

# WILDLIFE POLICY—WILD 410

Spring 2017, 9.30—10.50; TR; Room: Education #214

## Instructor Information

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## Course Description

This course examines wildlife law, policy and politics from multiple perspectives. Students are provided an intense introduction to the legal framework of fish and wildlife management in the United States (with coverage of U.S. and state constitutions, key wildlife statutes, administrative regulations, and case law). The political context of wildlife management is provided so that students can better understand the conflicts and tensions in the field. A major part of the class focuses on the Endangered Species Act. This important law is used as a way to investigate a number of broader challenges and opportunities related to the conservation of biological diversity. The class is organized as a discussion-oriented large seminar with roughly thirty undergraduate students. Most sessions will include a very short background lecture followed by more in-depth class discussions on assigned readings. This is not a lecture-based course and students should feel comfortable with group discussion of readings and multiple class presentations.

*WILD 410 v. NRSM 422 Natural Resources Policy:* There is no prerequisite for WILD 410 but students are strongly encouraged to first take NRSM 422. The latter provides a foundational introduction to the field of natural resources law and policy, with a wider focus on federal land management, water law, and the National Environmental Policy Act (NEPA). There will inevitably be some overlap between the two courses but WILD 410 is designed to provide students a more narrow and specialized introduction to policy and politics, with a focus on wildlife conservation.

## Required Reading

Eric T. Freyfogle & Dale D. Goble, *Wildlife Law: A Primer* (Washington, D.C.: Island Press, 2009)

All additional required and recommended reading is on the course's moodle page: [Moodle Link](#)

\*We will also discuss a number of contemporary issues in wildlife policy. An excellent way to stay up-to-date is to review stories published daily by [EE News and Greenwire](#).

\*A number of species will be discussed in the context of the Endangered Species Act. Species Profiles—with regulatory and planning backgrounds and documents—are available at the Environmental Conservation Online System, at <http://ecos.fws.gov/ecos/home.action>.

### **Learning Outcomes**

Students successfully completing the course will:

1. Acquire a substantive understanding of U.S. wildlife policy
  - Learn how to read and interpret statutes, administrative regulations, and case law and understand the intersections between them
  - Understand the legal and political context of U.S. wildlife policy and management
  - Understand the role played by federal, state, and tribal governments in wildlife policymaking and management
  - Understand the basis of enduring conflicts and tensions in the field
  
2. Be able to think critically about a number of wildlife policy problems and solutions.
  - Understand the nature of wildlife policy disputes and challenges
  - 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)

### **Assignments & Assessment**

#### **Class Participation:**

I reserve the right to consider class participation and attendance when assigning final grades—a sort of tie-breaker. I will do so especially for those students who may be on the cusp of grade. A student, for example, earning a B+ or 89% in final points could possibly be bumped to an A- if he/she was a fully engaged and informed class participant that never missed a class. On the other hand, if a student rarely participated during the semester and has a shoddy attendance record, a C- score would stay a C- score. Please be fully engaged or at least try to pretend and act as though this is the most exciting and enlightening class that you have ever taken and that you never want it to end.

All students must read the reading assignments prior to class and 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. 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. Do not ask me for missed handouts or about material that was covered unless you have a validated excuse. Chronic tardiness is rude and please shut off your cell phones. 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. Personal attacks will not be tolerated.

**2 Exams (100 pts each, 200 pts total):**

There are two written exams consisting of short answer and/or essay questions (in-class or take-home). I will provide possible exam questions two weeks in advance of each exam. The midterm will be scheduled sometime during the middle of the semester (between weeks #7-9). The final exam is scheduled for **May 8<sup>th</sup>, 8.00-10.00 am**. Make-up exams will only be given for University policy-excused reasons and they will be re-scheduled at my convenience.

**3 Short Written Assignments: (20 points each, 60pts total):**

Students will be asked to write three 2-3 page written assignments or policy position papers at different points of the semester. The papers will be graded for substance and style and they will be mostly based on our assigned and recommended readings. I will provide students with at least one week advance notice before papers are due. The papers will test a student’s ability to think and write clearly, efficiently, and critically on contemporary topics in wildlife policy and politics. The papers will include a one paragraph “executive summary” that may be shared verbally with the class and serve as the basis of class discussions. The paper assignments will closely track our class presentations and group discussions.

Papers will be graded on the basis of (1) writing and style (including clarity, level of articulation, and grammar), (2) level of critical analysis, research, specificity and detail, and (3) amount of synthesis and integration of course readings and discussions. I am also looking for formal citation (whatever style you prefer, e.g., parenthetical reference, footnote, endnote, legal, etc., just make sure you are consistent throughout, citing author, title and all publication information).

**Class Presentations (5 pts each, 15 pts. total):**

Students will participate in three group and/or individual class presentations (focused on the North American Model of Wildlife Conservation, Issues/Cases in ESA decision making, and ESA reform). Students will work with groups, in and out of class, before presentations are made. This should be an easy 15 points for those students who show up, share the workload, and play well with others. However, points will be deducted if a student doesn’t prepare sufficiently and adds little contribution to the group assignment.

**Grading Scale & Points:**

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

Grade Range	Description
93-100: A	Points
90-92: A-	
88-89: B+	Written exams: 100pts x 2 = 200 pts
83-87: B	Written papers: 20pts x 3 = 60 pts
80-82: B-	Class presentations: 3 x 5pts: 15 pts total
78-79: C+	Total points: 275 pts
73-77: C	

Grade Range	Description
70-72: C-	
68-69: D+	
63-67: D	
60-62: D-	
59- F	

## Course Guidelines and Policies

### Equal Access

The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors and [Disability Services for Students](#) (DSS). If you think you may have a disability adversely affecting your academic performance, and you have not already registered with DSS, please contact DSS in Lommason 154 or 406.243.2243. I will work with you and DSS to provide an appropriate modification.

### 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](#).

### Plagiarism

The following is taken directly the [UM Catalog \(2015-2016\) Academic Policies and Procedures](#):

“Plagiarism is the representing of another's work as one's own. It is a particularly intolerable offense in the academic community and is strictly forbidden. Students who plagiarize may fail the course and may be remanded to Academic Court for possible suspension or expulsion.

Students must always be very careful to acknowledge any kind of borrowing that is included in their work. This means not only borrowed wording but also ideas. Acknowledgment of whatever is not one's own original work is the proper and honest use of sources. Failure to acknowledge whatever is not one's own original work is plagiarism.”

## 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 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.

**About the “Recommended” Reading:** Listed below, and found on the course moodle page, are several recommended readings. Everything not listed as recommended or background reading is required reading. The recommended readings provide a different perspective and/or a more in-depth treatment of a topic. They can also be used in preparing for exams, class presentations and written assignments. If

you are having trouble with one of the required readings, be sure to try one of the recommended readings for a different way of presenting material.

## TOPICS & READINGS

### **Introduction to Wildlife Law, Policy & Politics**

Primer on structure and forms of wildlife law (and the relationship between U.S. and state constitutions, statutes, regulations/rules, and case law).

Freyfogle & Goble, *Wildlife Law*, Ch. 1; pp. 305-308.

#### **1. The Public Trust in Wildlife**

The public trust doctrine and applications to wildlife management; state sovereign ownership of wildlife

Freyfogle & Goble, *Wildlife Law*, Ch. 2. & 5 (with focus on pp. 96-107)

Michael C. Blumm and Aurora Paulsen, "The Public Trust in Wildlife," *Utah Law Review* 6 (2013): 1437-1504.

The Wildlife Society, *The Public Trust Doctrine: Implications for Wildlife Management and Conservation in the United States and Canada* (Bethesda, MD: The Wildlife Society, 2010) (please skim)

Recommended: Jeremy T. Bruskotter, Sherry A. Enzler, and Adrian Treves, "Rescuing Wolves from Politics: Wildlife as a Public Trust Resource," *Science* 333 (2011): 1828-1829.

Recommended: Christian A. Smith, "The Role of State Wildlife Professionals Under the Public Trust Doctrine," *The Journal of Wildlife Management* 75, no. 7 (2011): 1539-1543.

Recommended: Center for Biological Diversity, Inc. v. FPL Group, Inc., California Court of Appeal, 83 Cal. Rptr. 3d 588 (2008) (wind turbine operations, raptors, and the public trust doctrine in California)

#### **2. The Constitutional Context of U.S. Wildlife Management**

Introduction to the U.S. Constitution's treaty power, property clause, commerce clause, wildlife federalism, federal preemption, and the takings clause

##### **a. The Property Clause & Federal Preemption**

Freyfogle & Goble, *Wildlife Law*, Ch. 6.

Julie Lurman & Sanford P. Rabinowitch, "Preemption of State Wildlife Law in Alaska: Where, When, and Why," *Alaska Law Review* 24 (2007): 145-171.

Missouri v. Holland, 252 U.S. 416 (1920) (case focused on the U.S. Constitution and the Migratory Bird Treaty Act).

Kleppe v. New Mexico, 426 U.S. 529 (1976) (case focused on the Property Clause as it relates to wild horses and burros on federal land)

Recommended: *Hughes v. Oklahoma*, 441 U.S. 322 (1979)

Recommended: students may find it useful to skim the following two powerpoint presentations and focus on how they view federal and state powers: Kenneth P. Pitt, USDA, Office of the General Counsel, Wildlife Management Jurisdiction on National Forest System Lands (PDF powerpoint presentation, Mar. 23, 2011) and Association of Fish & Wildlife Agencies, The States: Trustees of America's Wildlife (PDF powerpoint presentation).

### **b. Wildlife, Private Property, and the Takings Clause**

Freyfogle & Goble, *Wildlife Law*, Ch. 4 (and review pp. 117-121)

*Andrus v. Allard*, 444 U.S. 51 (1979) (case focused on takings as it applies to the Eagle Protection and Migratory Bird Treaty Acts)

Recommended: *Kafka v. Montana Department of Fish, Wildlife, and Parks*, 201 P. 3d 8 (Mont. Supreme Court, 2008) (case focused on takings as it applies to operation of game farms)

### **3. Indian Tribal Rights**

Freyfogle & Goble, *Wildlife Law*, Ch. 8.

O. Yale Lewis III, "Treaty Fishing Rights: A Habitat Right as Part of the Trinity of Rights Implied by the Fishing Clause of the Stevens Treaties," *American Indian Law Review* 27, no. 1 (2002/03): 281-311.

*Washington v. Washington State Commercial Passenger Fishing Vessel Association*, 443 U.S. 658 (1979) (focus on pp. 1-15) (U.S. Supreme Court decision focused on tribal reserved fishing rights in the Northwest)

*U.S. v. Washington*, 827 F. 3d 836 (9<sup>th</sup> Cir. 2016) (the latest decision on Tribal fishing rights in the Northwest, the so-called "culverts" decision focused on habitat). *See also* "13-35474 USA v. State of Washington," on [YouTube](#) (to view state and federal arguments in the culverts case)

Ben Goldfarb, "The Great Salmon Compromise," *High Country News* (Dec. 8, 2014) (discussing tribal fishing rights in the context of the Columbia Basin Fish Accords and the politics of salmon recovery) (pdf on moodle and also available online [here](#))

Recommended: Ed Goodman, "Protecting Habitat for Off-Reservation Tribal Hunting and Fishing Rights: Tribal Co-management as a Reserved Right," *Environmental Law* 30 (2000): 279-362.

Recommended: Michael C. Blumm and Jane G. Steadman, "Indian Treaty Fishing Rights and Habitat Protection: The Martinez Decision Supplies a Resounding Judicial Reaffirmation," *Natural Resources Journal* 49 (2009): 653-706 (an excellent overview of the litigation leading up to the 9<sup>th</sup> Circuit's culvert decision)

#### **4. State Wildlife Governance**

State game laws, wildlife funding and budgets, state wildlife commissions, ballot initiatives, the North American Model of Wildlife Conservation (and criticism of model)

Freyfogle & Goble, *Wildlife Law*, Ch. 7.

J.F. Organ et al., *The North American Model of Wildlife Conservation, The Wildlife Society Technical Review 12-04* (Bethesda, MD: The Wildlife Society, 2012) (we will break into groups to examine the Model's basic principles and applications)

Michael P. Nelson, et al., "An Inadequate Construct? North American Model: What's Flawed, What's Missing, What's Needed," *The Wildlife Professional* (Summer 2011): 57-60.

Martin Nie, "State Wildlife Policy and Management: The Scope and Bias of Political Conflict," *Public Administration Review* 64, no. 2 (2004): 221-233.

Cynthia A. Jacobson, et al., "A Conservation Institution for the 21<sup>st</sup> Century: Implications for State Wildlife Agencies," *The Journal of Wildlife Management* 74, no. 2 (2010): 203-209.

Case Study: Montana Ballot Initiative, I-177 (2016) (to provide animal trap restrictions on public lands in Montana) (Initiative and arguments found in Montana Voter Information Pamphlet)

Recommended: Susan G. Clark and Christina Milloy, "The North American Model of Wildlife Conservation: An Analysis of Challenges and Adaptive Options," in Susan G. Clark and Murray B. Rutherford, eds., *Large Carnivore Conservation: Integrating Science and Policy in the North American West* (Chicago: The University of Chicago Press, 2014), Ch. 9.

Recommended: Cindy McKinney, Lauren Ris, Heather Rorer, and Sara Williams, *Investing in Wildlife: State Wildlife Funding Campaigns* (School of Natural Resources and Environment, University of Michigan, 2005)

Recommended: Angus M. Thuermer, Jr., "Study: Non-Hunters Contribute Most to Wildlife," *WyoFile* (November 18, 2014), also available at [http://wyofile.com/angus\\_thuermer/study-non-hunters-contribute-most-to-wildlife/](http://wyofile.com/angus_thuermer/study-non-hunters-contribute-most-to-wildlife/) (providing link to study and reader comments)

Recommended: Stacey L. Gordon, "A Solution in Search of a Problem: The Difficulty with State Constitutional "Right to Hunt" Amendments," *Public Land & Resources Law Review* 35 (2014).

#### **5. Wildlife on Federal Lands**

The National Parks and National Wildlife Refuge Systems; Wildlife on multiple use lands managed by the USFS and BLM; wildlife management in federal wilderness

Freyfogle & Goble, *Wildlife Law*, Ch. 10.

Recommended: Bruce A. Stein, Cameron Scott, and Nancy Benton, "Federal Lands and Endangered Species: The Role of Military and Other Federal Lands in the Sustaining Biodiversity," 58(4) *BioScience* 339 (2008) (reviewing the significance of federal lands to biodiversity)

## **A. The National Wildlife Refuge System**

The National Wildlife Refuge System Improvement Act of 1997, Public Law No. 105-57 (1997) (the full statute is provided and to be used as a reference as needed).

Robert L. Fischman, "The Significance of National Wildlife Refuges in the Development of U.S. Conservation Policy," *Journal of Land Use & Environmental Law*, 21 (2005): 1-22.

Wyoming v. United States, 279 F. 3d 1214 (10<sup>th</sup> Cir. 2002) (case focused on the National Wildlife Refuge System and elk management in Jackson Hole, WY) (we will use this case to return to federalism issues and discuss the role of savings clauses in federal land laws).

Recommended: Brian Upton, "Returning to a Tribal Self-Governance Partnership at the National Bison Range Complex: Historical, Legal, and Global Perspectives," *Public Land & Resources Law Review* 35 (2014): 51-145 (we will discuss the National Bison Range and co-management options in federal lands management, as they pertain to Interior Dept. agencies).

## **B. Wildlife and the National Forest System**

Courtney Schultz, et al., Wildlife Conservation Planning Under the United States Forest Service's 2012 Planning Rule, *The Journal of Wildlife Management* 77, no. 3 (2013): 428-444.

2012 National Forest System Planning Rule, 77 Fed. Reg. 21162 (2012) (wildlife diversity provision at section 219.9 and discussed on pp. 13-15 and pp. 51-58)

U.S. Forest Service, *Applying the 2012 Planning Rule to Conserve Species: A Summarized Practitioner's Reference* (Washington, D.C., 2016).

Recommended: Jon Haber and Peter Nelson, *Planning for Diversity: A Guide to National Forest Planning to Conserve America's Wildlife* (Washington, D.C., 2015).

## **B. Wildlife and Federal Wilderness**

Sean Kammer, "Coming to Terms with Wilderness: The Wilderness Act and the Problem of Wildlife Restoration," *Environmental Law* 43 (2013): 83-124.

Letter to USFS Regional Forester, from Earthjustice, RE: Idaho Dept. of Fish and Game Wolf Killing Program in the Frank Church-River of No Return Wilderness (Oct. 14, 2014) (case focused on wolf control in Frank Church Wilderness in Idaho)

Recommended: Wilderness Watch v. U.S. Fish and Wildlife Service, 629 F. 3d 1024 (2010) (focused on wildlife management in the Kofa Wildlife Refuge and Wilderness Area)

## **Part II. The Endangered Species Act**

## 6. Background & Overview

Including background and contrast to other key federal wildlife laws (Lacey Act, Migratory Bird Treaty Act, and Bald and Gold Eagle Protection Act)

Freyfogle & Goble, *Wildlife Law*, Ch. 9, 11 & 12.

The Endangered Species Act (1973), 16 U.S.C. §1531 (the full statute is provided and to be used as a reference as needed).

Daniel J. Rohlf, "The Endangered Species Act at Forty: The Good, the Bad, and the Ugly," *Animal Law Review* 20 (2013-14): 251-275.

Recommended: Jeremy T. Bruskotter, et al., "Removing Protections for Wolves and the Future of the U.S. Endangered Species Act (1973)," *Conservation Letters*, 7, no. 4 (2014): 401-407. (see for discussion about "significant portion of range" as it applies to delisting wolves)

Recommended: Jacob M. Malcom and Ya-Wei Li, "Data Contradict Common Perceptions About a Controversial Provision of the U.S. Endangered Species Act," *Proceedings of the National Academy of Sciences*, 112, no. 52 (Dec. 2015): 15844-15849. (see for review of section 7 consultation process).

Recommended: George F. Wilhere, "The Role of Scientists in Statutory Interpretation of the Endangered Species Act," *Conservation Biology* (forthcoming 2017).

### A. Case Study: TVA v. Hill (1978)

Tennessee Valley Authority v. Hill, 437 U.S. 153 (1978)

Zygmunt J.B. Plater, "Classic Lessons from a Little Fish in a Pork Barrel—Featuring the Notorious Story of the Endangered Snail Darter and the TVA's Last Dam," *Utah Environmental Law Review* 32, no. 2 (2012): 211-244.

## 7. Student Presentations on ESA Issues and Cases

As a way to dig deeper into the ESA and its implementation, students will break into teams and investigate selected issues and cases. Student teams will present an overview of these issues and cases to the class with the objective of teaching the finer points of the ESA. These reviews will be done in front of the class and should take ~15-20 minutes with sufficient time left for student questions and discussion. Teams will be given time in class to discuss and prepare materials and work with me in understanding each issue/case. But it is important that students familiarize themselves with the material before meeting as a group. Each group must be prepared to generally discuss the case/example and use it as a way to further our understanding of the ESA. Students should also be prepared to take a position on the assigned issue (if there is one to take).

Additional background on a species' ESA status available at [ESA Link](#).

Some of these cases have also been covered by *Greenwire*, so you might want to check out updates: [Greenwire Link](#)

ESA Issues and Cases	Students Sign-Up/Team Assignments
<p><b>Group 1. Citizen Petitions/Monarch Butterfly Example</b></p> <p>Center for Biological Diversity et al., Petition to Protect the Monarch Butterfly Under the Endangered Species Act (August, 2014)</p>	
<p><b>Group 2. Listing Decisions/Sage Grouse Example</b></p> <p><i>Sage-Grouse Conservation: Background and Issues</i> (Congressional Research Service, 2016).</p>	
<p><b>Group 3. Listing Decisions/Grizzly Bear Example</b></p> <p>Greater Yellowstone Coalition v. Servheen, 665 F. 3d 1015 (9th Cir. 2011) (Ninth Circuit decision on proposed delisting of Grizzly Bear)</p> <p>U.S. Fish and Wildlife Service’s Proposed Rule to Delist the Greater Yellowstone Ecosystem population of Grizzly Bears, 81 Federal Register 13174 (Mar. 11, 2016).</p> <p>Recommended: Andrew B. Erickson, “Grizzly Bear Recovery, Whitebark Pine, and Adequate Regulatory Mechanisms Under the Endangered Species Act,” <i>Environmental Law</i> 42 (2012): 943-975.</p>	
<p><b>Habitat Conservation Planning/Montana DNRC Plan</b></p> <p>See <a href="http://www.fws.gov/endangered/what-we-do/hcp-overview.html">http://www.fws.gov/endangered/what-we-do/hcp-overview.html</a></p> <p><u>Example</u>: Montana Dept. of Natural Resources and Conservation, <i>Record of Decision: Forested State Trust Lands Final Habitat Conservation Plan and Environmental Impact Statement</i> (Dec. 19, 2011).</p> <p>Montana DNRC Forested State Trust Lands Habitat Conservation Plan, available at <a href="http://dnrc.mt.gov/divisions/trust/forest-management/hcp">http://dnrc.mt.gov/divisions/trust/forest-management/hcp</a></p> <p>Friends of the Wild Swan et al., v Jewell, CV 13-61-M-DWM (D. Mont. 2014) (decision focused on Montana DNRC’s HCP)</p>	

ESA Issues and Cases	Students Sign-Up/Team Assignments
<p><b>Candidate Conservation Agreements/Dunes Sagebrush Lizard/Lesser Prairie-Chicken</b></p> <p>Reading: <a href="http://www.fws.gov/endangered/what-we-do/cca.html">http://www.fws.gov/endangered/what-we-do/cca.html</a></p> <p>Dunes Sagebrush Lizard Conservation Agreement, available at <a href="http://www.fws.gov/southwest/es/dsl.html">http://www.fws.gov/southwest/es/dsl.html</a></p> <p>Defenders of Wildlife et al., v. Jewell, Case 1:13-cv-00919-RC (D.C. Dist. 2014) (focused on Dunes Sagebrush Lizard Conservation Agreement).</p> <p>And/or</p> <p>Range-Wide Oil and Gas Candidate Conservation Agreement with Assurances for the Lesser Prairie-Chicken in Colorado, Kansas, New Mexico, Oklahoma and Texas, Between the USFWS and Western Association of Fish and Wildlife Agencies/Foundation for Western Fish and Wildlife (Feb. 28, 2014).</p> <p>Recommended: Ya-Wei Li and Tim Male, <i>Protecting Unlisted Species: Assessing and Improving Candidate Conservation Agreements with Assurances</i> (Washington, D.C.: Defenders of Wildlife, 2013)</p>	
<p><b>Climate Change &amp; the ESA/Wolverine</b></p> <p>J.B. Ruhl, "Climate Change and the Endangered Species Act: Building Bridges to the No-Analog Future, Environmental Law Reporter 39 (2009): 10735-10745.</p> <p>Wm. Robert Irvin, "Comment on 'Climate Change and the Endangered Species Act: Building Bridges to the No-Analog Future,'" Environmental Law Reporter 39 (2009): 10750-10751.</p> <p><u>Wolverine Example</u> (to focus on the climate component of decision and litigation)</p> <p>Withdrawal of Listing for the Distinct Population Segment of the North American Wolverine, 79 Fed. Reg. 47, 522 (Aug. 13, 2014)</p> <p>Defenders of Wildlife v. Jewell, (D. Mont. 2016)</p>	

## **8. Recovery Under the Endangered Species Act**

### **A. Background on Delisting and Recovery**

Dale D. Goble, "The Endangered Species Act: What We Talk About When We Talk About Recovery," *Natural Resources Journal* 49 (2009): 1-44.

Jason C. Rylander, "Recovering Endangered Species in Difficult Times: Can the ESA Go Beyond Mere Salvage?" *Environmental Law Reporter* 42 (2012): 10017-10023.

### **B. Debating Conservation-Reliant Species**

J.M. Scott et al., "Recovery of Imperiled Species Under the Endangered Species Act: The Need for a New Approach," *Frontiers in Ecology and the Environment* 3, no. 7 (2005): 383-389.

Daniel J. Rohlf, Carlos Carroll, and Brett Hartl, "Reply to Goble and Colleagues," *BioScience* 64, no. 10 (2014): 859-860.

Recommended: Daniel J. Rohlf, Carlos Carroll, and Brett Hartl, "Conservation-Reliant Species: Toward a Biology-Based Definition," *BioScience* 64, no. 7 (2014): 601-611.

Recommended: Carol I. Bocetti, Dale D. Goble, and J. Michael Scott, "Using Conservation Management Agreements to Secure Postrecovery Perpetuation of Conservation Reliant Species: The Kirtland's Warbler as a Case Study," *BioScience* 62, no. 10 (2012): 874-879.

Recommended: J.M. Scott et al., "Conservation-Reliant Species and the Future of Conservation," *Conservation Letters* 3 (2010): 91-97.

## **10. The Future of the Endangered Species Act: Debating ESA Reform—Class Exercise**

Freyfogle & Goble, *Wildlife Law*, Ch. 13.

Damien M. Schiff, "The Endangered Species Act at 40: A Tale of Radicalization, Politicization, Bureaucratization, and Senescence," *Environs: Environmental Law and Policy Journal* 37 (2013-14): 105-132.

John Buse, "A Different Perspective on the Endangered Species Act at 40: Responding to Damien M. Schiff," *Environs: Environmental Law and Policy Journal* 38 (2014-2015): 145-166.

Endangered Species Act Congressional Working Group, *Report, Findings and Recommendations* (Feb. 4, 2014)

[Additional readings and proposed legislation to be determined—and taken from the 115<sup>th</sup> Congress]

**FINAL EXAM: May 8th 8.00-10.00 am**