

On March 1st, I testified before the House Natural Resources Committee on [Secretarial Order 3310](#)—the Interior Department's new "wild lands" policy. The new policy effectively restores what had been Departmental policy since FLPMA was passed in 1976 until 2003. This policy allowed the BLM to protect lands with wilderness characteristics, even if those lands had not been designated during the original roadless area inventory submitted to Congress in 1991. I urged the Committee to support the new Secretarial Order and to recognize that any government program that preserves options is almost always good policy. My testimony is available [on the Red Lodge Clearinghouse website](#) and a video of the hearing is also available at that link.

There is much more going on, of course. We continue to work on our reports on agricultural-to-urban water transfers, water and the public interest, and NEPA and climate change. But I will save some of that for future newsletters.

Recent NRLC Programs

Feb. 14, 2011: — **Conversation with Water Management Reps from Colorado and Australia: "Adapting to Climate change: lessons learned from Australia."**

The Western Water Policy Program of the NRLC, in conjunction with the Colorado Water Conservation Board, hosted **Will Fargher**, General Manager of the Water Markets and Efficiency Group of the Australian National Water Commission, who is responsible for recommendations to state and federal governments on water markets, pricing, rural and urban water; and with **Chris Arnott**, Managing Director and founder of Alluvium Consulting, who provides strategic advice to government agencies, particularly in environmental and consumptive water trade-offs. **Meeting PowerPoints** are available at the NRLC website (www.colorado.edu/law/nrlc/).

Oct. 14, 2010 — **"Opportunities and Constraints to Reducing the Environmental Footprint of Natural Gas Development":** Workshop co-sponsored by NRLC's BMP project and the Houston Advanced Research Center's *Environmentally Friendly Drilling Project* (EFD) partner Utah State University. Over 145 attended this event that included presentations and panel discussions on:

- Trends and environmental issues related to natural gas development
- Examples of environmental innovations being used in the Uintah Basin
- Examples of innovation & tools from outside the Uintah Basin
- Regulations and environmental policies: friend or foe? A panel discussion with government leaders.

Presentations from the workshop are available on the [BMP website](#).

Nov. 12, 2010: **Shale Plays in the Intermountain West: Legal & Policy Issues**, held at the Grand Hyatt, Denver. An event **video** and the **program and presentations** are available at www.colorado.edu/law/nrlc/.



Intermountain Oil and Gas BMP Project

Kathryn Mutz, Project Manager
www.oilandgasbmps.org/

The Intermountain Oil and Gas BMP project continues to expand the website and database with updates to the *Law & Policy* section and the addition of case studies on **solid waste, reclamation practices, and western Colorado communities that have been working with industry** (to enhance the positive and to minimize negative impacts of development).

The NRLC continues to work with the Houston Advanced Research Center's *Environmentally Friendly Drilling Project* (EFD) and will host the quarterly meeting on May 26, 2011. The meeting will focus on the processes by which best management practices are incorporated into developments, whether or not they effectively mitigate environmental and community impacts, and at what cost. **This meeting will be free and open to the public.** For more information, see [Training and Workshops section](#) of the BMP website:



www.oilandgasbmps.org/



Doug Kenney, WWPP Director
www.waterpolicy.info

Work on the Colorado River remains a central focus of the NRLC's *WWPP*, with most activities integrated under the **Colorado River Governance Initiative** (primary funding from the Walton Family Foundation). The research examines "institutional options" (i.e., reforms in law, policy, and management) for addressing water supply and environmental challenges on the river. Recent activities have included:

- [Guest Commentary on Colorado River's Coming Crisis](#) in *Denver Post* (Feb. 24, 2011)
- ["The Drying of the West: The Colorado River and the Civilization It Waters are in Crisis"](#) in *The Economist* (Jan.27, 2011).
- [Report on "Rethinking the Future of the Colorado River"](#) (Dec. 2010).
- [Video of Doug Kenney's "historic" presentation](#) (reported by NPR's Alex Chadwick that this presentation on the Colorado River governance "made history.") Presented at the Dec. 2010 Colorado River Water-Users Association annual meeting in Las Vegas.
- 1/26/11: Keynote presentation on "Cost of Water Conservation" at the Greater Galetin Watershed Council Meeting, Bozeman, MT.

Judson Brehmer, Project Manager
www.rlch.org

If you haven't already done so, check out the newly-redesigned Red Lodge Clearinghouse (RLCH) website. Red Lodge is your one-stop shop to:



- **Submit public comments.** Use our e-comment generator to send your opinion on [proposed rules and regulations](#) directly to the decision-makers.
- **Discuss hot environmental issues.** Our [blogs](#) put a topic out there—**water use in the west, hydraulic fracturing, the BLM 'Wild Lands' policy, mine reclamation**— and invite dialogue. Mark Squillace's recent blogs on the *Draft Forest Planning Rules* have garnered a lot of attention. .
- **Learn the law.** RLCH provides concise [summaries](#) of otherwise complex natural resources law, regulation and policy.
- **Stay current on environmental issues.** We comb the national news daily to keep you updated. Check our [home page](#) every day, and don't forget to comment!



NRLC Director Squillace Testifies Before Congress

On March 2, 2011, NRLC Director Mark Squillace testified before Congress in support of an [Order](#) recently issued by Secretary of the Interior

Ken Salazar on protecting wild lands on public lands managed by the Bureau of Land Management. Some members of Congress expressed reservations about the policy on the grounds that it allowed the Interior Department to designate lands for the kind of protections that are afforded wilderness lands. Since wilderness areas can only be designated by Congress, these members complained that the Secretarial Order allowed the Department to create "de facto" wilderness areas. Squillace explained that unlike wilderness areas, wild lands designated under the Secretarial Order enjoyed far less protection than wilderness areas. The BLM can designate areas for wild lands protection, but it can choose not to designate lands even if those lands have wilderness characteristics. Moreover, the BLM can undo wild lands designations through a relatively simple process. According to Squillace, the wild lands policy fits well within the Department broad multiple-use management responsibilities. Professor Squillace's testimony (and a video of the hearing) are available at:

<http://rlch.org/blog/2011/8/3/talking-congress-about-wild-lands-order>

FOCUS on NRLC Board of Advisors

Chair: Michael Gheleta, Office of the Regional Solicitor
U.S. Dept of the Interior (Lakewood, CO)

Marilyn Averill, Center for Science and Technology Policy
Research; PhD candidate-Environmental Studies Program,
University of Colorado (Boulder)

David Bailey, Carver Schwarz McNab & Bailey (Denver)

Britt Banks, Executive Vice President (Retired), Newmont
Mining Corp. (Denver)

Sarah Bates, Center for Natural Resources & Environmental
Policy - University of Montana (Missoula, MT)

Kate Burke, Insight Law, LLC (Durango, CO)

Deb Donahue, University of Wyoming College of Law (Laramie)

Greg Hobbs, Justice, Colorado Supreme Court

Guy Martin, Perkins Coie (Washington, DC)

Ann Morgan, The Wilderness Society (Denver)

Peter Nichols, Trout, Raley, Montaño, Witwer & Freeman
(Denver),

Clay Parr, Parr Waddoups Brown Gee & Loveless (Salt Lake
City)

David Phillips (*Ex Officio*), Exec Director, Rocky Mountain
Mineral Law Foundation

Teresa Rice, Encana Oil & Gas (USA), Inc., (Denver)

Karin Sheldon, Executive Director, Western Resource
Advocates (Boulder)

Ruth Wright, former Colorado State Legislator (Boulder)

Margo Zallen, Senior Attorney, U.S. Dept of the Interior
(Lakewood, CO)

Emeritus:

James Corbridge (Grove, OK)

David Harrison (Moses, Wittemyer, Harrison & Woodruff,
Boulder)

Marvin Wolf (Denver, CO)

Law School Faculty Advisors:

David Getches, *Dean, University of Colorado Law School*

William Boyd

Nester Davidson

Joe Feller, *Professor Adjoint*

Lakshman Guruswamy

Sarah Krakoff

Bruce Kramer, *Adjunct Faculty*

Charles Wilkinson

NEW MEMBERS to BOARD OF ADVISORS

Sarah Bates has written and spoken extensively about natural resources law and policy over the past two decades through university research appointments, conservation advocacy positions, and consulting work. She currently works with the Center for Natural Resources and Environmental Policy at the University of Montana, and maintains an active legal consulting practice. She is a graduate of the



University of Colorado Law School (1988), where she returned to work as Associate Director of the Natural Resources Law Center in the early 1990s. She has served on the governing board of the Montana-based Clark Fork Coalition and the advisory board of University of Wyoming's Ruckelshaus Institute of Environment and Natural Resources. Her most recent book (co-edited with Larry MacDonnell) is "The Evolution of Natural Resources Law and Policy," published by the American Bar Association in 2009. Sarah lives in Missoula, Montana, with her two children.

Teresa Rice is a manager in Supply Management and Strategic Planning at Encana Oil & Gas (USA) Inc., a natural gas production company. She is responsible for negotiating and reviewing supplier related contracts, implementing safety and environmental policies regarding suppliers, and keeping her team apprised of legal issues affecting supplier relationships. Before joining Encana in 2005, she worked for a communications company in the areas of real estate and land. She is a 1985 graduate of the University of Colorado Law School and returned to CU in the early 1990s to work at the Natural Resources Law Center as Research Associate and Associate Director. While at the Center, she authored or co-authored articles on water transfers, instream flow protection, management of Oregon's state forests, and state and local public lands. She also co-edited a book on water quality protection and co-edited an update to the treatise, *Vranesh's Colorado Water Law*. She was adjunct professor at the University of Colorado and at the University of Denver.



NRLC's On-Line Library

Available to all — searchable archives containing hundreds of NRLC's past reports, conference materials, book abstracts, and related materials (dating going back to 1981).

From one recent user: *"I just futzed around a little with the online library of NRLC ... and want to say that it's awesome. If feel like it's the Mother Lode of good thinking about water in the West."*

[NRLC On-line Library](#)