Natural Resources Law & Policy  
Spring 2018

Instructor:  
Jayni Foley Hein, jayni.hein@nyu.edu, (212) 992-8182, Wilf Hall 316

Class Schedule: Tuesdays, 2pm to 3:50pm, Vanderbilt Hall 208

Credits: 2 (unless a student adds a 3rd credit for writing credit)

Course Description:

This course provides an overview of natural resources law and the regulation of public lands and resources in the United States. The course will primarily focus on federal law, and will explore the intellectual and legal foundations of natural resources law and policy. It will examine frameworks for managing natural resources, including energy (oil, gas, coal, and renewable sources), forests, parks and wilderness, fisheries, water, and endangered species. We will discuss settled law and emerging issues, including the complexity of managing natural resources in the era of climate change. Case studies will examine timely issues such as management of the natural resources in the Arctic and calls for reforming federal fossil fuel leasing.

Course Goals:

The goals for the class are for students to be able to:

- Analyze and apply the major provisions of U.S. law that manage and protect public lands and natural resources to circumstances that are likely to be relevant for clients or to important policy scenarios;
- Read, interpret, analyze, and critique administrative and legislative materials commonly used in environmental and natural resources law;
- Understand the roles of the judiciary, Congress, state legislatures, and agencies in managing natural resources; and
- Debate and explore major policy issues in the management and protection of public lands and natural resources.

Main Topics

I. Introduction
II. Foundations of Federal Land Management
III. National Environmental Policy Act
IV. Energy and Public Lands: Onshore
V. Energy and Public Lands: Offshore
VI. Fracking, Pipelines, and Energy Infrastructure
VII. Protected Lands: National Parks and Monuments
VIII. National Forests and Forest Management
IX. Fisheries
X. Water
XI. The Public Trust Doctrine
XII. Endangered Species

Materials


Supplemental readings will be posted on NYU Classes.

Office Hours

Wednesdays: 3:30pm to 4:30pm
Thursdays, 3:30pm-4:30pm. You may also email me to arrange an appointment outside of these hours.

Grading and Course Expectations

Grading will be based on a final paper or a series of seven short (2-3 page, double-spaced) reaction papers (80%), as well as class participation (20%).

Class participation includes attendance, contributions to class discussion, involvement in classroom exercises, and other activities.

Response papers can address any aspect of the week’s readings – a case, a series of cases, a doctrine, a policy issue, a news item and its relationship to the reading/topic, or a discussion problem. Response papers are due via email to Professor Hein by 9:30am on the day of class, and should respond to the material listed on the syllabus for that day.

Students choosing to write a final paper should set up a meeting with me to discuss paper topics by February 10, and must receive instructor approval for the topic. Students doing the final paper option should submit a paper of a minimum of 7,000 words (not including footnotes).

Students may choose to write a longer paper that fulfills the JD or Environmental and Energy LLM writing requirement; students writing these longer papers should register for the additional writing credit. Students doing the paper for the JD or LLM writing requirement should submit a paper of a minimum of 10,000 words (not including footnotes). Students doing the paper for either of these requirements should submit a draft of the paper by March 30.
SYLLABUS (ABRIDGED)

Tuesday, January 16: Introduction: What is a natural resource? Why protect natural resources? What is conservation?

- **KCB Reading:** 1-31
  - Discussion Problem: Climate Change and Natural Resources
  - Discussion Problem: Beauty and the Beast

- **Other Reading:** Garrett Hardin, The Tragedy of the Commons, 162 Science 1243 (1968), (link) [Read only 1244 (starting with “The tragedy of the commons develops in this way.”) to 1246 (ending with “We must find ways to legitimate the needed authority of both the custodians and the corrective feedbacks.”), and 1247-1248 (section titled “Mutual Coercion Mutually Agreed upon”). You are not reading this article for Hardin’s discussion of the population problem, but rather for his discussion of the “tragedy of the commons” and what can be done to address the tragedy.]

Tuesday, January 23: Foundations of Federal Land Management

Tuesday, January 30: National Environmental Policy Act (NEPA) and Natural Resources

Tuesday, February 6: Energy and Federal Lands: Onshore

Tuesday, February 13: Energy and Federal Lands: Offshore

Tuesday, February 20: Fracking, Pipelines, and Energy Infrastructure

Tuesday, February 27: Protected Lands: National Parks and National Monuments

Tuesday, March 6: National Forests

Tuesday, March 13: Spring Recess (No class)

Tuesday, March 20: Fisheries

Tuesday, March 27: Water

Tuesday, April 3: The Public Trust Doctrine

Tuesday, April 10: Reserved for guest speaker and/or public trust doctrine (continued)

Tuesday, April 17: Endangered Species Act

Tuesday, April 24: Endangered Species Act (continued)

Tuesday, May 1: Conclusion