

## **Natural Resources Law**

Professor Christine A. Klein

LAW 6472, Fall 2018, 3 credits

(See class TWEN site for syllabus updates, as needed)

<b>Date</b>	<b>Topic</b>	<b>Casebook Reading</b>	<b>Discussion Problem<sup>1</sup></b>	<b>Group<sup>2</sup> On Call</b>
Aug. 14	Introduction	1-24		All
Aug. 16		24-33	<u>Problem:</u> p. 33 (questions 1-4)	All
Aug. 21	Federal Lands and Decisionmaking	37-42, 101-20		1
Aug. 23	National Environmental Policy Act	120-32 (skim), 132-45		2
Aug. 28		145-50, 156-67, 172-76		1
Aug. 30	Administrative Law	176-96		2
Sept. 4		196-211, 211-17 (notes 1, 3-4, 6-8), 217-21		1
Sept. 6		225-29, 234-36	<u>Problem:</u> pp. 235-36 (questions 1-5)	2 (readings) All (problem)
Sept. 11	Energy	461-81		1
Sept. 13		481-92 (through n. 4), 494-507		2
Sept. 18		507-33		1
Sept. 20		533-62		2
Sept. 25	Public Trust Doctrine	677-79, 684-96		1
Sept. 27		696-715		2
Oct. 2		719-32		1
Oct. 4		732-47	<u>Problem:</u> p. 741 (questions 1-3)	2 (readings) All (problem)

<sup>1</sup> Please be prepared to discuss the designated questions in class.

<sup>2</sup> Group 1 is the half of the room to the left, from the perspective of the professor.

Oct. 9	Wildlife Law	797-804 (top half), 813-27		1
Oct. 11	Endangered Species Act	827-36 (skim), 841-58		2
Oct. 16		862-66 (skim), 866-75		1
Oct. 18		875-84, 887-91 (skim), 891-99		2
Oct. 23		899-904, 905-08 (you do not need to write out answers to this discussion problem), 884-87	<u>Problem:</u> pp. 885-87 (questions 2-6) and p. 891 (questions 1-3)	1 (readings) All (problem)
Oct. 25	Wetlands Law	987-95, 995-99 (skim), 999-1010		2
Oct. 30		1010-19, 1022-25 (skim), 1025-35		1
Nov. 1		1035-52		2
Nov. 6		1019-22, 1052-55 (you do not need to write out answers to this discussion problem)	<u>Problem:</u> p. 1021 (questions 1-2)	1 (readings) All (problem)
Nov. 8		TBA		2
Nov. 13		TBA		All
Nov. 15		TBA		All

## Course Information

### **Course Instructor:**

Professor Christine A. Klein, (352) 273-0964, [kleinc@law.ufl.edu](mailto:kleinc@law.ufl.edu). The class meets on Tuesdays and Thursdays, 9:00-10:15 am (HOL 360).

### **Office Hours:**

Tuesday & Thursday (1:00-2:00 pm), 313 Holland Hall. I am also happy to meet with you any time that I am in my office, or to set an appointment with you outside of office hours.

### **Required Casebook:**

Klein, Cheever, Birdsong, Klass & Biber, *Natural Resources Law: A Place-Based Book of Problems and Cases* (Aspen 4th ed. 2018)

### **Course Description and Objectives:**

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

### **Learning Outcomes:**

After completing this course, students should be able to:

1. Natural resources: Provide a working definition of “natural resource” and explain what obligations governments may have with respect to natural resources. Explain the relevance of *place*, *trust duties*, and *conservation/preservation* to natural resources law.
2. Federal lands: Understand the basic components of the federal land system (national parks, national forests, national wildlife refuges, and BLM lands), and discuss each component’s relevant organic act and its “hallmarks” (purpose statements, designated uses, comprehensive planning requirements, substantive management criteria, and public participation requirements).
3. NEPA: Explain the basic “triggers” and requirements of the National Environmental Policy Act, and assess how the statute has affected natural resources law.
4. 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.
5. Energy: List the primary sources of renewable and non-renewable energy, and have a basic understanding of the legal regimes that govern each type of energy.
6. Public trust doctrine: Explain the public trust doctrine, as well as 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.

7. Wildlife and the endangered species act: Explain the reach of the federal commerce clause authority over wildlife, and the relevance of basic principles of conservation biology. Explain and apply the Endangered Species Act's treatment of species/habitat listing (section 4), jeopardy (section 7), and "take" (section 9).
8. Wetlands: Explain which *wetlands* and which *activities* the federal government can potentially regulate under relevant statutes and regulations, as interpreted by the U.S. Supreme Court. Demonstrate an understanding of the Section 404 permitting process under the Clean Water Act.
9. Statutes: Demonstrate the ability to carefully read natural resources statutes and regulations, and to apply them to a particular set of facts.

**TWEN:**

Please register for the class TWEN website, available at [www.lawschool.westlaw.com](http://www.lawschool.westlaw.com). Class information and announcements will be distributed by e-mail to the address you supplied on TWEN. You are responsible for checking your e-mail on a regular basis for class announcements.

**Laptops:** You may take class notes on a laptop computer. However, you may not use your laptop during class for any other purpose unless I specify to the contrary. Violation of this policy may result in revocation of your privilege to use a laptop in class.

**Attendance:**

Class attendance is mandatory. If you miss more than four classes for any reason, you may be rendered ineligible to receive credit for the course. 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, I expect you 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 (in my discretion) rather than absent. Use your absences wisely. If you use them frivolously early in the semester, I will not be sympathetic if a real emergency causes you to be absent from class later in the semester. I do not distinguish between excused and unexcused absences, but simply allow you four absences for whatever purpose you choose, with the following exceptions: According to UF policy, "students, upon prior notification to their instructors, shall be excused from class to observe a religious holy day of their faith." Further, "absences from class for court-imposed legal obligations (e.g., jury duty or subpoena) must be excused." Such excused absence for religious observance or court-imposed legal obligations shall not count toward the four permitted absences.

**Class Preparation**

Half the class will be "on call" for each class, as specified on the course syllabus. If you are unprepared for any particular class (even if you are not in the on-call group), please inform me by email no later than 9:00 p.m. the evening before class (you need provide no reason) and I will

not call on you. Please do not leave a note on the podium. You should not be unprepared more than twice throughout the semester.

**ABA Out-of-Class Hours Requirement:**

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 3 “classroom hours” of in-class instruction each week, requiring at least 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.

**Accommodations for Students with Disabilities:**

Students requesting accommodation should first register with the UF Disability Resource Center (352-392-8565, [www.dso.ufl.edu/drc/](http://www.dso.ufl.edu/drc/)) by providing appropriate documentation. Once registered, students will receive an accommodation letter, which should be presented to the UF Law Office of Student Affairs when requesting accommodation. This procedure should be followed as early as possible in the semester. Law students with disabilities can also contact the Levin College of Law Office of Student Affairs for assistance on these matters in 164 Holland Hall, 273-0620, [www.law.ufl.edu/students/](http://www.law.ufl.edu/students/).

**Online Course Evaluation:**

UF expects each student to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open by the Office of Student Affairs. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

**Final Exam:**

Your final exam will be a 3-hour open-book, take-home exam available on ExamSoft on December 6, 9:00 am-5:00 pm. 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 (if any), and (c) notes and outlines prepared in whole or substantial part by you. You may not consult with your classmates or any other person. To help you prepare for the exam, I will hold extra exam-preparation office hours (to be specified later). I will stop answering questions on Dec. 5 (5:00 p.m.). The law school policy on delay in taking exams can be found at: <http://www.law.ufl.edu/students/policies.shtml#12>.

**UF Law Honor Code:**

Students are bound by the UF Law Honor Code, which can be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

**Grading Policy:**

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

The law school recognizes the following grades, in accordance with the grading policy available at: <http://www.law.ufl.edu/students/policies.shtml#9>:

<u>Grade</u>	<u>Points</u>
A (excellent)	4.0
A-	3.67
B+	3.33
B	3.00
B-	2.67
C+	2.33
C (satisfactory)	2.0
C-	1.67
D+	1.33
D	1.0
D-	0.67
E (failure)	0.00

**Exam Review process:**

I will be happy to review your exam with you, beginning the first week of classes of the spring semester. The review is for educational purposes only, and not for the purpose of gaining additional points and/or a grade change. Grade changes are made only in the case of a clear clerical error, as determined by the professor.