

University of Colorado Law School

Colorado Law Scholarly Commons

Resource Law Notes: The Newsletter of the
Natural Resources Law Center (1984-2002)

Newsletters

1-1989

Resource Law Notes Newsletter, no. 16, Jan. 1989

University of Colorado Boulder. Natural Resources Law Center

Follow this and additional works at: https://scholar.law.colorado.edu/resource_law_notes



Part of the [Energy and Utilities Law Commons](#), [Energy Policy Commons](#), [Environmental Law Commons](#), [Environmental Policy Commons](#), [Indigenous, Indian, and Aboriginal Law Commons](#), [Natural Resources and Conservation Commons](#), [Natural Resources Law Commons](#), [Natural Resources Management and Policy Commons](#), [Oil, Gas, and Energy Commons](#), [Oil, Gas, and Mineral Law Commons](#), [Public Policy Commons](#), [Water Law Commons](#), and the [Water Resource Management Commons](#)

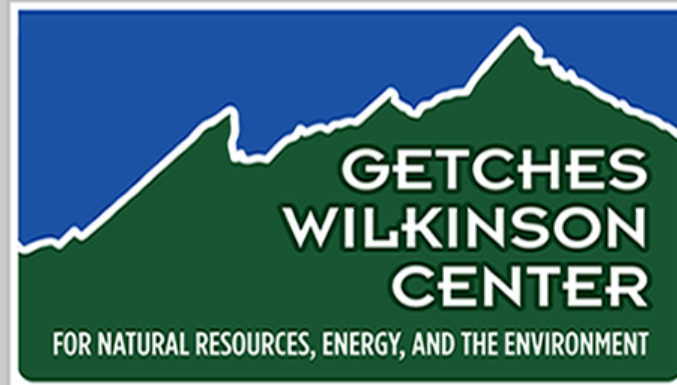
Citation Information

Resource Law Notes: The Newsletter of the Natural Resources Law Center, no. 16, Jan. 1989 (Natural Res. Law Ctr., Univ. of Colo. Sch. of Law).



William A. Wise Law Library
COLORADO **LAW**

UNIVERSITY OF COLORADO **BOULDER**



Getches-Wilkinson Center Collection

RESOURCE LAW NOTES: THE NEWSLETTER OF THE NATURAL RESOURCES LAW CENTER, no. 16, Jan. 1989 (Natural Res. Law Ctr., Univ. of Colo. Sch. of Law).

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.

Resource Law Notes

The Newsletter of the Natural Resources Law Center
University of Colorado at Boulder • School of Law

Number 16, January 1989

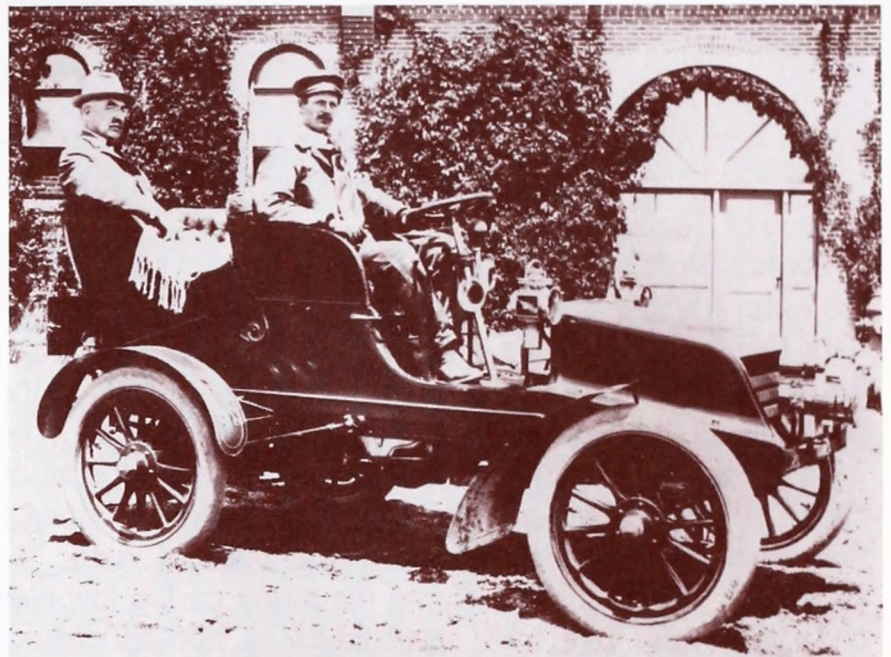
Workshop on Water Policy and Values Held

The Center held a workshop on water policy and values at the University of Colorado School of Law on December 15-16, 1988. The workshop was part of the Center's Western Water Policy Project. Participants at the workshop included **F. Lee Brown**, University of New Mexico, **Jim Butcher**, Boston Consulting Group, **Mike Clinton**, Bookman-Edmonston Engineering, Inc., **John Echohawk**, Native American Rights Fund, **Ken Frederick**, Resources for the Future, **Professor David Getches**, University of Colorado School of Law, **Professor Helen Ingram**, University of Arizona, **Larry MacDonnell**, University of Colorado, **Ed Marston**, *High Country News*, **John Munro**, Roy F. Westin, Inc., **Chris Nunn**, University of Arizona, **Marc Reisner** author, **Steve Shupe**, Shupe & Associates, **Richard Wahl**, Department of Interior, **Gilbert White**, University of Colorado, and **Professor Charles Wilkinson**, University of Colorado School of Law.

Three presentations formed the basis of the workshop. Charles Wilkinson began with a discussion of "Values and Western Water: A History of the Dominant Ideas." Helen Ingram and Chris Nunn described the work they are doing in the area of "Community Values and Water." John Munro discussed "The Paradigmatic Model of Policy Change" and his work applying this model to California water policy.

Wahl Visits as Center Fellow

Richard W. Wahl took a leave of absence from the Office of Policy Analysis in the Department of the Interior to become a Visiting Fellow at the Center from October 1988 to January 1989. Dr. Wahl is an economist with his Ph.D. from The Johns Hopkins University. He has worked in the Office of Policy Analysis since 1979 with time out in 1985-86 to be a Visiting Fellow at Resources for the Future. Much of his work has focused on federal water policy, particularly relating to the



D. G. Thomas, Chief Engineer, Denver Union Water Co., in 1918, when the City of Denver took over the Water Board. See p. 7 for "Reflections on Sixty Years of Water Law Practice," by Glenn G. Saunders. Photo courtesy of Denver Water Board.

Bureau of Reclamation.

While visiting at the Center, Dr. Wahl gave a presentation at the School of Law on "Changing Bureau of Reclamation Water Policy." He participated in the Center's water transfer study, examining transfer activity involving Bureau of Reclamation-supplied water in the study states, as well as several other research activities.

His book, *Markets for Federal Water: Subsidies, Property Rights, and the Bureau of Reclamation*, will be forthcoming soon from Resources for the Future.

Water Transfers Advisory Group Meets

An Advisory Group to the Center-led research project, "The Water Transfer Process as a Management Option for Meeting Changing Water Demands," met with project investigators on October 5, 1988 in Denver to discuss findings to date and offer recommendations for next steps. The project, begun in October 1987, is a study of water transfer law in six states and an empirical evaluation of transfer activity in these states between 1975 and 1984. The states included in the study are Arizona, California, Colorado, New Mexico, Utah, and Wyoming.

Members of the Advisory Group in attendance included **Herb Dishlip** of the Arizona Department of Water Resources, **Herb Guenther**, Arizona state representative, **Walt Pettit** of the California State Water Resources Control Board, **Bob Potter** from the California Department of Water Resources, **Chips Barry** of the Colorado Department of Natural Resources, **Steve Reynolds**, New Mexico State Engineer, **Gary Daves** of the Albuquerque Public Works Department, **Bob Morgan**, Utah State Engineer, **Lee Kapaloski** of Parsons, Behle & Latimer in Salt Lake, **Dennis Cook**, Wyoming Assistant State Attorney General, **Frank Carr** of the Wyoming State Engineer's Office, **Craig Bell** from the Western States Water Council, **Bruce Driver** of the Western Governors Association, **Ken Maxey** of the Western Area Power Administration, **Larry Morandi** from the National Conference of States Legislatures, and **Tom Phillips** from the Bureau of Reclamation.

Investigators from the states provided a brief summary of the water transfer law in their states together with a preliminary report on the types and amounts of transfer activity. While at least some kinds of transfers are permitted in all the study states, the legal requirements vary considerably. The level of transfer activity also varies widely among the study states. In those states with high levels of activity it appears that most transfers involve small quantities of water. As expected, most transfers during the study period involved changing water use from agricultural to non-agricultural purposes.

Comments from the Advisory Group highlighted a number

of key concerns. Generally there was support for the use of voluntary transfers as a means of meeting some part of the new demands for water. However, several Advisors expressed concerns about transfers, especially with respect to potential adverse effects on agriculture and rural economies. The tension between the policy objectives of facilitating transfers and, at the same time, protecting third party interests, was raised in several contexts. The criteria to be used in evaluating a transfer application, especially in connection with a "public-interest" type review, are not yet well defined. In those states without an extensive history of transfers there is also a need to clarify the procedural requirements to be applied. Also there is still uncertainty regarding the transferability of water supplied by Bureau of Reclamation projects.

The next phase of the project will focus primarily on selected case studies of transfers during the study period. These case studies will permit a more detailed examination of the transfer process, issues raised by the transfer, factors motivating the transfer, and the costs involved, particularly those associated with the legal proceeding. The *University of Arizona Law Review* will be publishing a special issue in 1989 featuring the analyses of state water transfer law produced from this project. The final project report is due in March 1990.

Support for this project has been provided by the U.S. Geological Survey and a consortium of state universities and water resource centers from the six study states. Support for the Advisory Group has been provided by the General Service Foundation.

The Process of Decision-Making in Tribal Courts

The Honorable Tom Tso, Chief Justice, Navajo Nation Judicial Branch

I have been asked to speak on the topic of "The Process of Decision Making in Tribal Courts." I will speak about the Navajo Tribal Courts because that is what I know.

It is difficult to discuss the process without discussing the history and the background from which the tribal courts developed. The history of the Navajo Nation and of the Navajo Tribal Courts is one of challenges. Today the challenges are to our sovereignty, our jurisdiction, our right to exist as a people different from the dominant society.

The ultimate challenge to the Navajo has always been survival. Those of you familiar with the history of the Navajo will recall that the Spanish and the United States Cavalry all attempted to wipe us out. In 1864 the United States Cavalry



under Kit Carson succeeded in rounding up and driving thousands of Navajo several hundred miles to Fort Sumner. It is not clear what was the objective of this mass removal. Whatever the goal of the U.S. Government toward the Navajo, it didn't work. After four years, the U.S. Government threw up its hands and told us to take our sheep and go home.

This event marked the beginning of the end of federal governmental efforts to terminate our physical existence. Since that time the challenge has been to our cultural identity and existence. These challenges reflect the false assumption on which relations between Indians and the Anglo world are conducted. The false assumption is that the dominant society operates from the vantage point of intellectual, moral and spiritual superiority. The truth is that the dominant society became dominant because of military strength and power.

Examine this from the Navajo perspective. I quote from an article by Tom Tso:

When people live in groups or communities they develop rules or guidelines by which the affairs of the group may proceed in an orderly fashion and the peace and harmony of the group may be maintained. This is true for the Navajos. As far back as our history can be verified and further back into the oral traditions of our origins, there is a record of some degree of formal

This article was prepared in conjunction with the June 1988 NRLC conference, *Natural Resource Development in Indian Country*.

organization and leadership. In the earliest world, the Black World, which was the first phase of our existence, it is said that the beings knew the value of making plans and operating with the consent of all. In a later World, Changing Woman appointed four chiefs and assigned one to each of the four directions. These chiefs convened a council, established clans, and organized the world. The chiefs and councils of Navajo oral history made decisions for the larger group and regulated the clans. The oral traditions indicate that there was a separation of functions between war leaders and peace leaders. One of the major responsibilities of these headmen was advice and guidance ...

The headmen were chosen by the people from among those who possessed the necessary qualities. The headman needed to be eloquent and persuasive, as power was exerted by persuasion rather than coercion. Teaching ethics and encouraging the people to live in peace and harmony was emphasized. One of the important functions of a headman was dispute resolution. When a dispute or conflict arose in the community, the people would go to the headman for advice. If the matter involved what we, today, would call a criminal offense, the headman would meet with the wrongdoer, his family, the victim, and the victim's family to discuss how to handle the matter. The discussion usually involved two issues: how to compensate the victim or his family for the wrong and how to deal with the wrongdoers. The discussion continued until everyone was in agreement as to what should be done.

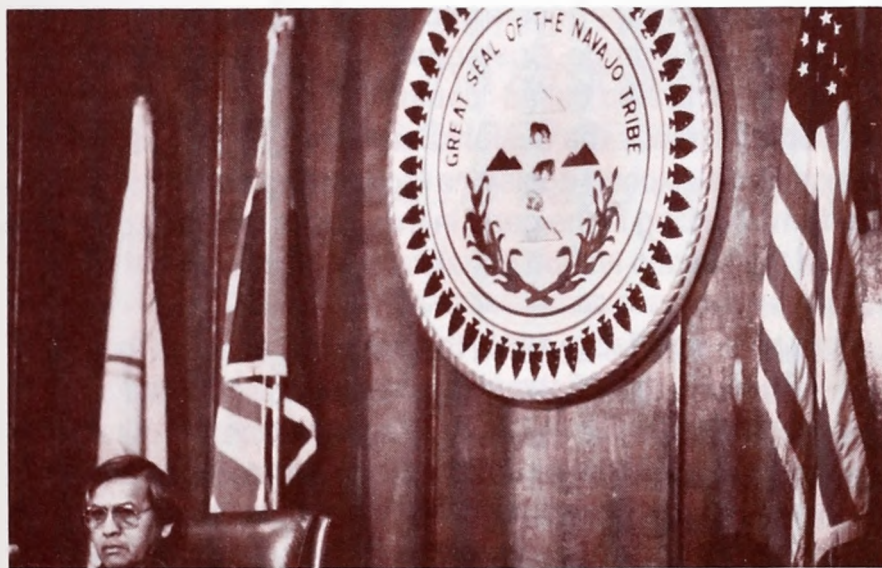


Photo by Monty Roessel (Navajo)

Prior to Kit Carson we lived in communities. You might say we had decentralized grass roots government. We had our own mechanisms for resolving disputes. We had a profound respect for the separation of functions. Not only did we have the various leaders for war and peace, we had our medicinemen who have a very important role in the operation of our society. The training and the teachings of the medicinemen were respected and no one interfered with their function. We had our own concepts of fairness in the way we handled disputes and we sought both to compensate the victim and to rehabilitate the wrongdoer.

After we returned to our land in 1868 we began to be told

all the things we had to have. We had to have an organized government and a tribal council. We had to have courts. We had to have jails. We had to have separation of powers.

These things and many more have been instituted. They work very well in the Navajo Nation. I believe the main reason the Navajos have, by Anglo standards, the most sophisticated and the most complex tribal court system is that we were able to build upon concepts which were already present in our culture. Navajos are also flexible and adaptable people. We find there are many things which we can incorporate into our lives that do not change our concept of ourselves as Navajo.

I regret that the outside world has never recognized that Navajos were functioning with sophisticated and workable concepts before the American Revolution. I regret even more that the ways in which we are different are neither known nor valued by the dominant society. Because we are viewed as having nothing to contribute, a lot of time has been wasted. Let me be more specific. Anglo judicial systems are not paying a great deal of attention to alternative forms of dispute resolution. Before 1868 the Navajos settled disputes by mediation. Today our Peacemaker Courts are studied by many people and governments. Anglo justice systems are now interested in compensating victims of crime and searching for ways to deal with criminal offenders other than imprisonment. Before 1868 the Navajos did this. Today Anglo courts are recognizing the concept of joint custody of children and the role of the extended family in the rearing of children. Navajos have always understood these concepts. We could have taught these things one hundred and fifty years ago.

Today the Navajo Courts are structured very much like the state and federal systems. We have six judicial districts and a seventh just being established. Each district has a trial court and a children's court. The Navajo court system has a second tier which is the Navajo Nation Supreme Court which has three justices. In addition there are the Peacemaker Courts which use traditional mediation processes supported by court supervision and enforcement of agreements reached through mediation.

The Navajo Nation Supreme Court hears appeals from final court orders and from some administrative decisions. The tribal government is rapidly developing an extensive network of administrative bodies with quasi-judicial functions. The final decision of bodies such as the Tax Commission and the Board of Election Supervisors are appealable directly to the Navajo Supreme Court. Recourse from the decisions of other administrative bodies is by an original action in the trial court.

All opinions of the Supreme Court and some of the opinions of the District Courts are published in the *Navajo Reporter*.

The Navajo courts have rules of procedure for criminal, civil, probate and appellate matters.

Navajo judges and justices are selected by a process designed to insulate them from politics. When a judge is to be selected, interested persons submit applications to the Judiciary Committee of the Navajo Tribal Council. The Judiciary

Committee screens the applicants and selects a list of the most highly qualified according to the qualifications set forth in the Navajo Tribal Code. This list is then sent to the Tribal Chairman. The Chairman appoints a judge from the list for a two year probationary period. This appointment must be approved by Tribal Council. During the probationary period the judge receives training from carefully selected judicial education establishments offering quality legal/judicial education. There are two: the National Judicial College in Reno, Nevada, and the National Indian Justice Center, Petaluma, California. The probationary judge is evaluated by the Navajo Nation Bar Association, the Judiciary Committee and the Chief Justice. If the probationary judge receives a satisfactory performance evaluation and satisfactorily completes his or her course of training, the Chief Justice and the Judiciary Committee recommend the judge for permanent appointment. This permanent appointment must be confirmed by Tribal Council. Thereafter the judge remains in office until retirement or removal under the procedures established in the Tribal Code.

Permanent judges continue to be evaluated each year and receive training in areas where the evaluations show that knowledge and skills are lacking.

In traditional Navajo culture the concept of a disinterested, unbiased decision maker is unknown.

All parties may represent themselves in the courts. If a party chooses to be represented by counsel, it must be a member of the Navajo Nation Bar Association. Membership in the Navajo Nation Bar Association requires passing the Navajo bar examination, which is given twice a year. Both law school graduates and those who have not been to law school may practice in tribal courts. The practitioners who have not been to law school are called advocates and must complete either a certified Navajo Bar Training Course or serve an apprenticeship.

The contribution of the advocates to the Navajo Court system is beyond measure. Both our language and our traditions made Anglo court systems strange to us. In traditional Navajo culture the concept of a disinterested, unbiased decision maker is unknown. Concepts of fairness and social harmony are basic to us. However, we achieved fairness and harmony in a different fashion. Dispute settlement required the participation of community elders and all those who knew the parties and a history of the problem. Everyone was permitted to speak. Private discussions with an elder who could resolve a problem were acceptable.

It was difficult for Navajos to participate in a system where fairness required the judge to have no prior knowledge of the case and where who could speak and what they could say was closely regulated. The advocates helped the Navajos through this process and the advocates continue to be an important link between the two cultures.

The law the Navajo courts must use consists of any applicable federal laws and tribal laws and customs. The structure of our courts is based upon the Anglo court system, but generally the law we apply is our own.

When the Navajo Tribal Courts were established in 1959 the Navajo Nation did not have extensive laws of its own and we had no reported opinions to guide the judges in the decision-making process. In 1959 the Navajo Tribal Code required the courts to apply laws of the United States which were applicable, authorized regulations of the Interior Department, and any ordinances or customs of the Tribe not prohibited by such federal laws. Any matters not covered by tribal or federal law were required to be decided by the law of the state in which the case arose. As the Navajo Nation is in three states, this sometimes led to confusion and different laws being applied in different parts of the reservation.

In 1985 the Tribal Code sections regarding applicable law were amended. Now the courts are required to apply the law of the United States which is applicable and laws or customs of the Navajo Nation which are not prohibited by federal law. If the matter is not covered by tribal or federal law, the courts may look at any state laws and decisions for guidance or we may fashion our own remedies. As the Navajo Nation Supreme Court makes the ultimate decision on these issues, we are developing an internal body of law and many of the briefs filed in the Supreme Court and many of the opinions issued by the Supreme Court cite only Navajo cases.

It is easy to understand that the Navajo Tribal Code contains the written law of the Navajo Nation and that this law is available to anyone. When we speak of Navajo customary law, however, many people become uneasy and think it must be something strange. Customary law will sound less strange if I tell you it is also called "common law."

Common law is the customs and long used ways of doing things. It is also court decisions recognizing and enforcing the customs or filling in the gaps in the written law. The common law of the Navajo Nation consists of both customary law and court decisions.

In a case decided in 1987, the Navajo Supreme Court said:

Because established Navajo customs and traditions have the force of law, this court agrees with the Window Rock District Court in announcing its preference for the term "Navajo Common Law" rather than "custom," as that term properly emphasizes the fact that Navajo custom and tradition *is* law, and more accurately reflects the similarity in the treatment of custom between Navajo and English common law.

We have statutes, rules and case law setting forth the procedural aspects of pleading and proving Navajo common law. Once a decision is made by a court, that decision is subject to change only through judicial processes. No other part of the tribal government has the authority to overrule that decision.

The concept of a separate and independent judiciary is based in both Navajo common law and in the Tribal Code. The Tribal Code establishes the Judicial Branch as a separate branch of government. The integrity of court decisions,

however, has its basis in the respect given to the peacemakers or leaders who helped settle community disputes. In a case decided in 1978 the Navajo Supreme Court said that the respect given the peacemakers extends to the courts because Navajos have "...a traditional abiding respect for the impartial adjudicatory process. When all have been heard and the decision is made, it is respected. This has been the Navajo way since before the time of the present judicial system. The Navajo people did not learn this principle from the white man. They have carried it through history... Those appointed by the people to resolve their disputes were and are unquestioned in their power to do so. Whereas once the clan was the primary forum (and still is a powerful and respected instrument of justice), now the people through their council have delegated the ultimate responsibility for this to their courts."

I could talk for a long time about all the details of the Navajo Tribal government, how many concepts which appear to be Anglo actually have their roots in our culture as far back as we can trace, and about how concepts which are foreign to our culture have been accommodated in such a way they have become acceptable and useful to us.

It is instructive that the Indian tribe whose governmental structure and operation is most like the Anglo world is the tribe that has no constitution. The Anglo world places much value on the written word and there is a tendency to believe that if things are not written down, they don't exist.

What holds us together are not words on paper but a set of values and customs that are the strongest glue. I am speaking of a sense of community so strong we had no need to lock up wrongdoers.

Navajos have survived since before the time of Columbus as a separate and distinct people. What holds us together are not words on paper but a set of values and customs that are the strongest glue. I am speaking of a sense of community so strong we had no need to lock up wrongdoers. If a person injured another or disrupted the peace of the community, he was talked to and often ceremonies were performed to restore him to harmony with his world. There were usually no repeat offenders. Only those who have been subjected to a Navajo "talking" session can understand why this would work. Today we have police, prosecutors, jails, written laws and procedures. I am convinced our Anglo system of law enforcement is no more effective than the way we traditionally handled law enforcement problems. Our present system certainly requires more money, more facilities, more resources and more manpower. But we have this system and it works as well as those of our brother and sister jurisdictions. The point I am now making is that the Anglo world has said to tribes, "Be like us. Have the same laws and institutions we

have. When you have these things maybe we will leave you alone." Yet what the Anglo world has offered, at least as far as Navajos are concerned, is either something we already had or something that works no better than what we had.

The real measure of tolerance and respect for tribes, however, may well be how the outside world can coexist with tribes. We are part of the total environment of America and at least as important as the snail darter or the California condor.

I know that the popular concept of tolerance in America is the melting pot or stew pot where everyone blends into an indistinguishable ingredient. This is fine for people who come to this country and want to jump into the pot. The melting pot, however, can become a good place to hide people. If differences cause discomfort or problems, make everyone the same. The real measure of tolerance and respect for tribes, however, may well be how well the outside world can coexist with tribes. We are part of the total environment of America and at least as important as the snail darter or the California condor. What a tragedy if fifty years from now some news commentator is doing a broadcast on how the government has set aside a preserve in the desert where nine Indians are being saved from extinction and it is hoped they will reproduce in captivity.

At this time the Navajo Supreme Court has decided few cases that specifically relate to the issues of this program. It is my understanding that some cases dealing with oil and gas leases have been initiated in the tribal courts but have been settled during pendency of the litigation.

I am sure that the economic development plans of the Navajo Nation will result in many questions regarding the doing of business on the reservation.

Jurisdictional issues will no doubt be a significant part of future litigation involving the land and resources of the Navajo Nation. Based upon the decisions in *National Farmers Union Insurance* and in *Iowa Mutual* it appears that the Navajo Tribal Courts will be deciding many challenges to jurisdiction.

The jurisdictional statutes of the Navajo Nation provide that the tribal courts have jurisdiction of all civil causes of action if the defendant resides within Navajo Indian Country or has caused an action to occur within the territorial jurisdiction of the Navajo Nation. The definition of Navajo Indian Country is consistent with the federal definition.

Beyond the threshold jurisdictional issues lie the questions of what law will be applied.

Whether federal laws will be applicable in a specific case I cannot say at this point. Obviously tribal law, both statutory and common law, will be used. There are tribal statutes and rules and regulations regarding the doing of business on the

reservation and regulating the use of natural resources. For example there are the Navajo Uniform Commercial Code, Navajo Nation Corporation Code, Water Code, Mining Code and others. Those are obvious and available to those who need them.

I assume there are concerns regarding the role of tradition and custom in case decisions. Navajo custom and tradition is not likely to call for entirely new law. It is more likely to be an additional factor to consider in an already familiar context. For example, the Anglo system is familiar with the concept of land valuation and payment for the taking of land. It is not a new or different concept that the surface user of land should be compensated for loss of use. The difference will be in the valuation. Land that may appear to have little value to a non-Indian may be very valuable to a Navajo. It may have spiritual or historical value that has little to do with the income it can produce. A dollar figure will have to be assigned to things that have no value in the market. This is not impossible. It is done every day in tort cases where damages are assessed for pain and suffering, for intentional infliction of emotional distress, for loss of companionship.

The difference will be in the traditional relationship between Navajos and nature. We refer to the earth and sky as Mother Earth and Father Sky. These are not catchy titles. They represent our understanding of our place. The earth and the sky are our relatives. Nature communicates with us through the wind and the water and the whispering pines. Our traditional prayers include prayers for the plants, the animals, the water and the trees.

A prayer is like a plant. The stem or the backbone of the prayer is always beauty. By this beauty we mean harmony. Beauty brings peace and understanding. It brings youngsters who are mentally and physically healthy and it brings long life. Beauty is people living peacefully with each other and with nature.



Photo by Monty Roessel (Navajo)

Just like our natural mother, our Mother Earth provides for us. It is not wrong to accept the things we need from the earth. It is wrong to treat the earth with disrespect. It is wrong if we fail to protect and defend the earth. It would be wrong for us to rob our mother of her valuable jewelry and go away and leave her to take care of herself. It is just as wrong for us to

rob the Mother Earth of what is valuable and leave her unprotected and defenseless.

If people can understand that the Navajo regards nature and the things in nature as relatives then it is easy to see that nature and the Navajos depend upon each other.

This is basic to understanding any traditional Navajo concepts which may be applied to natural resources and the environment.

It is difficult to separate our lives into fragments or parts. Our ceremonies are religious, medical, social, and psychological. The seasons tell us how to live and what ceremonies to have. The earth gives us our food, the dyes for our rugs and the necessities for our ceremonies. These may be seen as everyday things.

The earth today gives us income and jobs from mining, from oil, from forests. The water and the earth give us the ability to produce large amounts of food through Navajo Agricultural Products, Incorporated. The snow and rain and proper runoff from the mountains give us lakes for fishing. These may be seen as commercial things.

We cannot separate our needs and our relationships in such a fashion. This is why our laws and our decisions must accommodate both of these things. For example, our tribal law requires that persons who want to harvest or remove anything from the forests must have a permit. The exception is for persons who need to gather plants and forest products for ceremonial purposes. In a recent Supreme Court opinion the court held that further division of land in a probate case would defeat the agricultural purposes of the land. Under Navajo common law the parcel went to the heir who was best able to use the land for agricultural purposes. The other heirs were given set-offs in other items of decedent's property.

I have tried to give you a brief overview of the judicial decision making process in the Navajo Tribal Courts and indicate some of the ways we attempt to accommodate the best from two cultures so that the Navajo Nation may proceed to develop within a framework that is familiar to us.

We, the people, are a natural resource. Our culture and our history are natural resources. We are so related to the earth and the sky that we cannot be separated without harm. The protection and defense of both must be provided. The dominant society views things in terms of separateness, compartmentalization. For this reason the Navajo Nation is best able to make the laws and the decisions as to our own preservation and development.

I have spoken today of the Navajos. I believe much of what I have said applies to all Indian tribes.

Natural Resource Development in Indian Country presents a look at these challenges. Understanding the challenge is the first step toward meeting it. The challenge inherent in Natural Resource Development is only a variation of that faced continually by tribes. The process of making judicial decisions in the Navajo Nation reflects a response to challenges.

Thank you.

Reflections On Sixty Years of Water Law Practice

Glenn G. Saunders*

I have a long history in the water business—longer than I ever expected it to be in my first encounter in 1918. During World War I we were very short of any responsible help. I was a responsible boy, and a near neighbor of the Chief Engineer of the Denver Union Water Company. His chauffeur (only a few people tried to drive these new-fangled contraptions) lived just back of us, so that I had



an opportunity from time to time to drive in the water company's Stevens-Duryea open car to various points of the Denver Union Water Company system. Consequently, in the summer of 1918 I was employed to watch the float gauges on the clear water basins at the Capitol Hill Pump Station in Denver, which supplied water to everything east of the South Platte River.

The reason these gauges had to be watched so closely was that there were many wood-stave conduits in the Denver Union Water Company system, which were the principal supply of filtered water, and if one of them broke, it needed to be known immediately. If one of these gauges started to fall rapidly, it meant that a conduit had broken. At that time there was no telemetric enunciator to locate the break. So it was important that the gauges be watched constantly, and if they fell, a notification sent immediately to the central office of the Denver Union Water Company. I terminated this job on August 1, 1918, when the City and County of Denver took over the water plant from the Denver Water Company after a long series of hearings by a referee (Chinn) in the United States District Court as to the valuation which must be paid for the plant by the City.

I had also been familiar with the arguments pro and con as to whether or not Denver, as a municipal corporation, should own the private enterprise which was the Denver Union Water Company. My father was such a right-wing conservative that he did not believe that government should do hardly anything other than run a police department. Our next door neighbor, Ben Sweet, was a member of the first board of water commissioners and a proponent of public ownership, so that I had the benefit of backyard, over-the-fence arguments about the merits of public ownership as against the merits of private enterprise.

I returned from law school in 1929 at the commencement of the Great Depression, which was to deepen in the years ahead. I had absolutely no regard for the criminal law practice in which my father was busily engaged. So I went to my old

friend, the Mayor Ben Stapleton, who had helped raise me during a period when he was a widower and who had inculcated in me some of his own very high ideals. He told me that the Denver Water Department had a brilliant attorney, Malcolm Lindsey, as its special counsel in water matters. The City Charter at that time made it the duty of the City Attorney to render all legal service required by the Board of Water Commissioners. He pointed out that the City Attorney had so many irons in the fire that it was necessary to have special water counsel and that he would like to have me get the benefit of tutelage by Malcolm Lindsey and devote a major part of my energies to helping create a water supply for Denver.

Stapleton had three basic community objectives: 1) an adequate water supply to be derived from the tributaries of the Colorado River, 2) a major ground transportation vehicular system, and 3) a major airport. Stapleton initiated the Valley Highway (now I-25) through a design created by engineers Crocker and Ryan, and he secured what is now known as Stapleton International Airport by having his friend, Brown Cannon (who ran a dairy called Windsor Farm Dairy), acquire the airport land quietly at dry-grazing-land farm prices.

Stapleton said that the City never pays enough money to make a decent living, and therefore if I went with the Water Board, I must maintain the right to have a private practice—even though he expected me to devote my major attention to creating a water supply for Denver.

Denver Water Board

I went with the Water Board and found its legal affairs, except for the protection of its water rights, to be in a shambles because Charles H. Haines, a very competent Assistant City Attorney who was assigned to the Water Department, had so much other city work he simply could not keep up with it. He welcomed me with open arms, came bouncing into my office at the Water Department and tossed a Board request for an eminent domain proceeding on my desk, saying "You will find out all about eminent domain in the 6300's of the 1921 Compiled Laws." Since I was not yet admitted to practice law, he said, "Just sign my name to things and call me on the phone if you think you need any advice."

I found myself in the midst of a number of lawsuits immediately and found that the Lock Joint Pipe Company had six miles of pipe strewn out on public highways and no right-of-way to place the pipe. There was no negotiation team to acquire right-of-way, so I became the team, the lawyer, and the financial adviser.

Fortunately, the Water Board had an exceedingly competent manager by the name of Hiram Hilts, formerly a business executive for Henry M. Porter, who endowed what is now the Porter Hospital. Hilts had left the hospital, after integrating the Porter gift into the hospital's business, to run the Water Department. With his help and my youthful energy, we soon had legal affairs in pretty good shape so that I could begin

* Attorney, Saunders, Snyder, Ross & Dickson, Denver

learning water law from Mr. Lindsey.

Lindsey and I made an excellent combination. He had never gone to law school, but had studied law while being a court reporter in Trinidad, so that his education was from the grass roots up. A very quiet man, he did not like the vigor of a head-to-head contest. This is what I enjoyed most about the practice of law: the adversary proceeding. Consequently, I learned water law from him, and he sat as a spectator while I conducted litigation. I had nothing to unlearn about Colorado water law because the subject was not taught at the University of Michigan, where I had my law course, and thus was enabled to learn water law at the hands of the people who were practicing it: such people as Watt McKendrie of Pueblo, Bill Kelly of Greeley, and Frank Delaney of Glenwood Springs. These were followed by many other fine water lawyers who were either a part of our team or our adversaries.

At that time, members of the Board of Water Commissioners were the type of people you would find on the directorate of any important utility corporation, such as the Public Service Company, the telephone company, or the tramway. These men, except for A. P. Gumlick, had their own businesses to tend to and expected Water Board employees to take leadership in the development of the system. Gumlick and his wife were financially able to devote their energies to public service. I found myself in the position of working very closely with Mr. Gumlick—President of the Board, the manager, the engineering division, and the accounting division in planning the progress of creating an adequate water supply for what was obviously a growing major city of the United States, centrally located so that it would probably always be a hub in the North American Continent with a permanence such as we find in places like Rome or London. I was always impressed with the fact that we were building a water system for thousands of years in the future and that every move we made would be magnified either for better or for worse. This impressed me with the necessity for doing the job right the first time so that it would not have to be corrected at great expense in the future.



Old town of Dillon, now beneath the waters of Lake Dillon. Photo courtesy of Denver Water Board.

Need for Water Development

In the 1930s, 1940s and 1950s when Denver was most vigorously developing its water supply system, the attitude of the public, the legislature and judiciary generally was the same as it had been since the middle of the 19th Century: Do everything you can to develop a civilized community in this near-desert country by developing our water resources for

beneficial use. During the last decade (1980s) this attitude had been severely diluted by a current generation which enjoys the comfort of a now civilized environment. Forgetting that the civilization on which the good life exists in Colorado, with its skiing and other recreational advantages, depends on the careful management of our limited water resources, many people (often referred to as “environmentalists”) have now come to the attitude that water should be wasted by leaving it in the streams for the fish and the stream fishermen, eliminating more reservoir construction (in spite of improved fishing) without any realization that the population of the United States is constantly increasing and that Denver’s population and water needs will go on increasing for many years to come. The current political trend is to do everything possible to prevent any further development of water supplies and to limit any development to that done by public agencies rather than allowing the private entrepreneur to invest his money and talent to meet the new needs of the growing community. This change is reflected in the changing water law scene.

The Prior Appropriation Doctrine

The 17 western states of the United States are generally semi-arid and all have adopted what is known as the appropriation doctrine with respect to the use of the streams. Under this doctrine, in order to encourage development of water for beneficial use to create a civilized community out of a relatively barren public domain, early miners and farmers and other settlers were encouraged to expend their energy (and what little money they had) to divert water from the natural streams and apply it to beneficial uses, such as growing crops, supplying towns and cities, and for manufacturing purposes.

To encourage the development of the country, new law was created by the customs of the people, later fortified by constitutional provisions, statutes (both state and federal) and court decisions, giving a prior right over later developers, to whoever was willing to spend the time and money necessary to put water to beneficial use. Thus, the settler was assured that his money and energy would not be wasted by assuring him the prior right, in times of water shortage, to use the amount of water he had put to beneficial use as against some later comer, perhaps located farther upstream than the original settler. This system, used throughout the western United States, had proven successful in turning what was a barren wilderness into a productive and civilized portion of the nation.

Permit System

In permit states where a water right cannot be created except by permission of a person in government, the permit allows a specific time for completion of the necessary physical works to put the water to beneficial use. The government official issuing the permit determines what he considers to be an appropriate time within which to complete a project. Provision is made by statute for extending the time on a showing to the permitting government employee. The standards of judgment for determining necessary time are not clear so that, from a practical standpoint, the determination of

the government person is considered by the courts to be correct unless clearly arbitrary or unreasonable.

Colorado System

Of all the western states, Colorado has the simplest water system. In every appropriation state but Colorado, whoever wants to develop water has to get permission from a politician, that is, a government employee, usually the state engineer, before he can proceed. Until he gets that permission, he has no date of appropriation. In Colorado, all the appropriator has to do is to form an intent to appropriate water and make that intent known to anyone who might be affected by it. No political influence or governmental authority has been historically allowed to interfere with the growth of the state. As a result, Colorado had developed far beyond what could have been done had the people been inhibited by government bureaucracy.

A property right to divert water and apply it to beneficial use is created at the moment that the intent is formed and the manifestation of that intent to the general public occurs. This property right originally could be protected only by the uncertainty of a quiet title suit in court. But one of the first acts of the legislature after Colorado became a state was to provide a statewide system of adjudicating water rights so that the extent of any appropriator's right would be determined in an open, public court proceeding. The enforcement of these rights, as fixed by the courts, has been administered by the office of the state engineer.

Conditional Water Rights

The priority date of water rights is what gives them their value. It is often many years before the water appropriated by concurrence of intent and manifestation of the intent can actually be put to beneficial use so as to complete the water right. The justification for the very large expenditures of money in the expectation of making good on the early dates grows out of the Colorado water law concept, which has existed from the earliest days, of granting conditional water court decrees—now commonly called conditional water rights.

It took the people of Denver many years from the date of initiation of their transmountain water rights to construct the facilities necessary to carry the water to the people of the Denver area, where it was put to use. When these water rights were presented to the courts for adjudication, this time-honored procedure, now protected by statute, was used. In this procedure, the court recognized the property right to appropriate water as of the date the intent was formed and exhibited to the public, but the court's decree is conditioned on that intent being followed up diligently by the construction of the necessary works and then by the actual application of the water to the intended beneficial use. These decrees recognized the validity of the water right but conditioned their final validity on the water right being perfected by the application of the water to beneficial use with due diligence by the construction of the facilities and the actual use of the water. From the earliest days, Colorado residents have benefitted from this procedure, and Denver's situation is simply illustrative of the value of this conditional decree system.

The "Sheriff" Case

The first major water rights case in which I was involved became *City and County of Denver v. Sheriff*, 105 Colo. 193, 96 P.2d 836(1939). This case involved the appropriation of water by Denver to be transported through the pioneer bore of the Moffat Tunnel from the headwaters of the Fraser River in western Colorado into the Platte River Basin in eastern Colorado. At that time there were clearly two states, Colorado I, where the capitol was located east of the Continental Divide, and Colorado II west of the Continental Divide. The judges, the lawyers, the legislators, and all local officials in Colorado II, so far as water law was concerned, had their own law for western Colorado and had never heard of the Colorado Constitution. Under this concept, the trial judge, Charles C. Herrick, in *Denver v. Sheriff* held that Denver could not transport any water out of the Colorado River Basin until it had exhausted its water resources in the Platte River Basin.

At that time there were clearly two states, Colorado I, where the capitol was located east of the Continental Divide, and Colorado II west of the Continental Divide.

Meticulous and accurate as Malcolm Lindsey was, and faithful to the letter of the law, he was utterly shocked by this ruling, which was made from the bench at about 10:30 a.m. one morning, at which time the judge announced that the court would reconvene at one o'clock to hear any motions we might have to make. It was a fine day, so A. P. Gumlick, who was president of the Board of Water Commissioners and present at the proceedings, and I, after thinking through what had to be done in court after lunch, proceeded to enjoy the day while Mr. Lindsey went off by himself in a high state of disbelief to prepare a motion for a new trial.

When we got back to court at one o'clock, Lindsey was so upset that after two sentences, he turned the matter over to me. I thereupon dictated the basis for the decree I thought we ought to have. This basis subsequently became the decision of the Colorado Supreme Court, reversing the local court and instructing the lower court that the constitution covered the entire state of Colorado, being Colorado II as well as Colorado I.

It should be noted that the views of western Colorado judges extended to transmountain diversions rather than their general competency or integrity. This same Judge Herrick, when sitting in a trial in Brighton, Colorado which involved the use of Italian interpreters, rather violently pounced verbally on a dishonest interpreter who was giving me trouble even though I was the same attorney who got him reversed by the Supreme Court in the *Sheriff* case. The interpreter did not realize that Judge Herrick had been raised in the coal mine country of western Colorado and spoke Italian as fluently as he did English, that being a country where Italian and non-Italian workers worked together and

were all bilingual. The very much surprised interpreter correctly formulated questions and answers after Judge Herrick vigorously corrected him from the bench.

Right to Reuse Imported Water

From the earliest days, the statutes and most of the decisions of the courts have provided that no water may be diverted, regardless of the date of decree, except for application to beneficial use. Water may not be wasted, lawfully. When a user is finished with his water, he must return any excess to the nearest watercourse for use by others.

This leads to the further proposition that when water is diverted from the Colorado River to the Platte River, the Platte River user may make a succession of uses before he returns that water to the Platte River for use by others. Denver has taken advantage of this situation by appropriating its Colorado River water for complete utilization to the extent it can maintain dominion over such water. Under procedures carefully established as a part of creating Denver's Colorado River water rights, careful measurements were made and continuously kept up of the place of use, the amount of storage, and all details of the disposition of all Colorado River water diverted.

First-In First-Out Practice

Under these practices, when Denver diverts Colorado River water for storage in any of its reservoirs, it remains aware of how much of that water was stored at any particular



Modern recreational use of Dillon Reservoir. Photo courtesy of Denver Water Board.

time and draws that water out of storage which was first stored, although the water from different years is commingled in the same vessel. Since the mere storage of water does not constitute a beneficial use, this practice became important. Until stored water is actually used, any decree for that water must remain conditional. This means that Denver would have to go back to court every four years to show how it was continuing to maintain its diligence toward the application of the water appropriated to beneficial use. Denver maintains its records so as to show that the water first in was first out for use.

This practice becomes quite important when it is realized that a city hopes never to completely drain all of its reservoirs. Denver is acutely aware of this because in 1934 the drought situation was so bad that in September, just before a major

flood occurred, Denver had only a four day supply in storage. Coupled with the condition that there was almost no water in the streams for direct diversion, this was a near catastrophe.

Under the first-in first-out theory, Denver hopes to maintain substantial storage at all times so as not to jeopardize the welfare of hundreds of thousands of people being without water to fight fires or even to sustain life. Under the first-in first-out theory, a reservoir can be given an absolute decree once its full capacity has been used even though it had not been completely drained for beneficial use. By providing for complete treatment of Denver's sewage returns, provision can be made so that none of the transmountain water will be wasted and only what Denver cannot successfully use and reuse will ultimately be returned to the Platte River.

Water Reuse

The presently decreed water rights held by Denver are sufficient to serve five million people, assuming a successive use of diverted water through complete rehabilitation of once-used water. While this may offend the sensibilities of some people, it must be remembered that everybody on the Mississippi River is using reused water. New Orleans is regarded as having one of the safest and best water systems in the United States because it had learned to treat that Mississippi mud and turn it into beautiful, potable water. So the people downstream from Denver should not be concerned about reused water.

Denver's Colorado River Water Rights

During the early period of development, the Denver Water Board employed a man by the name of George M. Bull as its investigative engineer to develop the needed new water resources. On July 4, 1921, he took a party into the field to make the survey upon which Denver's transmountain water rights are basically dependent. Denver secured a date for its transmountain diversions for the Fraser and the Williams Fork Rivers on July 4, 1921, which it protected against Lee Ferry calls on the Colorado River water by the lower basin states (principally California and Arizona) by virtue of provisions it secured in the Upper Colorado River Compact.

Denver's efforts to get the same date for its Blue River diversion failed, four to three, in the Colorado Supreme Court. *Denver v. Northern Colorado District*, 130 Colo. 375, 276 P.2d 992 (1954). The date granted was based on the fact that:

- (1) Denver had made no survey, on the ground, in the Blue River Basin in 1921 as it had in the Fraser and Williams Fork Basins;
- (2) it had changed its manner of diverting from a short, high tunnel from the west to east slope to a long tunnel plus a collection reservoir at Dillon; and
- (3) lack of continuous effort until February 16, 1946, the date of approval of the final reservoir-tunnel plan, which plan has since been constructed and put in operation with that priority date.

The facilities were made more effective by a plan initiated November 7, 1956, to add the Roberts Tunnel Collection System facilities to bring more water to the Dillon Reservoir, thence into the Two Forks Reservoir on the Platte and thence to the Denver area. In all, Denver should readily be able to

supply five million people with the water rights which were nailed down as a result of the Bull surveys and the adjudications which followed them.

A. P. Gumlick, who was financially independent, devoted almost his entire time to being president of the Denver Board of Water Commissioners. A very frugal man from an economic standpoint, he felt that unlimited annexation to Denver should not be anticipated so that the people of Denver should not finance the Blue River project but that it should be financed by the areas outside the city through a Bureau of Reclamation project. To this end, the South Platte Water Users Association was formed in the summer of 1942 with William W. Gaunt, a Brighton attorney, as its president. This association consisted of Colorado Springs, Douglas County, Arapahoe County, Adams County, and Jefferson County. Representatives of these entities met at the high school in Englewood with E. B. Debler, who was in charge of creating

water projects of the United States Bureau of Reclamation, in an endeavor to create a project such as is now typified by the Colorado-Big Thompson project, to develop the Blue River resource without the use of Denver funds and so as to supply additional water to all of the entities involved. It is to be noted that Colorado Springs has since joined Aurora in creating water supplies for those two front range communities from tributaries of the Colorado River. The effort to turn the Blue River project into a reclamation project instead of a Denver project failed at the hands of the Colorado Supreme Court (*Denver v. Northern Colorado Water District*), and the idea was abandoned.

This concludes part 1 of this article. Parts 2 and 3 will appear in the next issues of "Resource Law Notes."

Publications and Materials of the Natural Resources Law Center

For sales within Colorado, please add 6.13% sales tax

Books:

- *Water and the American West: Essays in Honor of Raphael J. Moses*, 1988, David H. Getches, ed., \$16
- *Tradition, Innovation and Conflict: Perspectives on Colorado Water Law*, 1987, Lawrence J. MacDonnell, ed., \$18

Conference Materials - Notebooks and Audiotapes

- *Water Quality Control: Integrating Beneficial Use and Environmental Protection*, 688 page **notebook** of outlines and materials from 3-day conference, June 1988, \$60; **cassette tapes** of speakers' presentations, full 3 days, \$150.
- *Natural Resource Development in Indian Country*, 500 page **notebook** of outlines and materials from 3-day conference, June 1988, \$60; **cassette tapes** of speakers' presentations, full 3 days, \$150.
- *Water as a Public Resource: Emerging Rights and Obligations*, 555 page **notebook** of outlines and materials from 3-day conference, June 1987, \$60; **cassette tapes** of speakers' presentations, full 3 days, \$150.
- *The Public Lands During the Remainder of 20th Century: Planning, Law and Policy in the Federal Land Agencies*, 535-page **notebook** of outlines and materials from 3-day conference, June 1987, \$60; **cassette tapes** of speakers' presentations, full 3 days, \$150.
- *External Development Affecting the National Parks: Preserving "The Best Idea We Ever Had,"* 580-page **notebook** of outlines and materials from 2-day conference, Sept. 1986, \$40; **cassette tapes** of speakers' presentations, full 2 days, \$80.
- *Western Water: Expanding Uses/Finite Supplies*, 406-page **notebook** of outlines and materials from 3-day conference, June 1986, \$60; **cassette tapes** of speakers' presentations, full 3 days, \$150.
- *Getting a Handle on Hazardous Waste Controls*, 361-page **notebook** of outlines and materials from 2-day conference, June 1986, \$50; **cassette tapes** of speakers' presentations, full 2 days, \$100.
- *Western Water Law in Transition*, 415-page **notebook** of outlines and materials from 3-day conference, June 1985, \$60; **cassette tapes** of speakers' presentations, full 2 days, \$150.
- *Public Lands Mineral Leasing: Issues & Directions*, 472-page **notebook** of outlines and materials from 2-day conference, June

1985, \$40; **cassette tapes** of speakers' presentations, full 2 days, \$100.

NRLC Occasional Papers Series

- "The Governmental Context for Natural Resource Development in Indian Country," Susan M. Williams, Gover, Stetson & Williams, 22 pgs, 1988, \$3.
- "The Federal Onshore Oil and Gas Leasing & Reform Act of 1987," Lyle K. Rising, Department of the Interior, 13 pgs, 1988, \$3.
- "Issues and Trends in Western Water Marketing," Steven J. Shupe, Shupe & Associates, 12 pgs, 1988, \$3.
- "Granite Rock and the States' Influence Over Federal Land Use," John D. Leshy, Professor of Law, Arizona State University, 22 pgs, 1988, \$3.
- "Transmountain Water Diversions in Colorado," James S. Lochhead, Leavenworth, Lochhead & Milwid, 25 pgs., 1987, \$3.
- "Out-of-Basin Water Exports in Colorado," Lawrence J. MacDonnell, 14 pgs., 1987, \$3.
- "The Future of the National Parks: Recreating the Alliance Between Commerce and Conservation," Professor Robin Winks, Professor of History, Yale University, 23 pgs, 1986, \$3.
- "A Brief Introduction to Environmental Law in China," Cheng Zheng-Kang, Professor of Law, University of Peking, Beijing, 36 pgs. 1986, \$3.
- "Regulation of Wastes from the Metals Mining Industry: The Shape of Things to Come," Lawrence J. MacDonnell, 32 pgs. 1986. \$3
- "Emerging Forces in Western Water Law," Steven J. Shupe, Shupe & Associates, 21 pgs. 1986. \$3.
- "The Rights of Communities: A Blank Space in American Law," Joseph L. Sax, Professor of Law, University of California, Berkeley, 16 pgs. 1984. \$3.

Research Reports

- "Integrating Tributary Groundwater Development into the Prior Appropriation System: The South Platte Experience," Lawrence J. MacDonnell, (Colorado Water Resources Research Institute Completion Report 148), 1988, \$5.
- "The Endangered Species Act and Water Development Within the South Platte Basin," Lawrence J. MacDonnell, (Colorado Water Resources Research Institute Completion Report 137) 1985. \$5.
- "Guidelines for Developing Area-of-Origin Compensation," Lawrence J. MacDonnell, Charles W. Howe, James N. Corbridge, Jr., W. Ashley Ahrens, NRLC Research Report Series, 70 pgs. \$5.

Natural Resources Law Center Advisory Board

Gail L. Achterman, Esq.,
Assistant to the Oregon
Governor for Natural Resources,
Salem
David R. Andrews, Esq.,
McCutchen, Doyle, Brown &
Enersen, San Francisco
Kathleen Ferris, Esq.,
Bryan, Cave, McPheeters &
McRoberts, Phoenix
Dr. John W. Firor, National
Center for Atmospheric
Research, Boulder
Gary L. Greer, Esq., Sherman &
Howard, Denver
Professor Charles W. Howe,
Department of Economics,
University of Colorado, Boulder
Dr. Jay Hughes, Dean, College
of Forestry and Natural
Resources, Colorado State
University, Fort Collins
Professor Ralph W. Johnson,
University of Washington School
of Law, Seattle
Raphael J. Moses, Esq.,
Moses, Wittemyer, Harrison &
Woodruff, Boulder
William H. Nelson, Esq.,
Nelson, Hoskin, Groves &
Prinster, Grand Junction
David P. Phillips, Esq., Rocky
Mountain Mineral Law
Foundation, Denver
Harris D. Sherman, Esq.,
Arnold & Porter, Denver

Dr. John Tilton, Department of
Mineral Economics, Colorado
School of Mines, Golden
Gretchen VanderWerf, Esq.,
Hawley & VanderWerf, Denver
**The Honorable Stephen F.
Williams**, U.S. Circuit Judge,
District of Columbia Judicial
Circuit, Washington, DC
Susan M. Williams, Esq.,
Gover, Stetson & Williams,
Albuquerque
James C. Wilson, Energy
Resource Consultant, Longmont
William Wise, Esq., El Paso
Natural Gas Co., El Paso
**Marvin Wolf, Esq. Advisory
Board Chairman**, Wolf Energy
Company, Denver

Faculty Advisory Committee

Gene R. Nichol, Jr., Dean and
Professor of Law
James N. Corbridge, Jr.,
Professor of Law (on leave).
Chancellor, University of
Colorado, Boulder
David H. Getches, Professor of
Law
Daniel B. Magraw, Associate
Professor of Law
Courtland H. Peterson,
Professor of Law
Charles F. Wilkinson, Professor
of Law

The Center will host a conference on *Water as an Inter-jurisdictional Resource*, June 5-7, 1989. The topics will include the legal principles governing interjurisdictional allocation of water, allocation issues in a number of major river basins, interjurisdictional transfers of water, and interjurisdictional cooperation.

The Natural Resources Law Center

The Natural Resources Law Center was established at the University of Colorado School of Law in the fall of 1981. Building on the strong academic base in natural resources already existing in the Law School and the University, the Center's purpose is to facilitate research, publication, and education related to natural resources law.

For information about the Natural Resources Law Center and its programs, contact:

Lawrence J. MacDonnell, Director
Teresa Rice, Research Associate
Katherine Taylor, Coordinator
Althira Weber, Secretary
Fleming Law Building, Room 171
Campus Box 401
Boulder, CO 80309-0401
(303) 492-1286

Resource Law Notes
Natural Resources Law Center
University of Colorado
School of Law
Boulder, CO 80309-0401

Nonprofit
Organization
U.S. POSTAGE
PAID
Boulder, CO
Permit No. 257

ADDRESS CORRECTION REQUESTED