

NATURAL RESOURCES LAW
Spring 2008
Prof. Mary C. Wood
Syllabus

Class time: Tues. 6:30 – 8:20 p.m., rm. 142

Text: Laitos, Zellmer, Wood, Cole, NATURAL RESOURCES LAW (West 2006)

Handouts will be available on Blackboard. If a student misses a class she or he is responsible for acquiring any handouts for that class. A master set of all handouts will be maintained by Jill Forcier, third floor (6-3845). Students will be responsible for understanding the content of all reading assignments whether or not discussed in class.

Attendance:

Attendance is mandatory, and **unexcused absences will affect the final grade received in the course**. Students will be expected to keep an attendance record and submit it at the end of the semester. Each student may have two unexcused absences without affecting his/her grade, however every unexcused absence thereafter **will** affect the grade by lowering the student's overall score in the class by 5% (for each absence). Excused absences will not affect the grade. Excused absences include absences due to illness, compelling family needs, work demands and job interviews. Attending conferences, doing outside extracurricular work and vacationing are **not** excused absences.

Grading:

Ninety percent (90%) of the grade in this class will be based on a two-hour exam.

Class participation and synthesis questions:

Students should prepare all assigned discussion questions and problems in advance of class to maximize the quality of class participation. Ten sessions will have Synthesizing Questions posted on blackboard in advance of the session. These are questions designed to tie together the materials in the reading. Students must prepare such questions (in writing) and post them on Blackboard in advance of class. While not graded, the ten sets together provide 10% of the grade. Thus, a student who turns in all 10 sets will receive the maximum points (10 points) while a student who turns in 5 sets will receive only 5 points. Half credit may be given for incomplete answers. *In order to mitigate any Blackboard failure, students must keep a personal copy of all sets of synthesis questions until grades have been entered for the class. Students should be prepared to re-send the sets upon request by Professor Wood.*

Summary of course requirements/grade allocation:

Exam – 90%

Synthesis Questions – 10%

Assignments/Topics:

PART I: ECOLOGICAL APPROACHES TO NATURAL RESOURCES LAW

Class #1

Topic:

1. Introduction to course
2. Biodiversity and sustainability as underlying themes to natural resources law

Assignment:

Text, pp. 71-130

Discussion questions:

- 1) How will global warming affect natural resources?
- 2) Will the law respond adequately to changes caused by climate crisis? What principles should inform a paradigm shift?

PART II: PROCEDURAL FRAMEWORK OF NATURAL RESOURCES LAW

Class #2

Topic:

1. Constitutional framework of natural resources law
2. Standing principles
3. Timing of lawsuits: final agency action, exhaustion, ripeness, mootness
4. Judicial review of agency action
5. Citizen suits

Assignment:

Text, pp. 131-133 (top), 137-158, 163-175, 189-199 (top of page)

Synthesis Question Set #1

Class #3

Topic:

The National Environmental Policy Act (NEPA)

1. Administration and enforcement
2. Threshold requirements

Assignment:

Text, pp. 207-228, 237-256

Prepare problem, page 251 (and following questions)

Class #4

Topic:

NEPA continued

1. Adequacy of the EIS
2. New information
3. Exceptions from NEPA's obligations

Assignment:

Text, pp. 256-265, 272-285, 288-92

Read NEPA problems for in-class discussion (posted on Blackboard) (note – these are NOT synthesis questions. No submission necessary).

PART III: OWNERSHIP OF NATURAL RESOURCES

Class #5 -- (Note: Professor Wood is giving an out-of-town keynote address. This session will be rescheduled.)

Topic:

1. Introduction to ownership

- a. Historical foundation of ownership
- b. Constitutional framework of ownership

Assignment:

Text, pp. 310-341

Synthesis Question Set #2

Class #6

Topic:

1. Sovereign ownership of natural resources
 - a. Equal footing doctrine
 - b. Public trust doctrine
 - c. Waters
 - d. Federal navigational servitude
 - e. Wildlife

Assignment:

Text, pp. 341- 372

Synthesis Question Set #3

Class #7 This class will be a special session on global warming, conducted with an audience (by video) at University of Montana. The time and place for this session will be adjusted accordingly

Class #8

Topic:

1. Federal public lands – an introduction
2. National forests – a case study in federal administrative discretion

Assignment:

Text, pp. 373-424 (top); 441-45

Synthesis Question Set #4

Class #9

Topic:

1. Tribal ownership

Assignment:

Text, pp. 531-540 (top); 545 (Wood article) -552; 572-603

Video clip (Spokane Tribe NRD/Lake Coeur d'Alene)

Synthesis Question Set #5

Class #10

Topic:

1. State lands ownership
 - a. Grant lands
 - b. Public trust doctrine

Assignment:

Text, pp. 604-654

Synthesis Question Set #6

Class #11

Topic:

1. Private lands ownership
 - a. changing conceptions of property
 - b. takings doctrine
 - c. conservation easements

Assignment:

Text, pp. 655-90; 706-21

Synthesis Question Set #7

PART IV: REGULATION OF LAND AND RESOURCES

Class #12

Topic:

1. Land Use regulation
 - a. State land use laws
 - b. Federal land use regulation

Assignment:

Text pp. 723-42; 749-54; 759-67; 814-24; 829-31

Synthesis Question Set #8

Class #13

Topic:

1. Wildlife law
 - a. state schemes
 - b. federal regulation

Assignment:

Text, pp. 1178-1179 (through first full par. at top of page only); 1192-1201; 1231-1272

Video clip (God Squad proceeding, northern spotted owl)

Synthesis Question Set #9

Class #14

Topic:

1. Water law
 - a. introduction to appropriation schemes
 - b. regulation of water appropriation

Assignment:

1071-1085; 1094-1114; 1129-1142; 1155-1161

Synthesis Question Set #10