

RECM 370.01 Conservation of Wilderness, Wild Rivers, and National Parks
Spring 2008 3:40-5:00 T,Th GBB 201

Instructor: Dr. Michael E. Patterson

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Office Hours: To be announced¹

¹I enjoy meeting with students, work in my office during the day, am very accessible, and encourage you to talk with me outside of class. To schedule a meeting with me, it is most effective if you can see me at the *end* of class to set up a time. Calling my office number is second most effective. Email contact is least effective (I try to keep up but the volume of email I get is overwhelming).

COURSE DESCRIPTION AND GOALS

This course explores the historical, philosophical, and legislative background underlying the evolution, conservation, and management of our national system of wild lands. The course is divided into five major sections.

The first section explores fundamentals of policy and introduces students to case law as it relates to wild land policy issues. In our current political system, case law is one of the few major arenas in which legislative directives, agency interpretation and implementation, and social conflict resolution come together in a single, relatively compact, publicly observable forum. Therefore, case law provides a unique opportunity to study and understand policy as the dynamic, interpretive, and constantly evolving process underlying conservation and management it actually is (rather than as the dry, distant, dusty, and irrelevant history it is sometimes perceived to be). Case law also provides a spring board for discussing fundamental social/political concepts in natural resource management that our society is constantly debating. Examples include: (1) the extent to which society holds an individual responsible for his/her own actions in public wild lands; (2) the nature of an individual's legal rights with respect to public land and resources; and (3) the extent of discretion a federal agency has in decision making under our current legal system, etc. Finally, we live in a very litigious era, so whether your interest in public wildland policy is professional or personal, being able to understand case law is highly beneficial.

This first section of the class uses recreation use statutes and wolf management in Wyoming as vehicles for introducing policy fundamentals and case law.

The second section of the course uses a series of court cases to provide an overview of the legal history of *aboriginal title*. It explores the evolution of policy dealing with one type of prior land tenure. It also reveals concepts of wilderness that existed early in US political history.

The third section of the course uses federally designated wilderness as a case study for understanding policy processes in public wild land management. It traces the history of wilderness as a politically designated unit of land from the establishment of National Parks and National Forests through passage of the 1964 Wilderness Act. The fourth section of the course is closely related and explores how agencies interpret and implement policy like the Wilderness Act.

The fifth section of the course deals with the question: "How should society deal with conflict and make collective decisions about the policies that guide preservation, conservation, and

management of public wild lands and natural resources?" It explores different models and philosophies of conflict resolution and decision-making.

Required texts:

There is no textbook for this course. Assigned readings will be made available on the library's E-reserve system (<http://eres.lib.umt.edu/eres>; course password=RECM370). **Also check the E-reserve system for assignments, announcements, and updates** (e.g., clarifications to assignments).

TEACHING/LEARNING PHILOSOPHY

There are no *prerequisites* for this course other than ***an interest in the subject; junior level reading, analysis, and writing skills***; plus ***a willingness to participate actively*** in your education. And please note, ***this is not an over-view or introductory course***. First, the material covered in the class is difficult – that is the nature of policy and politics and this course seeks to provide a realistic exposure to these topics. Second, this is a junior level class designed for "majors" and I have high expectations about the level of effort and quality of work that goes with a course of this nature.

The course emphasizes critical thinking skills such as analysis, evaluation, synthesis, and integration across readings/discussion topics rather than just memorization of concepts, facts, and dates. For example, one section of the course covers the evolution of wilderness policy. Rather than simply memorizing the dates on which specific events occurred, you should be trying to understand not only the progression of events, but also the cultural and political factors that shaped these events and how this case study of wilderness illustrates one of the routes by which natural resource policy in US society evolves. At the end of this section you should be able to present an insightful discussion about these issues that makes specific references to class readings and discussions.

What you get out of a class depends to a large extent on what you put into it. ***Learning is an active process***, it occurs most readily when you are a participant throughout rather than a spectator or “night before the exam crammer”. I ***expect you to do every reading assigned for the classes before you come to class***. There are different levels at which one can potentially do the readings: (1) reading ***to be familiar*** with what the author says; (2) reading ***to analyze and interpret*** what the author says (every reading assigned has a deeper message than just the “facts and dates” presented); and (3) reading ***critically*** (critiquing what the author says, synthesizing/integrating this reading with previous readings/class discussions, and finding something to say about the reading in a discussion). I expect you to read at all three levels. To accomplish this you should do readings well ahead of time; underline or highlight key points; and review these highlights an additional time before class, making notes of the key points, things worth discussing, and links to topics being covered in the class. If you fall behind the material will overwhelm you.

COURSE POLICIES

CLASS PARTICIPATION: 25% I will provide ample opportunities for class discussion on a regular basis. A discussion provides you the opportunity to explore issues you find confusing, which is important given the complexity of political and social processes in our society - answers often are not black and white. I encourage you to use class discussions to clarify confusing issues, to test your understanding, ***and to contribute to your classmates'*** (and my) education by sharing your insights about the material. If you anticipate being present and participating

consistently you can opt to have class participation be a portion of your grade. *If you feel a given day's class discussion did not provide you the opportunity to participate and/or to demonstrate your knowledge of the material, let me know immediately after class on that day.*

The first aspect of participation is being present (*my definition of present for grading purposes is in class on time and there for the whole period*). But being present is a necessary but not sufficient condition for your class participation grade. Getting credit for participation on a given day also depends on three criteria: (1) the extent to which you actively participate in the class discussions, (2) the extent to which you demonstrate to me that you read and thought about the assigned materials, and (3) the extent to which your comments are relevant to the focus of the discussion.

To get an "A-" for participation, you need to be present (*in class on-time*) and to contribute meaningfully to the discussion no less than 85% of the days during which there is a class discussion. In other words, you can have some absences or otherwise not contribute for a portion of the discussion days and still receive an A. But choose those days wisely – leave room for illness or other personal emergencies (that is, the "85%" standard is there primarily to accommodate these sorts of occurrences). For a B- you need to contribute meaningfully no less than 75% of the days. I may also use unscheduled in class quizzes or exercises to assess preparation and these will be factored in to the grade.

EXAMS/ESSAYS: 75% There will be at least 4 essay exams. The essays will be short (4-5 pages in length). But *do not let their brevity fool you*. I will be looking for critical thinking, the ability to integrate and demonstrate an understanding of material we have covered in class, and the quality of writing one would expect from juniors in college – put careful thought into their completion. Essays that serve as an exam are to be done independently, copying another student's essay in whole or part is a form of academic misconduct.

LATE POLICY: All assignments are due at the **time** specified on the assignment (see also the course schedule). Missing classes in the preceding week is **NOT** an acceptable reason for failing to complete assignments. Missing class on the due date is **NOT** an excuse for failing to turn in the assignment unless there is a serious personal emergency. Should you encounter situations that affect your ability to complete assignments, make me aware of the situation in a timely manner. Late assignments without a timely and acceptable explanation will be penalized 10% per day.

Grading Scale: See separate handout posted on e-reserve.

Syllabus Statements Mandated by Academic Officers of The University of Montana:

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. The Code is available for review online at <http://ordway.umt.edu/SA/VPSA/index.cfm/name/StudentConductCode>.

Course Schedule¹

FUNDAMENTALS OF POLICY AND CASE LAW

- 1) Course Introduction plus On Your Own in the Woods? Responsibility vs Liability
 - a. Read the course syllabus fully after class
 - b. Date: January 22
- 2) On Your Own in the Woods? Responsibility vs Liability
 - a. Read 2 case summaries: *California Diving & Yellowstone Moose*. MS Word File posted on e-reserve
 - b. Date: January 24
- 3) Fundamentals of Policy plus Wolf Reintroduction - the Question of Standing
 - a. Read: Wolf Reintroduction – The Question of Standing. MS Word File posted on e-reserve.
 - b. Tentative Date: January 29
- 4) Yellowstone and Wolf Reintroduction - the Merits of the Case 1
 - a. Read: Wolf Reintroduction – Merits 1
 - b. Tentative Date: January 31
- 5) Yellowstone and Wolf Reintroduction - the Merits of the Case 2
 - a. Read: Wolf Reintroduction – Merits 2
 - b. Tentative Date: February 5
- 6) In the Line of Duty? Fish & Wildlife Employees, Wolves, & - Littering?
 - a. State of Wyoming v Livingston and Jimenez, 43 F.3d 1211 (10th Circuit Court, 2006)
 - b. Tentative Date: February 7
- 7) **Assignment 1**: Due Friday Feb 15 by 4 PM
 - a. Note you will read and analyze a wolf related court case on your own – instructions for the specific assignment will be posted on e-reserve.
 - b. February 14 will be an open day to work on the assignment - case but please note on Feb 12 we start a new section (see reading identified below)

PRIOR TO WILDERNESS? CASE LAW ON ABORIGINAL TITLE

- 8) The Concept of Aboriginal Title in Law in the 1820's
 - a. Read: Johnson v McIntosh – US Supreme Court, 1823.
 - b. Tentative Date: February 12
- 9) Return and discuss assignment #1

¹This is a tentative outline. Changes will be announced in class depending on how rapidly/slowly we proceed. Readings may be substituted. Announcements will be made in class and it is your responsibility to keep track of these announcements.

- a. No reading
 - b. Tentative Date: February 19
- 10) The Concept of Aboriginal Title in Law in the 1950's
- a. Read Tee-Hit-Ton Indians v United States.
 - b. Tentative Date: February 21
- 11) The Concept of Aboriginal Title in Law in the 1990's
- a. Read Minnesota v. Mille Lacs Band of Chippewa - Majority Opinion
 - b. Tentative Date: February 26
- 12) The Concept of Aboriginal Title in Law in the 1990's
- a. Read Minnesota v. Mille Lacs Band of Chippewa - Dissenting Opinion
 - b. Tentative Date: February 28
- 13) **Assignment #2:** Assignment will be due March 14 by 4 PM
- a. Instructions for **Assignment #2** will be posted on library web site.
 - b. Tentative Date: March 13 – this is an open day to work on the assignment

THE WILDERNESS ACT: A CASE STUDY IN POLICY CONSTRUCTION

- 14) Origins of The Federal Agencies
- a. Rothman, H. K. 1989. "A regular ding-dong fight." Agency culture and evolution in the NPS-USFS Dispute, 1916-1937. Western Historical Quarterly 20:141-161.
 - b. Tentative Date: March 4
- 15) The Emergence of Wilderness as an Agency Land Designation
- a. Read: Eve of Wilderness collection of readings
 - b. Tentative Date: March 6
- 16) Dawn of Wilderness Congressional Hearings/Legislative History
- a. Read: Wilderness Bill of 1957
 - b. Tentative Date: March 11
- 17) Dawn of Wilderness Congressional Hearings/Legislative History
- a. 1957 Wilderness Bill Hearings - Reading Set 1 - Sponsor/Agency Perspectives
 - b. Tentative Date: March 18
- 18) Dawn of Wilderness Hearings on the 1957 Wilderness Bill
- a. 1957 Wilderness Bill Hearings - Reading Set 2 - Public Perspectives.
 - b. Tentative Date: March 20

March 25 Spring Break

March 27 Spring Break

MANAGING WILDERNESS: POLICY INTERPRETATION & IMPLEMENTATION

- 19) Frank Church River of No Return Wilderness – Wilderness Experiences on the Salmon? 1
 - a. No pre-class reading.
 - b. Tentative Date: April 1

- 20) Frank Church River of No Return Wilderness – Wilderness Experiences on the Salmon? 2
 - a. Borrie, 1998 and Salmon River Boaters, 2000
 - b. Tentative Date: April 3

- 21) Rock Climbing in Wilderness 1 – To stand before the Devil
 - a. Read: Grijalva, T. C., & Berrens, R. P. (2003). A question of standing: Institutional change and rock climbing in wilderness areas. *Society and Natural Resources*, 16, 239-247.
 - b. Tentative Date: April 8

- 22) Assignment #3: Assignment will be due April 11 by 4 PM
 - a. Instructions for **Assignment #3** will be posted on library web site.
 - b. Tentative Date: April 10

- 23) Rock Climbing in “Wilderness” 2 – The Devil’s Bidding
 - a. Read: Bear Lodge Multiple Use Association et al. v Babbitt (1998)
 - b. Tentative Date: April 15

CONFLICT, COLLABORATION, AND COLLECTIVE DECISION-MAKING

- 24) Approaches to Public Conflict & Collective Decision Making 1
 - a. Read: Lange, J. I. 1990. Refusal to compromise: the case of Earth First! *Western Journal of Speech Communication* 54:473-494.
 - b. Tentative Date: April 17

- 25) Approaches to Public Conflict & Collective Decision Making 2
 - a. Federal Register 63:9143-9149. (you will use electronic Federal Register to retrieve)
 - b. Tentative Date: April 22

- 26) Collaboration Case Example: Managing New York Deer Populations
 - a. Read: Curtis, P. D., Stout, R. J., Knuth, B. A., Myers, L. A. and Rockwell, T. A. 1993. Selecting deer management options in a suburban environment: a case study from Rochester, NY. *Transactions of the North American Wildlife and Natural Resources Conference* 58:102-116.
 - b. Tentative Date: April 24

- 27) The proposed CMC for Grizzly Bear Reintroduction

Read: Proposed Rule for Grizzly Bear Reintroduction in the Selway Bitterroot.

a. Tentative Date: April 29

28) Assignment 4

a. Instructions for **Assignment #4** will be posted on library web site.

b. Tentative Date: May 1

May 6 - Final Exam 1:10-3:10 PM