



## Lynn H. Slade Shareholder

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### 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 40 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, 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. *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 has been named Lawyer of the Year for 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" 11 times by *Southwest Super Lawyers®*, and *Benchmark Litigation* recognizes him as a Litigation Star.

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

### 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

- Represented the Oklahoma Farm Bureau Legal Foundation, the Oklahoma Cattle Growers, the Petroleum Alliance of Oklahoma and other non-profit advocacy organizations in filing amicus curiae briefs in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020), and *Oklahoma v. Castro-Huerta*, 142 S.Ct. 2486 (2022).
- Counsel for Enel Green Power in defense of 150 MW wind generating facility against challenge by United States and Osage Minerals Council that wind tower excavations constituted mining requiring tribal mining lease. *United States v. Osage Wind, LLC*, 871 F.3d 1078 (10th Cir. 2017), *on remand*, N.D. Ok., No. 14-cv-704-JKF-JFJ.
- 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).

### 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.
- Negotiated and drafted oil and gas exploration and production leases and development agreements and joint venture agreements, and pipeline rights of way agreements, Navajo Nation, Arizona and New Mexico; MHA Nation, North Dakota; Southern Ute Tribe, Colorado; Ute Indian Tribe of the Uintah and Ouray Reservation, Utah; Jicarilla Apache Nation, New Mexico; and Wind River Reservation of the Northern Arapaho and Eastern Shoshone Tribes, Wyoming, and coal lease with the Crow Tribe.
- 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 Recently Completed Restatement of the Law of the American Indian, 2014-2022
- American College of Environmental Lawyers (ACOEL), Fellow, 2014-present; Co-Chair Outreach Committee, 2020-present; Board of Regents, 2022-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



## MODRALL SPERLING

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, 2003-2012; Executive Committee, 2010-2012
- Rocky Mountain Mineral Law Foundation (n/k/a The Foundation for Natural Resources and Energy Law), Board of Trustees (at large), 1995-1997, 2005-2008

## DISCOURSE

### Presentations

- *McGirt v. Oklahoma*: Natural Resource Development In Redefined Oklahoma “Indian Country,” Eugene Kuntz Conference on Natural Resources Law and Policy, Univ. of Oklahoma, October 2020
- “Tribal Energy and Resource Development,” Rocky Mtn. Min. L. Fnd., Special Institute on Energy and Resource Development, the Basics and Beyond,” co-presented with Thomas L Shipp, Sept. 2017
- “Tribal Consultation and Lessons Learned from *Standing Rock* and *Dakota Access*,” Navajo Nation Bar Association Annual Conference, co-presented with Walter E. Stern, June 2017
- 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, Nordhaus 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, 5<sup>th</sup> 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
- *Best Lawyers in America*® in Energy Law, Environmental Law, Native American Law, Natural Resources Law, Oil & Gas Law, 1989-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”
- *Benchmark Litigation The Definitive Guide to America’s Leading Law Firms and Attorneys*, Litigation Star, 2013-present
- International Who’s Who of Environment Lawyers, 2007-present
- International Who’s Who of Mining Lawyers 2007- present
- *Martindale Hubbell AV*<sup>®</sup> Preeminent, based on a peer review
- *New Mexico Business Weekly*, “Best of the Bar – Native American Law” 2009
- *Southwest Super Lawyers*<sup>®</sup> (derived from a lawyer survey), 2007-present; “Top 25 New Mexico Super Lawyers” 2007, 2009, 2010, 2014-2018, 2020-2022
- Lawdragon 500 Leading U.S. Energy Lawyers, 2023

## 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
- Railroads