

Natural Resources

Professor Zachary Bray
University of Houston Law Center
Monday/Wednesday, 9:00-10:30 a.m.
Course Number 6362
Fall 2012

Texts

The required text is James Rasband, James Salzman, and Mark Squillace, *NATURAL RESOURCES LAW AND POLICY* (Foundation Press, 2d ed. 2009) [hereinafter “Casebook”].

There may also be a few short additional assigned readings available on the course website. You should check the course website regularly for updates. Depending on our progress over the semester, this syllabus is subject to change at my discretion. You will be given ample notice of any changes.

Guidelines and Requirements

A. Overview

This course will cover the legal rules and processes that govern the human use, management, and protection of nature. In this course, we will survey the history of resource acquisition and management, current mechanisms for the management, use, and preservation of natural resources, and competing ideas about how and why natural resources should be valued, used, and conserved. The objectives of this course are to teach the substantive law of the subject matter in a comprehensive manner, to consider ethical and professional questions related to the subject matter, and to integrate the subject matter with the analytical and practical skills necessary to the practice of law. Each class will be a combination of lecture and interactive discussion.

B. Grading and Examination

Your grade for this class will be based on a scheduled “open-book” examination at the end of the semester. By “open-book,” I mean that you may use any printed or written materials assigned for this class, as well as any printed or written materials that you have personally prepared (either individually or with others in this class). The use of any electronic materials (including on computer, disk, or CD) will be prohibited during the examination itself, as will any unassigned written materials that you did not help to prepare.

You may not consult with any other person during the examination itself, though you are encouraged to study with others, if you wish, leading up to the exam. Successful performance on the exam will require knowledge of the case law, statutes, and underlying policies and theories discussed in both the assigned readings *and* our class discussions.

In addition, your in-class participation may modify your grade by one step (e.g., from B to B+, from A to A-), as discussed below.

I consider good in-class participation to be anything that both helps your classmates learn and indicates your effort to read and understand the assigned material. When I consider whether to make a positive grade modification, I will consider the overall quality, and not the quantity, of a student’s in-class participation. You will not be penalized for wrong answers unless they evince a lack of preparation. Repeated absences without prior notification or subsequent explanation may be taken as evidence of lack of preparation.

C. Class Participation and Structure

Please arrive promptly with your casebook and any other assigned reading materials.

In general, we will try to cover one assignment per class session, though occasionally an assignment may be spread over two days. Because it is difficult to predict how far we will get in every class discussion, I have included only the assigned readings for the first few classes in this syllabus. (Additional assigned readings will be circulated in class and/or posted to the class website with a revised syllabus later in the semester.) In addition to cases and article excerpts, the materials assigned from the casebook will typically include notes, questions, and problems, all of which you should read closely.

All students are encouraged to volunteer comments and questions on the readings. In addition, I may call on students randomly to discuss the assigned materials, beginning with the first class session. The frequency and nature of random call will depend in part on the variety and quality of volunteer participation.

D. Class Attendance

I will pass around a seating chart during our first class. Please write your name on the part of the seating chart that identifies where you are sitting. Thereafter, or until further notice, you should remain in this seat. During each subsequent class, I will take roll by silently passing around a sheet with a list of names, which you should sign or initial. You will not be permitted to sign the roll sheet for a class on a previous day. Falsifying attendance violates the Law Center's Honor Code.

Pursuant to the Law Center's policy, you must attend at least 80% of the classes, although you should of course strive to attend every class. If you miss more than 20% of the scheduled classes, I reserve the right to take appropriate disciplinary action, consistent with the Law Center's policies. If a class must be cancelled, a make-up class will be scheduled, consistent with the Law Center's policies.

E. Contact Information and Office Hours

E-Mail: zabray@central.uh.edu

Phone: 713-743-2217

Secretary: Rose Verde

Office: BLB-126

Office Hours: Tuesdays from 10:00-11:30 a.m. I realize that many of you have outside commitments, and as a result any fixed office hours that I set will be inconvenient for some students. So you should feel free to schedule a time for us to meet or speak over the phone beyond these regular office hours. If you wish to do so, please send me an advance e-mail so that we can set a mutually convenient time.

Syllabus

Below is an outline of the material we will cover in the first few class meetings. You will be given ample notice of additional assigned readings.

Introduction to Natural Resources Law

1. Casebook 1-28 (read through Note 11, beginning on page 27).
2. Casebook 36-79.

The Historical and Constitutional Geography of Natural Resources Law

3. Casebook 80-84; 87-91; 94-111; 115-128 (read through Note 1).
4. Casebook 129-167.
5. Casebook 167-200; 201-203 (skip *Loveladies Harbor* problem from 200-201).

The History and Role of Agencies in Natural Resources Management

6. Casebook 208-236.
7. This assignment skips several short page sets, so it is listed in sub-headings below:
 - a. Casebook 236-253 (read only through the end of *Lujan* at the very top of page 253);
 - b. Casebook 256-257 (read only "Ripeness, Exhaustion, and the Timing of Judicial Review");
 - c. Casebook 258-262 (stop at the end of subsection 1, "NEPA's Evolution");
 - d. Casebook 277-279 (read only "The Essential Elements of an EIS").

Wildlife and Biodiversity

8. Casebook 320-330 (you need only skim 320-330); 330-362.
9. Casebook 362-389.
10. Casebook 389-404 (read through Note 12); 409-426.