

Danielle Pensley, Adjunct
dpensley@alaska.edu
cell: 202.957.7994
hours by appointment

This course examines the major federal laws and policies affecting the exploitation and conservation of resources on public lands in the United States. We will study the conflicting values and interests that underlie policy debates over the management of natural resources and analyze the legal authorities that attempt to reconcile them. Anticipated topics include the history of public lands acquisition and disposition; the National Environmental Policy Act; the Endangered Species Act; the roles of various federal agencies in managing federal lands; the mineral, timber, wilderness, and preservation resources; and the unique Alaskan context, including subsistence.

The textbook for this course is a casebook entitled *Public Lands Law and Policy* by George C. Coggins (Foundation Press, 2014, 7th Edition). Copies should be available at the UAF Bookstore for purchase and one copy will be placed at the Rasmuson Library on Reserve for short term use. Prior years' students have been successful renting the book from an online vendor. As yet another option, the readings from the casebook have been scanned and posted on Blackboard along with a variety of mandatory outside readings – news articles, excerpts from scholarly pieces, and regulatory materials. A copy of the Statutory Supplement to the casebook has been placed on reserve also.

The readings, while short, require close attention and careful notetaking. Do note that the readings and other assignments are due by the class period with which they are associated, unless the syllabus indicates otherwise. This includes coming prepared to the first class of the semester. Please bring the readings and your notes to class in a readily accessible form.

Class will be run small section style: part lecture, part Socratic method, part discussion, part student-led teaching. Your course grade will be comprised of the following evaluations: attendance and participation for 10%, one presentation for 15%, three in-class quizzes for 10% each, a ten-page paper for 20%, and a cumulative in-class final for 25%. I will provide more information about each of these evaluations as the time for them nears. Late work will lose 10% of all available points each day it is late.

This course is graded with a +/- letter grade corresponding to the weighted numerical average of the evaluations above, rounded in the usual fashion. Proof of completion of the course evaluation at the end of the semester (screen shot) yields a bump of a third of a letter grade.

If you find, at any time during the semester, that you are having trouble understanding the concepts discussed in class, please see me before you fall behind. I am happy to provide extra support to any

1. Tuesday, January 15th – COURSE INTRODUCTION

Course Introduction: a working definition of public land; instructor and student introductions; review of syllabus. Lecture: thinking about public lands. Assignment: a) read excerpt of

(1970);

answer; b) the reason for your interest in the topic

12. Thursday, February 21st – THE ADMINISTRATIVE STATE

“First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.

Proposed Ambler Mining District Industrial Access Road, Alaska, 82 Fed. Reg. 12119-21 (February 28, 2017); c) review "Issues Identified During Scoping" in
(April 2018) pp. 18-23. Follow up reading: Salzman & Thompson, Jr., "The National Environmental Policy Act," (2013, 4th Edition).

16. Thursday, March 7th – THE ENDANGERED SPECIES ACT

Lecture: passage and scope of the Endangered Species Act, focus on §§ 3, 4, 7, and 9. Assignment: a) read excerpt – "March: The Geese Return" – from Leopold,
(1949); b) read Interview with Ursula Heise, "Human Tales on Extinction and Endangered Species," in (August 26, 2016); c) read Hollander, "U.S. Supreme Court rejects appeal of protections for Alaska's bearded seals," (January 22, 2017); d) read Coggins pp. 263-68; e) brief

19. Tuesday, March 26th – THE TIMBER RESOURCE

Discussion: Student presentations on natural resource statutes, which will be scheduled for April 16th, 18th, 23rd, and 25th. Lecture: The Multiple Use and Sustainable Yield Act; the National Forest Management Act – harvesting methods, physical suitability, and the diversity mandate. Assignment:

a) read pp. 651-57, p. 658 comment #4, pp. 660-61; b) briefly review _____, 522 F.2d 945 (4th Cir. 1975), excerpted in _____ pp. 661-64; c) read pp. 665-66, 669-72, 677-78.

20. Thursday, March 28th

Due: ten-page research papers that were given a one-week extension. Guest Lecture: Dr. Roger Kaye

– _____ . Background materials: Kaye,

“What Future for the Wildness of Wilderness in the Anthropocene?,” 13 _____ 41

(2016).

Friday, March 29th – last day for student- and faculty-

27. Tuesday, April 23rd – STUDENT PRESENTATIONS III

28. Thursday, April 25th – STUDENT PRESENTATIONS IV

29. Tuesday, April 30th – ANCSA AND ANILCA

“What I am trying to say and emphasize is I am one in modern day attempting to live a double life – and from that, my life is filled with confusion. I have a wanting deep within myself to live the life of my ancestors, but the modernized world I was raised in is restricting me from doing so.” Polly Koutchak, quoted by Berger,

(1985). Lecture: the passage and scope of the Alaska Native Claims Settlement Act (“ANCSA”) and the Alaska National Interest Lands Conservation Act (“ANILCA”); subsistence and connection to public lands law; ; brief review of the 1998 decision and current issues in land into trust (fee to trust). Assignment: a) view Alaska Department of Education,

(1987) (linked on Blackboard); b) read 906-11, 924-28; c) skim for content , 72 F.3d 698 (9th Cir. 1998), 1187 U.S. 517 (1996), excerpted in 928-33. Resource: Pensley, “Existence and Persistence: Preserving Subsistence in Cordova, Alaska,” 42 10368 (2012) – Introduction and Part I (excepting Section C).

Thursday, May 3rd, 8-9:30 a.m. – In-Class Final Exam: Open Book, Open Note