

## Natural Resource Policy & Administration - NRSM 422

(undergraduate/graduate credit)

Fall 2016, 3 credits, TR 9:30—10:50 am, FOR #106

### Instructor Information:

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### Course Description:

This course examines public land and resources policy, law and administration from multiple perspectives. It covers environmental and administrative decision making and various contemporary resource management problems and conflicts. A number of substantive policy areas are examined including national forests, public rangelands, water, wildlife and biodiversity, and protected areas, among others. These substantive areas are approached and analyzed in a number of different ways.

### Required Reading:

(1) James Rasband, James Salzman, and Mark Squillace, *Natural Resources Law and Policy*, 3d ed. (New York: Foundation Press, 2016). 1539 pp.

\*The textbook is outrageously expensive and I apologize for the cost. Please feel free to use a cheaper first or second edition of the text if you can find it elsewhere. It also can be rented from Amazon.com for a much more reasonable price. I have placed ~12 copies of the 2d edition on reserve in the library. The UM Bookstore has paid students a little under half the price of the text during book buyback. I have decided to stay with this textbook because of feedback from multiple classes that strongly recommended its continued use.

Another excellent (and more concise and affordable) text that can be used to supplement the Rasband text is Sandra B. Zellmer & Jan G. Laitos, *Principles of Natural Resources Law* (West Academic Publishing, 2014).

(2) Lecture notes: my lecture notes are available at the bookstore. They are required and students will not be able to follow class sessions without them.

For law summaries and test preparation I also recommend the Redlodge Clearinghouse: [Know the Law](#).

The case law discussed in class can be most easily accessed by using *Google Scholar* (case law search).

The best news coverage of natural resource policy issues is provided by *Greenwire*, through [Environment & Energy Publishing](#) (can be accessed for free through the library).

## Learning Outcomes:

Students successfully completing the course will:

1. Acquire a substantive understanding of natural resources policy and management in the U.S.
  - Understand the relationship between law and policy and resources management in the U.S., with a focus on the primary majors in the College of Forestry and Conservation (forestry—as required by SAF, wildlife biology, resource conservation, recreation, restoration, and other environmental sciences).
  - Understand basic decision making/planning processes
  - Understand key environmental laws and policies and how they work on-the-ground in a management setting
  - Understand various approaches to different sets of policy problems
2. Be able to think critically about a number of natural resource policy problems and solutions.
  - Understand the nature of various policy disputes
  - Evaluate the assumptions, strengths, and weaknesses of various reform measures and policy proposals
  - Approach problems and issues in an integrated and intellectually rigorous fashion
3. Have the ability to apply acquired knowledge to their field of study or professional/personal interest(s)
  - To make connections between policy and law to real-world management problems in forestry, resource conservation, wildlife management, recreation, and the environmental sciences.

## Student Responsibilities & Grading:

### Class Participation:

My classes are proactive and conversational in nature. Thus, *all* students must not only have read the reading assignment *prior* to class, but must be ready to discuss the readings on a regular basis. I am seeking input from the entire class, not just from a few committed students. Thus, students need to know when to speak up and when to stay quiet. If discussion is poor, unannounced pop-quizzes may be given. Therefore, it is in the collective interest of the class to participate. Any student who misses class for any reason will be held responsible for all materials covered and all announcements made during his/her absence. Don't ask me for missed handouts or about material that was covered unless you have a validated excuse. Chronic tardiness is rude. Please turn off your cell phones before entering class.

### Respect:

Given the amount of discussion expected in this course, showing respect for others is paramount and is taken very seriously. We will strive towards an engaging but respectful open forum in which numerous opinions can be discussed and explored.

### 3 Exams (100pts each):

There are three exams consisting of short answer questions. I will provide possible test questions two weeks in advance of each exam. The third exam is scheduled for **Thursday, December 14<sup>th</sup> 10.10—12.10**. Make-up exams will only be given for University policy-excused reasons and they will be re-scheduled at my convenience. Exams are graded by a teaching assistant and myself.

### **Academic Honesty:**

All students must practice academic honesty. Academic misconduct is subject to an academic penalty by the course instructor and/or a disciplinary sanction by the University. All students need to be familiar with the Student Conduct Code. The Code is available for review online at [Student Conduct Code](#).

### **Grading Scale:**

The following scale will be used to translate points into grades.

93-100: A  
90-92: A-  
88-89: B+  
83-87: B  
80-82: B-  
78-79: C+  
73-77: C  
70-72: C-  
68-69: D+  
63-67: D  
60-62: D-  
59- F

### **Points**

Exam 1: 100pts  
Exam 2: 100pts  
Exam 3: 100pts  
Total: 300pts

## **COURSE READINGS & CLASS SCHEDULE**

This syllabus is very tentative and may regularly change. Bring this schedule to each class session for regular updates and additional or subtracted readings. *All readings are to be done before class.* Given time constraints, some areas may have to be sacrificed, and individual reading will have to take its place. Students must be willing to read and be responsible for text material that may not be covered in class. Dates have been left open in order to increase flexibility and allow for maximum class participation and discussion. This type of open schedule, however, requires that students come to class to find out where we are and where we're going. I will inform students before upcoming sections of what readings they should pay particular attention.

### **Reading the Text:**

I'm sure you have noticed the density of our text for this semester. I have chosen it because of its integrated and comprehensive approach to public land and resources policy, law and administration. Previous surveys of this course also informed me that a majority of students wanted a comprehensive and detailed text that they could keep and use as a future resource and reference. Please don't be intimidated by this book: we will work our way through it and I will tell you exactly what you are to read and understand. In general though, it's a good idea to read the selected sections while skipping the extended question sections and case law sections, as this will make the reading much lighter. Those students really interested in the subject matter can of course read all of it and then some. You are also not expected to memorize the cases, nor understand the intricacies of the American legal system. Again, I will tell you what you need to know and why it is important. I've also placed on e-reserve a few tutorials on how to read legal cases, see "An Introduction to Legal Research and Citation," and "Understanding Legal Citations."

\*Unless otherwise noted, case law and question sections in the following readings are optional.

\*If you found a cheaper first or second edition textbook, please see required reading in parentheses (e.g., 1<sup>st</sup> ed. pp. x-x).

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## **TOPICS & READINGS**

Before reading, be sure to check what edition of the text you are using. Readings from the second and first editions of the text are in parentheses.

### **The Historical and Constitutional Geography of Natural Resources Policy**

Historical context of federal lands management

Constitutional context of natural resources law and policy

Reading: Chapter 2 focusing on:

I. Introduction, pp. 91-93 (2<sup>nd</sup> ed. pp. 80-82) (1<sup>st</sup> ed. 79-80)

II. Acquisition of the Public Lands, pp. 93-100 (2<sup>nd</sup> ed. pp.82-88) (1<sup>st</sup> ed. 80-89)

III. Federal Disposition of the Nation's Resources, pp. 129-144; (2<sup>nd</sup> ed. pp. 94-95, 115-126, 129-133, 139-141 (#s 4, 5)). (1<sup>st</sup> ed. 94-95, 115-126, 129-132, 139-140)

IV. Federal Power Over Natural Resource Management, pp. 146-150, 159-165, 174-177 (including *Kleppe v. New Mexico* 1976) (2<sup>nd</sup> ed. pp. 146-148 (*Kleppe v. New Mexico*), 156-157, 184-185) (1<sup>st</sup> ed. 144-146 (*Kleppe v. New Mexico*), 154-157, 182-184)

### **Agency Decision Making and Planning**

Administrative rulemaking; Administrative Procedure Act; Judicial review and agency decision making

The National Environmental Policy Act (NEPA)

Reading: Chapter 3 focusing on:

I. The Federal Natural Resource Agencies, pp. 231-240 (2<sup>nd</sup> ed. pp. 214-220) (1<sup>st</sup> ed. pp. 207-216)

II. Improving Agency Decision-making—The Administrative Procedure Act, pp. 245-247, 249-259 (2<sup>nd</sup> ed. pp. 223-233, including *Northern Spotted Owl v. Hodel* (but not including section on 2. Adjudication)) (1<sup>st</sup> ed. pp. 220-227)

II (B). The Role of Nongovernmental Organizations, pp. 263-271 (2<sup>nd</sup> ed. pp. 236-241) (1<sup>st</sup> ed. pp. 233-240, 251-253)

III. Improving Agencies' Environmental Decision-making (NEPA), pp. 291-302, 314-316, 324-330 (2<sup>nd</sup> ed. pp. 258-268, 277-279 (Essential Elements of an EIS), 285-286, 288-289, 290-292) (1<sup>st</sup> ed. pp. 253-263, 271-273, 283-294)

### **Western Water Policy**

Reading: Chapter 7: (I will give students more direction on what to read prior to this unit—the focus will

be on riparian doctrine, prior appropriation doctrine, Indian water rights, the public trust doctrine, and reserved water rights for federal lands).

II. Understanding the Water Resource, pp. 819-840 (2<sup>nd</sup> ed. pp. 739-758) (1<sup>st</sup> ed. pp. 703-727)

III. The Law of Water Allocation, pp. 842-908 (2<sup>nd</sup> ed. pp. 758-825) (1<sup>st</sup> ed. 727-794)

IV. Indian and Federal Reserved Water Rights, pp. 926-949, including *Winters v. United States*, 1908 (2<sup>nd</sup> ed. pp. 825-888 (including *Winters v. United States*, 1908)) (1<sup>st</sup> ed. pp. 794-802 including *Winters v. United States*, 1908)

**Exam I: TBD (with 2 weeks' notice)**

**Hardrock Mining: History, Law, and Politics**

1872 Hardrock/General Mining Law; the politics of reform; brief contrast to Mineral Leasing Act

Reading: Chapter 9 focusing on:

I. An Introduction to Mining, pp. 1134-1140(2<sup>nd</sup> ed. pp. 1022-1026) (1<sup>st</sup> ed. 980-984)

III. The General Mining Law of 1872, pp. 1183-1193 (2<sup>nd</sup> ed. pp. 1077-1086) (1<sup>st</sup> ed. 1033-1041)

V. Environmental Regulation of Mining, pp. 1269-1277 (2<sup>nd</sup> ed. pp. 1170-1174) (1<sup>st</sup> ed. 1121-1136)

& read also public choice section on pp. 72-73, 241-242 (2<sup>nd</sup> ed. pp. 219-220 (1<sup>st</sup> ed. 58-62) and Chapter 10 focusing on The Mineral Leasing Act, pp. 1305-1310.

Note: I'll send the class an email with the following concise summary and discussion of the 1872 Mining Law: Marc Humphries, *Mining on Federal Lands: Hardrock Minerals* (Washington, D.C.: Congressional Research Service, 2008).

**Public Rangeland Policy**

Public rangelands managed by BLM; multiple use management

Reading: Chapter 8 focusing on:

II. Home on the Range, pp. 1012-1036 (2<sup>nd</sup> ed. pp. 913-934) (1<sup>st</sup> ed. 880-896)

III-IV, pp. 1036-1080 (2<sup>nd</sup> ed. pp. 949-973, 1011-1015 (including *National Wildlife Federation et al. v. BLM* (1997)), (1<sup>st</sup> ed. 915-921, 937-938)

V. Rangeland Reform, pp. 1082-1122(2<sup>nd</sup> ed. pp. 975-983) (1<sup>st</sup> ed. 940-969)

Required case reading: *Natural Resources Defense Council v. Hodel*, 624 F. Supp. 1045 (D. Nev. 1985) and *National Wildlife Federation et al. v. BLM*, 140 I.B.L.A. 85 (1997) (both cases found in textbook)

**Forest Policy and Resources Planning**

The National Forest System; National Forest planning

Reading: Chapter 11—please skim all of this chapter, but read carefully Part IV. Forestry Law—the National Forests.

And Chapter 3 focusing on: Resource Planning on Public Lands, pp. 332-361 (2<sup>nd</sup> ed. pp. 292-319) (1<sup>st</sup> ed. 283-294)

**Exam II:** TBD (with 2 weeks' notice)

**The Endangered Species Act (ESA)**

Reading: Chapter 4 focusing on:

- I. Life on Earth, pp. 365-377 (2<sup>nd</sup> ed. pp. 320-338) (1<sup>st</sup> ed. 310-328)
- III. The Endangered Species Act, pp. 395-491 (2<sup>nd</sup> ed. pp. 348-426) (1<sup>st</sup> ed. 339-425)

**Protected Lands Policy**

Politics of preservation; National Parks and Monuments; The Wilderness Act and contemporary wilderness politics.

Reading: Chapter 6 focusing on:

- I. Introduction, pp. 635(2<sup>nd</sup> ed. pp. 577-582) (1<sup>st</sup> ed. 553-558)
- II. The Case for Preservation/Darker Side of Preservation, pp. 641-658(2<sup>nd</sup> ed. pp. 582-599) (1<sup>st</sup> ed. 558-572)
- III. National Parks, pp. 661-684 (2<sup>nd</sup> ed. pp. 599-619) (1<sup>st</sup> ed. 574-593)
- IV. National Monuments, pp. 686-702 (2<sup>nd</sup> ed. pp. 619-635) (1<sup>st</sup> ed. 593-609)
- VI. Wild and Scenic Rivers, and LWCF, pp. 743-746 (2<sup>nd</sup> ed. pp.662-673) (1<sup>st</sup> ed. 641-648, 644-645)
- V. Wilderness, pp. 707-735 (2<sup>nd</sup> ed. pp. 636-661) (1<sup>st</sup> ed. 609-641)
- VII. Preservation on Multiple Use Lands, pp. 748-750

**Semester Review and Discussion**

Review and analysis

**Exam III: Thursday, December 14<sup>th</sup> 10.10—12.10 in FOR #106.**