



Lynn H. Slade Shareholder

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Related Practices

Energy, Environment and Natural Resources

Air Quality

Cultural and Historic Resources

Energy

Environment

Oil and Gas

Pipelines and Transmission

Public Lands

Renewable Energy

Utilities and Infrastructure

Water Rights and Water Quality

Litigation

Alternative Dispute Resolution

Appellate

Class Actions and Mass Torts

Commercial

Native American Law

Economic Development

Energy and Resources

Tribal Law and Courts

Related Industries

Business in Indian Country

Energy

Mining

OVERVIEW

Lynn Slade serves clients' needs addressing Federal Indian law and Native American law, energy, natural resources, environmental law, project development, complex litigation and transactions for over 30 years. In his Indian law practice, Lynn advises and counsels natural resource and energy developers, financial institutions, utilities, and other businesses in transactions and project development, including extensive involvement with renewable energy projects. He also leads litigation teams in disputes concerning resource development, environmental regulation and business activities on Indian lands. In addition, Lynn represents oil and gas exploration and production and mid-stream companies in transactions and regulatory compliance as well as financing and equity investing parties in the purchase, sale, financing and operation of oil and gas producing and transportation assets and has represented participants in gas and electric markets before federal and state agencies.

Lynn Slade's experience in energy markets includes both renewable energy, including solar, hydroelectric, biomass, and wind energy projects, and fossil fuel or conventional energy resources, including oil and gas exploration and production, royalty accounting, and taxation, and negotiation and drafting of leases, joint venture agreements, and pipeline or transmission rights-of-way agreements. On the litigation side, he has been involved in federal, state, and tribal trial and appellate courts in numerous states, and provides counsel in complex mediations and arbitrations. Lynn's clients include Enel Green Power, Enterprise Product Partners, Kinder Morgan, Continental Resources, Sempra Energy, and have included the State of Oklahoma, including its Tax Commission and Department of Environmental Quality.

Chambers USA has recognized Lynn with a top Band 1 rating nationally in Native American Law and named him a Star Individual in New Mexico. In the 2017 publication, *Chambers* reports, "One source describes Lynn Slade as 'the godfather of New Mexico Indian law.' One interviewee stated, 'he has as good a grasp of the interface between tribal, state and federal law as anyone I know.'" His practice encompasses environmental law, energy work and project development. Since 1989, he has been listed by *Best Lawyers in America*®, and named Lawyer of the Year – Albuquerque in multiple areas and years: Oil and Gas Law, 2014 and 2019; Native American Law, 2012; Natural Resources Law, 2012; Energy Law, 2011. Lynn has been listed as a "Top 25 New Mexico Super Lawyer" ten times by *Southwest Super Lawyers*®, and *Benchmark Litigation* recognizes him as a Litigation Star.

Lynn serves as Co-Chair of the firm's Native American/Federal Indian Law Practice and is a member of the Natural Resources and Environment; Oil, Gas & Midstream; and Renewable Energy Practice Groups.



Railroads

Education

University of New Mexico School of Law, J.D., 1976, Editor, *New Mexico Law Review*, 1975-1976

University of New Mexico, B.A. in Economics, 1973

Bar Admissions

New Mexico

United States Supreme Court

U.S. District Court for the District of New Mexico

U.S. District Court for the District of Columbia

U.S. District Court for the Northern District of Oklahoma

U.S. District Court for the Western District of Oklahoma

U.S. District Court for the District of North Dakota

U.S. Court of Appeals for the Ninth Circuit

U.S. Court of Appeals for the Tenth Circuit

U.S. Court of Appeals for the District of Columbia Circuit

EXPERIENCE

Representative Litigation

Lead counsel for Enel Green Power in successful defense of 150 MW wind generating facility against challenge by United States that wind tower excavations constituted mining requiring tribal mining lease. *United States v. Osage Wind, LLC*, No. 14-cv-704-JHP-TLW (September 30, 2015), *on appeal*, 10th Cir. No. 15-5121.

Represents oil and gas exploration and development companies with respect to title and development issues, including defense of title to claims based on movement of Missouri River in *EEE Minerals v. State of North Dakota & Continental Resources*, No. 1:16-cv-00115, U.S. D. Ct., Dist. of North Dakota, and advice and representation regarding lease termination issues, Fort Berthold Reservation, North Dakota.

Represented the Oklahoma Department of Environmental Quality in its successful petition before the United States Court of Appeals for the District of Columbia Circuit to review a portion of an EPA regulation (the "Indian country NSR Rule") arguing, among other grounds, that EPA was without statutory authority to displace state implementation plans with respect to non-reservation areas of States because EPA failed to make required jurisdictional determinations that such areas were within a tribe's jurisdiction. The Court of Appeals set aside the rule with respect to the Oklahoma portions challenged. *See Oklahoma Department of Environmental Quality v. Environmental Protection Agency*, 740 F.3d 185 (D.C. Cir. 2014).

Led a Modrall Sperling team defending the authority of the Oklahoma Tax Commission to tax incomes of Osage Nation tribal members residing on certain lands the Osage contend are a continuing reservation.



Based on evidence addressing legislative intent and over 100 years of history, the federal district court ruled the reservation was terminated in 1906 and entered judgment in favor of the Commissioners. The court of appeals affirmed. *See, Osage Nation v. Irby*, 597 F.3d 1117 (10th Cir. 2010), *cert. denied*, 131 S. Ct. 1553 (2011).

Represented an engineering firm in tribal court and Louisiana state trial and appellate courts in defense of the firm's successful efforts to enforce contracts that provided for state court, rather than tribal court, jurisdiction. *See, Meyer Engineering v. Coushatta Tribe of Louisiana* 992 So.2d 446 (La. Sup. Ct. 2008), *cert. denied*, 129 S.Ct. 1988 (2009), 2009 U.S. LEXIS 2638.

Represented QEP Field Services in ensuring continued operations of major oil and gas field facilities. *QEP Field Services v. Ute Indian Tribe of the Uintah and Ouray Reservation* 2010 U.S. Dist. LEXIS 78844 (D.Utah 2011).

Led Modrall Sperling teams, and appeared as counsel of record, in representing *amici curiae*, including the Association of American Railroads, in a series of cases that have served to better define the scope of tribal jurisdiction over nonmembers in the areas of court jurisdiction, regulation, and taxation. *See, Dollar General Corp. v. Mississippi Band of Choctaw Indians*, U.S. Sup. Ct. No. 13-1496 (2016); *Strate v. A-1 Contractors, Inc.*, 520 U.S. 438 (1997), *Atkinson Trading Co. Inc. v. Shirley*, 520 U.S. 438 (1997) (taxation); *Plains Commerce Bank v. Long Family Land & Cattle Co.* 554 U.S. 316 (2008) (court jurisdiction).

Represented the City of Albuquerque in appellate review of rulings in an Endangered Species Act challenge to plans to use interstate diversions to support municipal water supplies. *See, Rio Grande Silvery Minnow v. Keys*, 333 F.3d 1109 (10th Cir. 2003).

Represented El Paso Natural Gas Company in appellate proceedings that resulted in the rule that federal court has initial jurisdiction to determine whether tort claims arising from nuclear incidents should be heard in state, federal, or tribal court. *See, El Paso Natural Gas Co. v. Neztosie*, 526 U.S. 473 (1999).

Counsel for Transwestern Pipeline Company in litigation yielding the rule that the arbitrator, not a court, may decide enforceability of arbitration agreements. *See, Transwestern Pipeline Co. v. Blackburn*, 831 S.W. 2d 735 (Tex. App. — Amarillo 1992).

Representative Transactions

Investment in Indian country: Advises and develops forms and standards for major national investment managers regarding transactions with Tribal Nations.

Rights-of-way: Counsels several pipeline and electric utility industry participants on acquisition, renewal, and maintenance of rights-of-way on federal and Native American Lands; counseled and prepared comments and objections posed to proposed regulations governing rights-of-way of U.S. Bureau of Land Management and Bureau of Indian Affairs.

Oil and gas development agreements: has advised exploration and production companies in negotiation, drafting, and planning for administrative approval of large-scale oil and gas development agreements on tribal lands.

Solar Energy Development: Served as Native American/Federal Indian Law counsel to K Road Energy with respect to leases of tribal lands for large scale photovoltaic developments on lands of the Moapa Reservation, Nevada; Chemehuevi Reservation, California; and others.



Advised Sempra Energy regarding utility-scale wind energy project development on the Navajo Nation, Arizona, and power purchase agreement with multiple tribal utilities in Arizona, Nevada, and California.

Negotiated and drafted oil and gas exploration and production leases, joint venture agreements, and pipeline rights of way agreements, Navajo Nation, Arizona and New Mexico; Southern Ute Tribe, Colorado; Northern Ute Tribe, Utah; Jicarilla Apache Nation, New Mexico; and Wind River Reservation, Wyoming.

Represented Portland General Electric in negotiation and drafting of joint venture agreement for the Pelton/Round Butte Hydro-Electric Project with Confederated Tribes of the Warm Springs Reservation, Oregon.

ACTIVITIES

- The American Law Institute (ALI), Member, 2012-present and Advisor to Proposed Restatement of the Law of the American Indian (2014-present)
- American College of Environmental Lawyers (ACOEL), Fellow (2014-present)
- U.S. Supreme Court Historical Society, New Mexico State Chair, 2008-2011
- American Bar Association, Section of Environment, Energy and Resources, Membership Officer, 1998-2000, Member of Council, 1995-1998; Chair, Committee on Native American Natural Resources 1992-1994; Member, Sections of Litigation, Dispute Resolution, International Law, and Public Utilities
- State Bar of New Mexico, Chair, Natural Resources Section, 1982-1984; Board of Directors, Indian Law Section, 1990-1997, 2002-2004
- Utton Center for Transboundary Resources, Advisory Council, 2003-present, Executive Committee, 2010-present
- Rocky Mountain Mineral Law Foundation, Board of Trustees (at large), 1995-1997, 2005-2008

NEWS & ARTICLES

News

39 Modrall Sperling Attorneys Recognized in Best Lawyers

Posted on [December 1, 2020](#) By [Daniel Schueler](#)

***Benchmark Litigation* Highly Recommends Modrall Sperling**

Posted on [November 21, 2019](#) By [Daniel Schueler](#)

30 Modrall Sperling Shareholders Listed in *Best Lawyers*®, Nine Named “Lawyer of the Year”

Posted on [August 15, 2019](#) By [Daniel Schueler](#)

***Chambers USA* Honors 18 Modrall Sperling Attorneys**

Posted on [June 4, 2019](#) By [Daniel Schueler](#)

Articles

Modrall Sperling Attorneys Recognized by *Best Lawyers*® 2019

August 15, 2018

By [Daniel Schueler](#)

Supreme Court Declines Review of Tenth Circuit Case Holding Tribal Acquisition of an Interest



in an Allotment Defeats Eminent Domain Authority

July 3, 2018

By Deana M. Bennett and Lynn H. Slade

Supreme Court Ducks Addressing “Immovable Property” Exception to Tribal Sovereign Immunity

June 18, 2018

By Lynn H. Slade

Potential Hurdle to Right-of-Way Acquisition and Renewals: The Tenth Circuit Holds Tribal Acquisition of an Undivided Interest in an Allotment Defeats Congressional Eminent Domain Authority

September 5, 2017

By Deana M. Bennett and Lynn H. Slade

BIA Regulations on Appraisal/Valuation of Indian Property

August 1, 2017

By Lynn H. Slade

The Silver Lining: Efficiencies in BIA’s Newly Effective Right-of-Way Regulations

August 23, 2016

By Deana M. Bennett and Lynn H. Slade

Equally Divided United States Supreme Court Affirms Tribal Jurisdiction over Tort Claims Against Nonmembers

August 17, 2016

By Lynn H. Slade

Indian Law Cases Pending Before the Supreme Court Worth Following

March 18, 2016

By Brian K. Nichols, Lynn H. Slade and Sarah M. Stevenson

Four Changes to BIA’s Right-Of-Way Regulations That Grantees and Applicants Should Know

March 8, 2016

By Deana M. Bennett and Lynn H. Slade

State Taxation Precluded by Extensive and Exclusive Federal Regulation of Indian Leasing

February 17, 2016

By Deana M. Bennett and Lynn H. Slade

Southern Ute Sues to Bar Applying BLM’s Fracking Rule to Tribal Oil and Gas

September 8, 2015

By Lynn H. Slade

Enforceability of Arbitration Provisions in Agreements with Tribes or Tribal Entities

July 15, 2015

By Deana M. Bennett and Lynn H. Slade

Balancing Opposing Cultural and Religious Beliefs on a Shared Reservation: Agency consideration of “Native American culture” not enough to demonstrate narrowly tailored compelling interest

May 28, 2015



By Lynn H. Slade and Sarah M. Stevenson

Deciphering Title to ‘Native American’ Land: Turf Battle on a Checkerboard?

June 13, 2011

By Lynn H. Slade

Tribal Sovereignty and Lending in Indian Country

November 15, 2002

By Lynn H. Slade

DISCOURSE

Presentations

- Jurisdiction and Indian Law in the Supreme Court: A Conversation on Recent Term, *Annual Meeting of the State Bar of New Mexico*, August 20, 2016, Santa Fe, New Mexico, Lynn H. Slade, Prof. Barbara Creel, Paul Spruhan
- Special Institute on Energy and Resource Development on Indian Lands, *Rocky Mountain Mineral Law Foundation, November 6-7, 2014, Tucson, Arizona, Chaired by Lynn H. Slade and Rebecca Watson*
- Tribal Energy in the Southwest, Law Seminars International, December 9-10, 2013, Sandia Resort & Casino, Albuquerque, New Mexico, Chaired by Lynn H. Slade and Tom Peckham, Norhaus Law Firm, LLP
- Indian Tribes: Business Partners & Market Participants: Strategies for Effective Trial/Industry Partnership for Development on Indian Lands, *Rocky Mountain Mineral Law Foundation Special Institute on Natural Resources*, 2011

Editorial Work

- Contributing Editor, Landman’s Legal Handbook, 5th ed., Rocky Mtn. Min. L. Fndn.

HONORS

- *Chambers USA Directories of America’s Leading Lawyers for Business*, recognized Nationwide in Native American Law, 2010-present; in New Mexico, Star Individual in Native American Law; and in Environment, Natural Resources & Regulated Industries, 2007-present
- *Benchmark Litigation The Definitive Guide to America’s Leading Law Firms and Attorneys*, Litigation Star, 2013-present
- *Best Lawyers* “Lawyer of the Year 2019, Oil and Gas Law – Albuquerque”
- *Best Lawyers* “Lawyer of the Year 2014, Oil and Gas Law – Albuquerque”
- *Best Lawyers* “Lawyer of the Year 2012, Native American Law – Albuquerque”
- *Best Lawyers* “Lawyer of the Year 2012, Natural Resources Law – Albuquerque”
- *Best Lawyers* “Lawyer of the Year 2011, Energy Law – Albuquerque”
- *Best Lawyers in America®* in Energy Law, Environmental Law, Native American Law, Natural Resources Law, Oil & Gas Law, 1989-present
- International Who’s Who of Environment Lawyers, 2007-present
- International Who’s Who of Mining Lawyers 2007- present
- *Martindale Hubbell AV®* Preeminent, based on a peer review
- *New Mexico Business Weekly*, “Best of the Bar – Native American Law” 2009
- *Southwest Super Lawyers®* (derived from a lawyer survey), 2007-present; “Top 25 New Mexico



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Super Lawyers™ 2007, 2009, 2010, 2014-2018, and 2020