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## In Memoriam: Professor Albert W. Stone

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# *IN MEMORIAM*

## **PROFESSOR ALBERT W. STONE**

**December 19, 1920 - April 9, 1997**

**David L. Pengelly\***

Emeritus Professor Albert W Stone, a primary architect of Montana's current water code and other natural resource legislation, passed away on April 9, 1997 after a lengthy battle with cancer. Albert W Stone was born on December 19, 1920 in Honolulu, Hawaii. He was raised and educated in California, graduating from the University of California, Berkeley. He later attended Duke University School of Law, where he obtained his degree in 1948. After a brief period of private practice in Los Angeles and Oakland and a stint in the United States Navy, Professor Stone was recruited to the University of Montana School of Law by Carl McFarland, who was then dean of the law school and president of the University of Montana.

After arriving at the University of Montana School of Law, Professor Stone was asked to develop a specialty in water law, which he did with outstanding success. One need only examine the various law review articles he authored in the 1950s and 1960s concerning the state of water law in Montana to understand his influence. When Professor Stone began teaching and writing about water law in Montana, there was no uniform or comprehensive water code. Early on he recognized the wholly inadequate treatment of groundwater within the existing Montana water code, and he became instrumental in the passage of the 1961 Montana groundwater code. Thereafter, he turned his attention to a more comprehensive water user code, which resulted in the passage of the Montana Water Use Act in 1973. For the first time, Montana had a comprehensive water use code. Any member of the bar who practices water law is influenced by the efforts of Al Stone.

When my family moved across the street from the Stone family in 1957, I came to know Al as the father of one of my close friends. I have fond memories of spending numerous hours at the Stone house, often being entertained by Al's acerbic sense of humor and being influenced by his expectation that his children give their best performance, whether in academics, sports or music.

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Later, I came to know him professionally as my own interests developed in the area of water law. As a Water Rights Hearing Examiner for the Montana Department of Natural Resources and Conservation, and later as an attorney, I continually looked to Professor Stone for guidance. He was always more than willing to be interrupted for a discussion of some issue of concern to me. He took great delight in exploring the legal implications of any problem I would present to him and he was always helpful in suggesting solutions, if not places to search for solutions. As a law student, I always found Professor Stone to be available for guidance and counseling. His dedication and expertise were commemorated by the Natural Resource, Energy, and Environment Law Section of the State Bar of Montana, which annually awards the Albert W. Stone Scholarship at the University of Montana School of Law.

Al Stone was not just an academic; he was also a devoted sportsman and father. He had particular love of fishing, skiing and hunting. Until I was old enough to obtain my own driver's license, Al Stone was the primary source of transportation for his children and their friends, including me, to the local ski areas. Sometimes the drive to Snowbowl with Al Stone at the wheel of his Volkswagon was more exciting than the actual skiing. Al also loved to fly and he piloted his own private plane. My first flying experience was with Al Stone piloting a small Cessna over the Mission Mountains north of Missoula. It took some time for my stomach to recover from the stall maneuver he executed with no warning. His gleeful reaction to my obvious discomfort suggested that this was his idea of a proper introduction to flying.

Of the many stories I have heard over the years regarding Professor Stone and his relationship with students, I think the following is the best example of both his expectation of academic performance and his dry sense of humor. This story, supposedly having occurred sometime in the 1960s, has been passed down through generations of law students. Legend has it that one of Al's students became a fairly close personal friend through their mutual interest in waterfowl hunting. This particular student apparently had the misunderstanding that because of his personal, non-academic association with Professor Stone, he would be able to slide by in the water law class. The student therefore spent considerably more time in pursuit of ducks and geese than he did in studying water law. After the final exam was taken and grades were given, the student was shocked to learn that he had received a D in water law. The student, in great dismay, went to visit Professor Stone to inquire as to how this terrible travesty could have occurred. Professor Stone is reputed to have looked the student straight in the eye and remarked, "Yes, you received a D, as in Duck."

Another of Professor Stone's great loves was fly-fishing. As a spin-

off of this personal interest, he spent a great deal of time researching and writing about instream flow issues. He was also instrumental in the passage of Montana's current Stream Access Legislation.

Professor Stone's outlandish ties, his dry sense of humor and his keen intellect will be sorely missed by all who knew him personally and by any professional practicing water law or natural resource law in Montana.

### **Editor's Note**

Professor Stone's ties with the Public Land & Resources Law Review reach back to its inception. In 1980, he was the inaugural speaker at the law review's first Public Land Law Conference and he contributed an article to the first volume of the journal. Professor Stone continued his close ties throughout his life, contributing to the journal again in 1992. Professor Stone served on the Advisory Council for the law review from its first year until his passing. This issue of the Public Land & Resources Law Review is dedicated to his memory.

