

THE STUDY OF NATURAL RESOURCE LAW

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In the past few years the West has witnessed a new burst of activity in natural resource exploitation. Accompanying such activity is an increase in the need for grounding the law student in the statutory and case law governing the acquisition, development, and conservation of mineral, oil and gas, water, and land resources. That need is now greater than it has been in the past three or four decades.

The search for uranium ore has again brought prospectors into the field in sizable numbers. The recent discoveries of high-octane oils in the Rocky Mountain area have caused a growing scramble for leases of both government and privately held lands. Water recently has been transported through mammoth pipe lines across the Continental Divide to supply the over-appropriated regions to the east. These new water supplies have made possible new appropriations, the organization of new water users' associations and irrigation districts to regulate the use of water, and a new surge of irrigation activity.

As the interest of the exploiter has increased, the Federal and state governments have been re-examining their conservation programs. The Federal Government has reorganized the General Land Office, changing it to the Bureau of Land Management, which, as its title implies, is charged with the duty, among others, of taking steps to conserve the natural resources of the country. These are but instances, among many, indicating that natural resource laws, once generally considered obsolete and of little necessity to a practical legal education, have again become essentials.

Many schools treat natural resource subjects only incidentally in their courses in property. Some give them no treatment at all. Others, recognizing their new importance, have placed in their curricula independent courses, usually three hours in length, in water rights, oil and gas, and mining law. While the treatment in the first two groups of schools is entirely inadequate to prepare the law student for the problems he is likely to encounter in practice, the third procedure is subject to the criticism that it over-emphasizes these specialized fields of property law. Teaching these subjects independently requires too much time in a crowded curriculum. Students find difficulty in scheduling nine hours of natural resource law in addition to all the basic courses and the new public law courses that are clamoring for attention. The result is that they may choose between the specialty subjects, taking, perhaps, water law, and remain in complete ignorance of the subjects of oil and gas, mining, and public land law. Separate treatment furthermore requires considerable duplication in subject matter.

The University of Colorado has met the problem with success by introducing a new five-hour course in Natural Resources, unifying all these courses, formerly taught separately, and adding materials on the Taylor Grazing Act and other public land laws, together with studies in conservation tech-

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niques cutting across natural resource law generally. The course surveys the major problems that the lawyer encounters in these fields and acquaints the student with the rather technical language with which he must deal. In operation at Colorado last fall, the course met with unusual success and popularity among the students.

The course is divided into three parts. Part I is concerned with the acquisition of rights to natural resources. Here we take up in turn the acquisition of water rights, the acquisition of mineral rights by location under the federal mining laws, the acquisition of mineral rights by lease (covering primarily oil and gas law but including problems of mineral leasing generally), and finally the acquisition of rights to the public domain. Regardless of the nature of the resource right acquired, the technique of acquisition is somewhat uniform, the approach is the same, and much of the duplication previously encountered is eliminated.

Part II deals with resource development. Once the exploiter has acquired a right to a resource, he is concerned with his rights and obligations in developing his interest. Here we examine the law of subjacent and lateral support, the problems that arise from the severance of the mineral estate from the surface, duties owed by a miner or water user to others, and mine inspection laws.

Part III concludes with conservation techniques. After a few introductory materials showing the need for conservation, we consider the conservation laws in practice. With respect to oil and gas, we study the substance and operation of spacing statutes, waste statutes, proration laws, and procedures for unitizing oil and gas fields. With respect to water resources, we study the reclamation laws for making arid lands productive and the work of state water conservation boards. In the mining law field we study the organization of the Bureau of Land Management, and the policies laid down for the development of pitchblende and other uranium ore deposits.

Materials for the course consist of about 850 pages of selected mimeographed cases and materials and copies of relevant statutes. The students further have available to them a growing natural resource law library which they use for following up special research problems and for writing law review notes.

Because the materials with which they deal are unique and rather unfamiliar to them, we have found it to advantage to take the students on two field trips. The first trip, conducted by the district water commissioner of our water district, takes them to the headgate of one of the irrigation ditches to show them how the gates are operated and the various techniques of water measurement. When irrigation is in progress, they may then go on to an irrigated tract of land to see how the water is economically applied.

The second trip takes them into a tungsten mine to familiarize them with the terminology used in the cases, to observe a vein in the ground, and, by use of pocket transits, to measure its dip angle and its strike or direction, and to help them appreciate the difficulty of proof encountered in trying to establish the continuity of a vein from the surface downward to a contested area.

The course aims at consolidation, and gives the student the largest amount of material possible in the smallest number of course hours.