

# Public Land & Resources Law Review


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Volume 40 *Biennial Indian Law Edition*

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## Letter to the Reader

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**PUBLIC LAND & RESOURCES  
LAW REVIEW**

Dear Public Land & Resources Law Review Reader,

In this 40<sup>th</sup> volume of the Public Land & Resources Law Review, the editorial board and staff are excited to present a range of articles dedicated to a topic of critical importance to the American West and deeply wound into our law review origins: federal Indian law. Our journal has a rich history at the University of Montana of pursuing legal topics related to Indian law—a legacy that began with Margery Hunter Brown. Known as a teacher, advocate, and civic leader, Margery Brown was the founding faculty advisor of both the Public Land & Resources Law Review and the Indian Law Clinic; two institutions created to improve tribal justice through scholarship and legal practice. Margery Brown’s legacy continues to inspire our law review and the community as a whole.

This year's edition is dedicated to Professor Maylinn Smith, a valuable member of the School of Law faculty for 25 years. Spring 2019 marked Professor Smith’s final regular academic semester of teaching as she will move on to pursue new opportunities. A 1987 graduate of the School of Law, Professor Smith has dedicated her legal and teaching career to championing Margery Hunter Brown's memory and legacy. During her time at the School of Law, Professor Smith took on many different roles in the spirit of service, from supervising the Margery Hunter Brown Indian Law Clinic, serving as Clinic Director, advising the Native American Law Student Association (NALSA), and coaching the NALSA Moot Court team, to teaching Indian law classes on a variety of topics and mentoring both Native and non-Native students. Professor Smith fulfilled each commitment under her charge with her signature no-nonsense sensibility and her capacity to motivate students to be of service to others through hard work and discipline has influenced every student who has had the pleasure of knowing her.

Outside of the law school, Professor Smith has long been committed to working with and on behalf of Indian tribes located within the boundaries of present-day Montana and beyond. Among her many roles in doing so, she served as Chief Judge of the Appellate Court for the Fort Peck Tribes, served on the Blackfeet Nation's appellate court, acted as legal advisor to the Salish and Kootenai Tribal Court, and provided numerous trainings, seminars, and other assistance to these and other tribal courts. As reporter for the Native American Liaison Committee of the National Conference of Commissioners on Uniform State Laws, Professor Smith also played a key role in drafting a model secured transaction code for tribes and has worked on a variety of other individual tribal code projects and related legal matters. Perhaps most importantly, Professor Smith has been a leading proponent of the Indian Child Welfare Act and her advocacy in that arena has secured important court victories and legislative changes, especially here in Montana. Professor Smith's valuable insights, knowledge, and dedication to her students represented Margery Hunter Brown's lasting influence. The law school will miss Professor Smith immensely as she carries on that important legacy through her future advocacy and work beyond our classrooms and clinics.

The Public Land & Resources Law Review is a place-based publication. Our mission is to support scholars and practitioners as a catalyst for research, publication, and engagement on important issues in public lands, natural resources, environmental, and Indian law. We are fortunate that our place—Montana—embodies, as legal scholar Charles Wilkinson suggested: “distinctly western bodies of law.” Our journal's mission transcends international, state, and tribal borders.

This edition explores the legal realities of Canada's First Nations; presents a challenge to place-based hunting rights; provides an in-depth look at the current land-into-trust process for tribes; and examines the Osage history and relationship with energy development. We are proud to include remarks from the Honorable Justice Russell Brown of the Supreme Court of Canada, which he presented in April of 2018 at our law school. He generously shared his experience and breadth of knowledge on Canada's First Nations and the similarities between American Indian law and Canadian jurisprudence.

To continue our conversation, the Law Review will co-host the biennial Public Land Law Conference with the University of Calgary in October 2019 in Missoula, Montana. Titled “Carved by Glaciers: Stewardship in the Northern Rockies,” this forum will assess and compare how Canada, the United States, and tribal nations approach natural resource issues. Please join us in October for this important conversation.

As always, we owe a deep gratitude to our professors and advisors: Michelle Bryan and Monte Mills. Their continued guidance and support are integral to the law review and make what we do possible. We also thank our staff for their diligent work on this publication. We are also grateful to Crowley Fleck, PLLP for supporting us as we continue our mission to cover Indian law issues and engage with practitioners in the legacy of Margery Brown.

Thank you for your support of the Public Land & Resources Law Review and we hope you enjoy this collection.

Sincerely,

The Public Land & Resources Law Review 2019 Editorial Board