

NATURAL RESOURCES LAW
University of Florida Levin College of Law
SPRING 2023 SYLLABUS – LAW 6472 – 3 CREDITS

Instructor

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Office Hours: 3:00 to 4:00 pm on Mondays and Wednesdays

Class Schedule and Location

The class meets on Mondays and Wednesdays from 1:15 to 2:40 in HOL 359

Course Description and Objectives

This is a survey course that touches on a broad range of topics related to the law of natural resources, including the National Environmental Policy Act, the public trust doctrine, the Endangered Species Act, protection of wetlands, and the development of energy resources on public lands. The course will also provide a brief overview of administrative law as relevant to natural resources.

Student Learning Outcomes

At the end of this course, students should be able to:

- Natural resources: Articulate a working definition of “natural resource” and list what obligations governments may have with respect to natural resources. Define and explain the relevance of *place*, *trust duties*, and *conservation/preservation* to natural resources law.
- National Environmental Policy Act: Articulate the basic “triggers” and requirements of NEPA, and assess how the statute has affected natural resources law.
- Administrative law: Demonstrate a basic understanding of administrative law and the Administrative Procedure Act. Be able to apply the concepts of private rights of action, citizen suits, standing, and ripeness to a discrete set of facts. Distinguish between judicial review of agency *interpretation* of statutes and agency *implementation* of statutes, including the relevant standards of judicial review for each.
- Statutes: Demonstrate the ability to carefully read natural resources statutes and regulations, and to apply them to a particular set of facts.
- Public trust doctrine: Define the public trust doctrine, and articulate its potential relevance to the protection of the earth’s atmosphere from greenhouse gas emissions. Demonstrate an understanding of navigability as applied to a particular set of facts, and explain the duties of trustees and the purposes of the public trust.
- Wildlife and the endangered species act: Articulate the reach of the federal commerce clause authority over wildlife, and identify the basic principles of conservation biology relevant to wildlife law. Define and apply the Endangered Species Act’s treatment of

species/habitat listing (section 4), jeopardy (section 7), “take” (section 9), and incidental take permit (section 10).

- Wetlands: Identify which *wetlands* and which *activities* the federal government can potentially regulate under relevant statutes and regulations, as interpreted by the U.S. Supreme Court. Describe the Section 404 permitting process under the Clean Water Act.
- Energy development on federal lands: Demonstrate a basic understanding of the current energy landscape in the U.S., and the statutes and regulatory scheme governing the development of energy resources, both onshore and offshore.

Required Reading Materials

The casebook we will be using is Klein, Cheever, Birdsong, Klass & Biber, *NATURAL RESOURCES LAW: A PLACE-BASED BOOK OF PROBLEMS AND CASES* (Aspen 5th Ed. 2023).

Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

Course Expectations and Grading Evaluation

Your grade will be based upon the final exam. If your final score places you on the border between two grades, exceptional class participation (in terms of quality, not necessarily quantity) may raise your grade.

The final exam will be a 3-hour open-book, take-home exam available on ExamSoft on a date to be determined during the final exam period. You may take the exam during any 3-hour window on that day (unless the time period was extended by Student Affairs pursuant to a recognized accommodation). During the exam, you may use *only*: (a) your casebook, (b) course handouts, and (c) notes and outlines prepared in whole or substantial part by you. You may *not* consult with your classmates or any other person, nor may you conduct online research. The law school policy on delay in taking exams can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>

Class Attendance Policy

Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. If you miss more than four classes for any reason, you may be administratively withdrawn from the course or your grade may be lowered. Absences during the drop/add period (through the first week of classes) will not count toward your four permitted absences. As a matter of professionalism, you are expected to be on time for class. If you arrive late, it is your responsibility to see me after class to make sure I have marked you late rather than absent (in my discretion, but tardiness of 10 minutes or more will generally count as an absence). The law school’s policy on attendance can be found [here](#).

Compliance with UF Honor Code

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Law Honor Code located [here](#). The UF Law Honor Code also prohibits use of artificial intelligence, including, but not limited to, ChatGPT and Harvey, to assist in completing quizzes, exams, papers, or other assessments.

Information on UF Law Grading Policies

The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.00	C (Satisfactory)	2.00
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.00	D (Poor)	1.00
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.00

The law school grading policy is available [here](#).

Observance of Religious Holidays

UF Law respects students' [observance of religious holidays](#).

- Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
- Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
- Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.

Exam Delays and Accommodations

The law school policy on exam delays and accommodations can be found [here](#).

Statement Related to Accommodations for Students with Disabilities

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester. Students may access information about various resources on the UF Law Student Resources Canvas page, available at <https://ufl.instructure.com/courses/427635>.

Student Course Evaluations

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](#) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students [here](#).

Recordings of Class

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

ABA Out-of-Class Hours Requirements

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. Natural resources law has three (3) "classroom hours" of in-class instruction each week, requiring at least six (6) hours of preparation outside of class. You should diligently devote that weekly minimum to preparing your readings and discussion problems, as well as reviewing and outlining material previously covered.

Course Schedule of Topics and Assignments

This syllabus is offered as a guide to the direction of the course. Our pace will depend in part on the level of interest and the level of difficulty of each section and is subject to change.

Date	Assignment	Reading
Wed., Jan. 18	Introduction	Chapter 1, pp. 1-13
Mon., Jan. 23	Introduction	Chapter 1, pp. 13-21; Discussion Problem pp. 21-24
Wed., Jan. 25	National Environmental Policy Act (NEPA)	Chapter 3, pp. 96-105 (skim), 105-117
Mon., Jan. 30	NEPA	Chapter 3, pp. 117-134
Wed., Feb. 1	Administrative Procedure Act (APA)	Chapter 3, pp. 139-156
Mon., Feb. 6	APA	Chapter 3, pp. 157-173
Wed., Feb. 8	APA	Chapter 3, pp. 173-181; Discussion Problem pp. 182-183

Mon., Feb. 13	Public Trust Doctrine	Chapter 11, pp. 573-575, 575-579 (skim), 579-597
Wed., Feb. 15	Public Trust Doctrine	Chapter 11, pp. 597-614
Mon., Feb. 20	Public Trust Doctrine	Chapter 11, pp. 614-624; Discussion Problem pp. 625-627
Wed., Feb. 22	Energy and Federal Lands	Chapter 8, pp. 389-412
Mon., Feb. 27	Energy and Federal Lands	Chapter 8, pp. 412-437
Wed., March 1	Energy and Federal Lands	Chapter 8, pp. 437-458
Mon., March 6	Energy and Federal Lands	Chapter 8, pp. 459-467; Discussion Problem p. 468
Wed., March 8	Endangered Species Act (ESA)	Chapter 13, pp. 691-698 (skim), 698-712
March 13 and 15	SPRING BREAK	
Mon., March 20	ESA	Chapter 13, pp. 712-715; Discussion Problem pp. 715-717
Wed., March 22	ESA	Chapter 13, pp. 717-732
Mon., March 27	ESA	Chapter 13, pp. 732-737; Discussion Problem pp. 737-740
Wed., March 29	ESA	Chapter 13, pp. 740-755; Discussion Problem pp. 755-758
Mon., April 3	Wetlands Law	Chapter 15, pp. 823-841
Wed., April 5	Wetlands Law	Chapter 15, pp. 841-862
Mon., April 10	Wetlands Law	Chapter 15, pp. 862-875; Discussion Problem pp. 876-877
Wed., April 12	Regulatory Takings	Chapter 16, pp. 879-894
Mon., April 17	Regulatory Takings	Chapter 16, pp. 894-908; Discussion Problem 3, p. 910
Wed., April 19	TOPIC TO BE DETERMINED	
Mon., April 24	TOPIC TO BE DETERMINED	
Apr 28 – May 11	FINAL EXAM PERIOD	