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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 analyze the conflicting values and interests that underlie policy debates over the management of natural resources and 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 roles of various federal agencies in managing federal lands; the mineral, timber, and preservation resources; and the unique Alaskan context, including subsistence.

The textbook for this course is a casebook entitled *Federal Public Land and Resources Law* by George C. Coggins et al. (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. From time to time there will be mandatory outside readings, which I intend to post as PDFs on Blackboard.

You are expected to check Blackboard regularly for updates to the syllabus and for newly posted readings. I will try to post no later than the end of the day Friday prior to the week in which the assignments apply. Please note that readings and other assignments are due by the class period with which they are associated. The readings, while short, require close attention and considerable thought. From time to time I will send out follow up readings, which will explain and amplify a prior lecture.

Class will be run small section style: part lecture, part Socratic method, p s 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 available points each day it is late.

1. Tuesday, January 16th – COURSE INTRODUCTION

   Course Introduction: a working definition of public land; instructor and student introductions; review of syllabus. Lecture: thinking about natural resources. Assignment: a) read excerpt of *One Third of the Nation's Land: A Report to the President and to Congress by the Public Land Review Commission* (1970); b) review the fact sheet, "Land Ownership in Alaska"; c) prepare to share a photograph, personal artefact, or story relating to a particular unit of public land; and d) prepare to explain why you are taking this course.

2. Thursday, January 18th – WORKING WITH CASES

   Lecture: an introduction to the American legal system; efficiency in rules of law. Assignment: a) review your notes from Class #1 and capture any questions for today; b) read the handout, *How to Brief a Case*; c) try your hand at briefing *Edwards v. Sims*, 24 S.W.2d 619 (Ky. 1929), as edited. Follow up reading: excerpt from Mersky, *Fundamentals of Legal Research* (2002, 8th edition). Extra credit follow up reading: "The Idea of Efficiency" from Farnsworth, *The Legal Analyst: A Toolkit for Thinking about the Law* (2007).

3. Tuesday, January 23rd – ACQUISITION OF THE PUBLIC DOMAIN

   "Thus in the beginning all the world was *America."* John Locke, *Two Treatises of Government* (1690). Lecture: European powers in early America; interests in land and the bundle of sticks; the doctrine of discovery and aboriginal title. Assignment: a) review your notes from Class #2 and capture any questions for today; b) read excerpt from Wilson, *The Earth Shall Weep: A History of Native America* (1999); c) review *Coggins* 46-52; d) brief *Johnson v. M'Intosh*, 21 U.S. (8 Wheat.) 543 (1823), as edited in the Dukeminier & Krier property casebook. Follow up readings: excerpt from Case & Voluck, *Alaska Natives and American Law* (2012, 3d edition) and excerpt from Vecsey & Venables, *American Indian Environments* (1980).

4. Thursday, January 25th – DISPOSITION OF THE PUBLIC DOMAIN

   "In states like Utah and Nevada, where more than half the land within state borders is managed by the federal government, the feds have become convenient scapegoat for an impossible climate, an unattainable cultural ideal, and a changing economy." Michelle Nijhuis, "What Will Become of Federal Public Lands under Trump?" *The New Yorker* (January 31, 2017). Lecture: the mechanics of

v. Womble, 19 L.D. 455 (1894) (Opinion of the Secretary of the Interior), excerpted in *Coggins* 495-96; h) review *United States v. Coleman*, 390 U.S. 599 (1968), excerpted in *Coggins* 496-97; i) read *Coggins* 498 comment #7, 501-02, 505-06, 510-12.

16. Thursday, March 22nd – THE MINERAL RESOURCE II

    Due: ten-page research paper with possibility of a one-week extension upon written note. Lecture: Environmental regulation of hardrock mining under Forest Service and BLM regulations. Assignment: a) review your notes from Class #15 and capture any questions for today; b) read *Coggins* 522-23; c) brief *United States v. Weiss*, 642 F.2d 296 (9th Cir. 1981), excerpted in *Coggins* 523-24; d) read *Coggins* 528-29; e) review part of *Mineral Policy Center v. Norton*, 292 F.Supp. 2d 30 (D.D.C. 2003), excerpted in *Coggins* 533-35; f) read *Coggins* 539-40. Follow up reading: *Strubel v. United States*, No. 06-112C (Fed. Cl. June 10, 2009), highlighted portions only.

17. Tuesday, March 27th – THE TIMBER RESOURCE

    Discussion: Student presentations on natural resource statutes, which will be scheduled for April 17th, 19th, and 24th. Lecture: The Multiple Use and Sustainable Yield Act; the National Forest Management Act – harvesting methods, physical suitability, and the diversity mandate. Assignment: a) review your notes from Class #16 and capture any questions for today; b) read Alex DeMarban, "Army Corps plans mine comment period that Pebble calls 'workable' and opponents call 'absurd,'" *Anchorage Daily News* (March 22, 2018); c) read *Coggins* 651-57, 658 comment #4, 660-61; d) briefly review *West Virginia Div. of Izaak Walton League of America, Inc. v. Butz*, 522 F.2d 945 (4th Cir. 1975), excerpted in *Coggins* 661-64; e) read *Coggins* 665-66, 669-72, 677-78; f) brief part of *Sierra Club v. Marita*, 46 F.3d 606 (7th Cir. 1995), excerpted in *Coggins* 681 (paragraph beginning "Taking its diversity analysis into consideration . . . . ") -85.

18. Thursday, March 29th

    Du: ten-page research papers that were given one-week extension. Guest Lecture: Dr. Roger Kaye – The Arctic National Wildlife Refuge, Wildness, and the Anthropocene. Please read Kaye, "What Future for the Wildness of Wilderness in the Anthropocene?," 13 *Alaska Park Science* 41 (2016).

Friday, March 30th – last day for student- and faculty-initiated withdrawals (W grade on transcript)

19. Tuesday, April 3rd – THE PRESERVATION RESOURCE I

"Traditional Cultural Properties aren't marked by stelae of significance, crumbs of culture. Their significance is lodged in the brains of people, the collective consciousness of communities, and it's those people and communities that can tell you whether a given district, site, building, structure, or object has it. They may not use archaeo-lingo or architect-speak, or recite National Register criteria, but if they value a place, they can probably tell you that they do, and then you can inquire about WHY they value it." King, CRM+ blog post (August 13, 2016). Lecture: Why do we care about preservation? And what, exactly, do we wish to preserve? The Antiquities Act (1906), the Archaeological Resources Protection Act (1978) and the National Historic Preservation Act (1966). Assignment: a) review your notes from Class #18 and capture any questions for today; b) read *Coggins* 394-97; c) brief *Tulare County v. Bush*, 306 F. 3d 1138 (D.C. Cir. 2002), *cert denied*, 540 U.S. 813, excerpted in *Coggins* 397-99; d) review Presidential Proclamation, "Establishment of the Bear Ears National Monument" (December 28, 2016); e) review Juliet Eilperin & Darryl Fears, "Interior secretary recommends Trump alter at least 3 national monuments, including Bears Ears, *The Washington Post* (August 24, 2017); f) review Julie Turkewitz, "Trump slashes size of Bears Ears and Grand Staircase monuments," *The New York Times* (December 4, 3017); g) review Eric Lipton & Lisa Friedman, "Oil was central in decision to shrink Bears Ears National Monument," *The New York Times* (March 2, 2018); h) read *Coggins* 1010-11; i) *review United States v. Shivers*, 96 F.3d 120 (5th Cir. 1996), excerpted in *Coggins* 1011-14; j) read *Coggins* 1016 comment #7; k) read *Coggins* 1033-34; *l*) read *Coggins* 1040 comment #4. Follow up readings: National Park Service, "Introduction," *National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties* (1998) and King, "A Traditional Cultural Place for All Citizens?," CRM+ blog post (September 1, 2016).

20. Thursday, April 5th – THE PRESERVATION RESOURCE II

Fun facts: Eight Alaskan Park Service wilderness areas comprise more than 80% of the total park system wilderness acreage; 21 of the Fish & Wildlife Service's 71 designated wilderness areas are in Alaska, containing over 90% of the total acreage in the refuge system. Lecture: where the wild things are/once were/may be in the future –

have left cremated remains at the Vietnam Wall," *The Washington Post* (undated); d) review excerpt – "Wilderness" – from Leopold, *A Sand Country Almanac and Sketches Here and There* (1949); d) read *Coggins* 926-30; 939-40; e) brief *Wilderness Watch v. Mainella*, 375 F.3d 1085 (11th Cir. 2004), excerpted in *Coggins* 940-43; f) read *Coggins* 931-32 – omitting the last paragraph of the section; g) read the Roadless Rule, 66 Fed. Reg. 3244-47 ("Introduction" through and including "Need for Action") and 3272-73 ("Subpart B – Protection of Inventoried Roadless Areas"); h) briefly review *amicus brief* of the City of Craig, Alaska in *State of Alaska v. Organized Village of Kake, Alaska* (November 12, 2015). Follow up reading: Marris, "The Yellowstone Model" in *Rambunctious Garden: Saving Nature in a Post-Wild World* (2011).

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