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Baselines: The Natural Resources Law Center
Newsletter (2007-2011)

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Baselines Newsletter, no. 5, fall 2009

University of Colorado Boulder. Natural Resources Law Center



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BASELINES: THE NATURAL RESOURCES LAW CENTER NEWSLETTER, no. 5, fall 2009 (Natural Res. Law Ctr., Univ. of Colo. Law Sch.).

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Baselines

Fall 2009 (Issue 5)

NEWSLETTER OF THE NATURAL RESOURCES LAW CENTER

Save the date for . . .



THE PROMISE & PERIL OF OIL SHALE DEVELOPMENT

February 5, 2010
9:30 a.m.–4:30 p.m.
Denver, Colorado

This one-day symposium will address the technology, economics, politics, and environmental impacts associated with oil shale development on the Rocky Mountain western slope and will facilitate productive dialogue among a wide range of stakeholders and interested parties to guide policy decisions.

Draft program and event information available at

<http://www.colorado.edu/law/centers/nrlc/OilShale.pdf>

On-line registration available Nov.23rd.
Questions: 303-492-1286; nrlc@colorado.edu

The NRLC 2010 Martz Summer Conference

June 2-4, 2010

The Past, Present, and Future of Our Public Lands

Celebrating the 40th Anniversary of the 1970
Public Land Law Review Commissions' Report –
One Third of Our Nation's Lands

As we celebrate the 40th Anniversary of this seminal document, the NRLC's Martz summer conference for 2010 will offer a venue to examine the past, present and future of our public lands. Please join us as we bring together past and present agency officials, policymakers, lawyers, and interested citizens for what promises to be an informative and provocative program. It is time to reflect on the need for a new Commission and a new report to address the challenges for our public lands in the 21st century.

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WHO WE ARE

The Natural Resources Law Center (NRLC) was founded in 1982 to inform and influence natural resource law and policy. The NRLC promotes intellectual discourse and identifies practical and effective solutions for issues through legal research, outreach, and education.

STAFF

Mark Squillace, *Professor of Law and Director of the NRLC*
Heidi Horten, *Program Manager and Special Assistant to the Director*
Douglas Kenney, *Sr. Research Assoc.*
Kathryn Mutz, *Sr. Research Associate*
Judson Brehmer, *Red Lodge Clearinghouse Proj. Manager*

CONTACT US

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Please support the
NRLC's work



The NRLC is a self-sustaining program within the University of Colorado Law School. Our work is made possible from grant funding and contributions.

You can contribute online at:

<http://www.cufund.org/giving-opportunities/fund-description/?id=3657>

Please contact **Marilyn Moses**
Assist. Director of Development,
303-492-1744 or marilyn.moses@cufund.org



NRLC Director Squillace Testifies Before Congress

On September 17, 2009, Mark Squillace testified before the House Resources Committee on the Consolidated Land, Energy, and Aquatic Resources Act of 2009. His testimony was on two provisions of proposed legislation:

- (1) **Amendment of the Mineral Leasing Act of 1920** to give a federal coal lessee ownership of the embedded natural gas. In exchange the lessee would be obligated to develop the methane rather than venting it into the atmosphere if is feasible to do so. "I was especially proud to testify about the methane provision," remarked Squillace, "because the proposed statutory language was largely based upon a proposal that I drafted for the Committee. The venting of methane at underground coal mines poses a serious environment problem: "because methane is a potent greenhouse gas – about 23 times stronger than CO₂," stated Squillace. A single underground coal mine in Colorado, for example, vents enough methane to heat nearly 50,000 homes a year, and emits the equivalent of about 3% of the CO₂ emitted from all of the power plants in Colorado.
- (2) **Removal of uranium from the General Mining Law of 1872** and place it under the Mineral Leasing Act. Squillace noted "In recent years, the price of uranium skyrocketed and with it we saw an explosion of new uranium mining claims. The price of uranium has now dropped almost as precipitously as it rose, thus potentially making many of these new claims invalid." The uranium-leasing proposal is important because it would give the Interior Department discretion to decide where and how uranium development is going to occur. Many of these new claims are located on fragile lands on the Colorado Plateau, including the lands around the Grand Canyon.

"Still," Squillace noted "the government should retain the discretion to decide where uranium development is going to occur on our public lands given the special risks associated with developing radioactive materials.

Link to full testimony:

http://resourcescommittee.house.gov/images/Documents/20090917/testimony_squillace.pdf

NRLC Advisory Board

- Chair:* **Michael Gheleta**, Brownstein Hyatt Farber Schreck (Denver)
David Bailey, Brownstein Hyatt Farber Schreck (Denver)
Britt Banks, Newmont Mining
Greg Hobbs, Justice, Colorado Supreme Court
Guy Martin, Perkins Coie (Washington, DC)
Jim Martin, Director, Colorado Dept of Health & Environment
Ann Morgan, The Wilderness Society (Denver)
Clay Parr, Parr Waddoups Brown Gee & Loveless (Salt Lake City)
David Phillips, Exec Director, Rocky Mt Mineral Law Foundation
Karin Sheldon, Exec Director, Western Resource Advocates
Jan Steiert, Electrum USA Ltd.
Ruth Wright (*see below*)
Margo Zallen, Senior Attorney, U.S. Dept of Interior (Colorado)

Emeritus:

- James Corbridge** (Grove, OK)
David Harrison (Moses, Wittmyer, Harrison & Woodruff, Boulder)
Clyde Martz (Albuquerque, NM)
John Sayre (Bend, OR)
Marvin Wolf (Denver, CO)

Law School Faculty Advisors:

- David Getches**, *Dean, University of Colorado Law School*
William Boyd
Nester Davidson
Joe Feller, *Professor Adjunct*
Lakshman Guruswamy
Sarah Krakoff
Bruce Kramer, *Adjunct Faculty*
Charles Wilkinson

Board Member Profile



Ruth Wright is a proud alumna of the Law School (1972), where, she says, she was twice as old and half as smart as the other students. A major accomplishment was writing a research paper for Professor Steve Williams' class in the Spring of 1971 on a city charter measure to limit height of buildings in Boulder to 55 feet, circulating a petition in the summer to get it on the ballot, and seeing the measure pass in the November election. Earlier, as Chair of PLAN-Boulder, she championed a sales tax for purchase of open space – a measure that has transformed the City and served as a model for communities around the world. As a member of the Colorado Water Quality Control Commission, Ruth helped pass groundbreaking regulations implementing the federal Clean Water Act. In 1981, she began a 14-year stint in the Colorado Legislature, where she served as House Minority Leader for six years.

Most recently she was on the board of the Northern Colorado Water Conservancy District. Her life-long interest in the environment, and especially in water, has culminated in joining the NRLC Advisory Board where she helps stimulate the thoughtful discussions that characterize the deliberations of our outstanding board.

2010 marks the 40th Anniversary of the Public Land Law Review Commission's renowned report – *One Third of Our Nation's Lands*. The 2010 NRLC Martz Summer Conference will celebrate the anniversary by engaging leading lawyers, policymakers, and interested members of the community on the past, present, and future of our public lands. We are in the midst of assembling an outstanding group of speakers and commentators for this event. Set aside June 2-4, 2010 and join us for what promises to be an important and memorable program.

Director's Corner



In addition to our summer program, the Center is sponsoring a day-long program titled *The Promise and Peril of Oil Shale*, which will explore all sides of the myriad issues surrounding the potential for oil shale development. In order to make the program more accessible to lawyers and policymakers, the program will be held in Denver on February 5, 2010. Our able and hard-working Program Manager, **Heidi Horten**, has taken the lead in the planning efforts that are now underway for these programs. I hope you will contact Heidi if you have any questions about these programs.

Even as we gear up for our upcoming programs our Center staff remains very much engaged in a wide range of fascinating policy research. With the help of a talented group of law students, environmental studies students, and others, we made great progress on several projects this past summer. Senior Research Associate **Kathryn Mutz** has had great success developing and promoting our [database](#) of oil and gas development "best management practices." Kathryn has just returned from an outreach program in Rifle that attracted more than 150 participants. If you missed this program, look for details about a second program that will be scheduled for somewhere on the Front Range.

WWPP Director, **Doug Kenney** has been hard at work on a range of projects involving the usual water policy matters as well as a modest new project that will explore the energy-water nexus. Doug is off to China soon where he will speaking to local officials about river basin planning. Not only is this a great opportunity for Doug, it will provide the Center with contacts and knowledge about Chinese water development that should prove invaluable in our future research.

Red Lodge Project Director **Judson Brehmer** has been a busy guy these past few months, traveling to Austin for a major conference on coal and accompanying Kathryn Mutz to Rifle to help out with the BMP program. The coal conference offered a great opportunity for Judson to share information on the newly released draft of *The Strip Mining Handbook*. Check it out on the [Red Lodge website](#).

I made great progress this summer on two particular projects. One involves a study of the public interest in Western water law. With the help of several talented students we collected a great deal of data and conducted multiple interviews with top water officials in Western several states. The range of compliance with

public interest standards is quite significant and I look forward to finding the time to begin writing up our report on this fascinating project.

Along with a couple of other student Research Assistants, I spent a great deal of time this summer learning about the Northern Colorado Water Conservancy District, which we are studying in an effort to better understand the potential for reforming current water transfer laws and policies. We have learned a great deal and are excited about the prospect of developing and disseminating some ideas that have evolved from this work.

Summer RAs (front to back) Zach Wagner, Veronique Van Gheem, and Steve Chesterton, at the Northern Integrated Supply Pipeline Rally in northern Colorado— Study of water marketing opportunities in Colorado



I have just returned from a short trip to Page, Arizona where I delivered a paper on the history and legacy of Antiquities Act of 1906 at the Powell Symposium sponsored by the Powell Museum. The trip included a Park Service led tour of the Rainbow Bridge National Monument, set aside by President Taft in 1910

Environmental Law Society (ELS) UPDATE

By Derek Turner, *ELS President*

The 2009-2010 ELS officers anticipate a busy year promoting study of and engagement in environmental and natural resources law issues. We hope to expand student awareness and involvement in current local environmental issues by continuing the Public Comment Project under the leadership of Professor Mark Squillace. CU-Law students will become familiar with administrative notice and comment procedures and become civically engaged in environmental matters of local concern. To inform students of the diverse career opportunities in environmental and natural resources law and policy, the ELS will be hosting several panel discussions with private practitioners in industry, nonprofits, and government agencies.

Central to our efforts is a close partnership with the Natural Resources Law Center. ELS hopes to continue assisting with the planning and execution of the annual NRLC summer conference, with a particular emphasis on increasing student attendance and student involvement in the conference. The NRLC contributes to several ELS scholarship funds for low and unpaid summer jobs at environmental agencies.

If you are interested in participating in a panel discussion on environmental and natural resources law and policy career opportunities, would like to make a presentation, or have any volunteer or internship opportunities open to law students, please contact me at Derek.Turner@colorado.edu.

Oil and Gas BMP Project

Oil & Gas BMP Workshop held in Rifle, CO —



The first BMP Project workshop — sponsored by the Natural Resources Law Center and the Colorado Oil and Gas Conservation Commission — was held in Rifle, CO on October 14, 2009 at the Garfield County Fairground. The event involved over 170 participants from Colorado, Wyoming, Utah, and Texas. Speakers from federal, state and local governments, the community, industry and environmental consultants, and conservation groups focused on a greater understanding of what BMPs are appropriate to Colorado's western slope and their integration.



Prior to the main workshop, Williams Production RMT hosted a field trip for almost 60 workshop participants. Following the all day workshop sessions and a participant dinner, CDR Associates of Boulder facilitated a discussion of Civic Engagement.

Powerpoint presentations from the Workshop are at:

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

A second workshop is planned for spring 2010.

Watch the website for details or contact Kathryn Mutz (Kathryn.mutz@colorado.edu / 303-492-1293).

Western Water Policy Program (wwpp)

Using a seed grant from CU's Renewable and Sustainable Energy Initiative, the NRLC's WWPP will be issuing a "call for papers/chapters" for an edited book addressing topics and case studies exploring the water-energy nexus in the American West. We are seeking chapters from a variety of disciplines and perspectives, including works from science/engineering, social sciences, and policy and applications. Potential authors, and others, are encouraged to submit inquires to Doug at douglas.kenney@colorado.edu.

New Project — China. The most exciting of the upcoming projects is Doug Kenney's October 26-29 meeting in Beijing with leaders from China's General Institute for Water Resources and Hydropower Planning and Design (GIWP) and the river basin commissions. China is interested in broadening its traditional focus from infrastructure development to include cultural and environmental sustainability. Doug, in conjunction with the World Wildlife Fund, has been asked to provide insights about ways to integrate interprovincial water allocation into river basin planning.



RED LODGE CLEARINGHOUSE
INSPIRING NATURAL RESOURCE COLLABORATION... AND MORE

In May 2007, the NRLC was awarded the responsibility for the Red Lodge Clearinghouse (RLCH) website by the Liz Claiborne and Art Ortenberg Foundation. In January this year, **Judson Brehmer** joined as Project Manager for the RLCH.



Over the course of this year, you may have noticed a few changes in the layout of the website, which we hope have made the valuable resources more user-friendly. As always, we welcome your comments and suggestions as to how we may better serve your natural resources problem-solving needs.

As this newsletter goes to print, we are busy adding a plethora of new content to the Red Lodge website, thanks in large part to the fantastic research and writing of our Summer 2009 student interns: Emily Harlan, Cabell Hodge, Eric Lund, and Kristen Van Slyke. Under the "LAW" tab you'll find new sections on **National Parks and Monuments, Climate Change and Renewable Energy Development, and Restoration and Reclamation**. These resources were carefully crafted to provide clear, thorough, and up-to-date summaries of the law in these important areas.

Another great addition to the Clearinghouse website is the new "**Lessons Learned: Red Lodge Clearinghouse Report**", available under the Stories tab. The report looks at how a number of the groups chronicled in the "Collaboration Stories" section have tackled common issues. Though it does not seek to provide any right or wrong answers, when used in conjunction with the Collaboration Handbook (available under the Guides tab), it is useful for new and existing collaborative groups seeking their own answers to problems they are likely to face.

Finally, a pre-publication draft of the revised edition of **The Strip Mining Handbook** is now available on the Clearinghouse in the New Recommended Reading section of the Guides tab. The *Handbook*, originally published by NRLC Director Mark Squillace in 1990, has helped many citizen groups to combat the ravages of coal mining in their communities. The revision has been a collaborative effort of the NRLC, the Red Lodge Clearinghouse, and a dedicated group of informed practitioners. We encourage you to take a look and let us know how if there are particular questions or concerns that we have not addressed.

