

PSC/ENV 314W Wildlife Law and Policy
Spring 2008
MW 2:00-3:15

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How to get in touch with me:

Office hours: Monday through Thursday 12:30 to 1:45 and by appointment. If I am in my office and the door is open, I am available for discussions about anything from class business to dog training. If my door is closed, I am busy_

E-mail: sjbuck@uncg.edu I don't check e-mail every day, so if your message is time critical, you should call. If you want to discuss something, e-mail is not an appropriate medium, and I prefer that you come in during office hours or call. Whenever you do send me e-mail, don't send attachments.

Home phone: xxx-xxx, **only** between 8:00 and 5:00, M-F. If you do not live in the Greensboro calling area, please be sure to include your area code when you leave your phone number, and when you will be available for a return call.

Note: You should check Class Announcements in Blackboard and your university e-mail regularly; any schedule changes or new assignments will be either posted or e-mailed to you. If you do miss class, ask a classmate what you have missed.

Honor Policy: Students are required to abide by the University Academic Integrity Policy for all work in this course: <http://academicintegrity.uncg.edu/complete/>

Here is why I do not allow laptop use in class:
(Cartoon has been omitted)

Course description: Evolution of American wildlife law with focus on private property, federal-state relations, and federal protection of species, habitat, and biodiversity.
Writing Intensive

Course objectives: On completion of this course, students will understand the historical development of American wildlife law. They will have improved their analytic skills through analysis of federal court cases and research on assigned topics.

Course requirements and grading

1. Wrong essay	50 points/1000
2. Mid-term exam	250
3. Final exam (take home, not cumulative)	300
4. Case briefs and article summaries	400

Attendance policy. I do not generally require class attendance, although attendance for field trips is required. Missing class does not excuse you from assignment due dates. Students who wish to do well in this course should attend all classes; exams are drawn from lectures and class discussions as well as from readings.

Required texts:

Strunk, William, Jr. and E. B. White. 2000. *Elements of Style*, 5th ed. Boston: Allyn and Bacon.

Recommended texts:

Weekly Grist subscription (free on-line): <http://www.grist.org> *Daily Grist* would also be okay.

High Country News (paid subscription, on-line or on paper) This is a western regional news magazine published every two weeks. You can get a one-semester subscription. <http://www.hcn.org>

Additional resource (on reserve at library):

Bean, Michael and Melanie Rowland. 1997. *Evolution of National Wildlife Law*, 3rd ed. Westport, CT: Praeger.

Required Cases

All of these cases are available on either Lexis-Nexis (UNCG Library website) or Findlaw.com. Cases on Findlaw are easier to read, so try Findlaw first. Make sure you get the right case; often several cases have the same name, so you need to match citations, not names.

You must turn in briefs for the cases in **bold**. You should also brief the other cases but you won't turn those in, so they may be more casual. If the schedule indicates a specific question, be prepared to answer it; you should also know the legal question(s) and precedent(s) set by the case.

Animal Protection Institute v. Hodel, 860 F. 2d 920 (1988, 9th Cir.) (Use of feral horses for commercial purposes)

Babbitt v. Sweet Home Chapter, 515 U.S. 687 (1995 (habitat modification on private land)

Baldwin v. Fish and Game Commission of Montana, 436 U.S. 371 (1978) (Montana has differential fee for out of state elk hunters)

Center for Biological Diversity v. Norton, 254 F. 3d 833 (2001, 9th Cir.) (power and obligation of Sec. Interior to list species) [If you search for this one under FINDLAW, spell "Biological" as "Bio logical." It is misspelled on the 9th Circuit's entry in FINDLAW. I have put a copy on Blackboard under "documents."]

Fallini v. Hodel, 783 F. 2d 1343 (1986, 9th Cir.) (BLM obligation to fence range)

Fallini v. Hodel, 963 F. 2d 275 (1992, 9th Cir.) (obligation of lease holder to water feral horses)

Fund for Animals v. Clark, 27 F. Supp.2d 8 (1998) (bison hunting in Wyoming)

Fund for Animals v. Lujan, 962 F. 2d 1391 (1992) (bison and brucellosis)

Geer v. Connecticut, 161 U.S. 519 (1896) (state ownership)

Hughes v. Oklahoma, 441 U.S. 322 (1979) (ban on exporting minnows; state ownership doctrine)

Humane Society v. Lujan, 768 F. Supp. 360 (1991, D.D.C.) (deer hunting on national wildlife refuge)

Hunt v. United States, 278 U.S. 96 (1928) (states cannot regulate wildlife on federal land)

Kleppe v. New Mexico, 426 U. S. 529 (1976) (state removed burros from federal land)

Manchester v. Commonwealth of Massachusetts, 139 U.S. 240 (1891) (state can prohibit purse seines)

Martin v. Waddell, 41 U.S. 367 (1842) (public trust and oyster beds)

McCready v. Virginia, 94 U.S. 391 (1876) (Virginia bans out-of-state fishermen planting oysters)

Michigan United Conservation Clubs v. Lujan, 949 F. 2d 202 (1991, 6th Cir.) (clarification of *Potter*)

Missouri v. Holland, 252 U. 416 (1920) (state ownership v. treaty power)

National Audubon Society v. Superior Court of Alpine County (“Mono Lake”), 658 P.2d 709, 189 Cal Reporter 346 (1983) (public trust doctrine) USE LEXIS-NEXIS

National Rifle Association v. Potter, 628 F. Supp. 903 (1986, D.D.C.) (May Sec. Interior ban hunting & fishing in National Parks?)

New Mexico Cattle Growers Assn. v. United States Fish and Wildlife Service, 248 F. 3d 1277 (2001, 10th Cir.) (critical habitat for flycatcher)

Sierra Club v. United States Fish and Wildlife Service, 245 F. 3d 434 (2001, 5th Cir.) (critical habitat designation)

Smith v. Maryland, 59 U.S. 71 (1855) (federal license overrides state law)

TVA v. Hill (“Snail Darter”), 437 U.S. 153 (1978) (interpretation of ESA)

United States v. Abeyta, 632 F. Supp. 1301 (D.N.M. 1986) (Native Americans may possess eagle parts)

United States v. Boynton, 63 F. 3d 337 (1995) (hunting over baited areas)

United States v. Lee, 937 F.2d 1388 (1991) (importing salmon taken illegally in N. Pacific)

United States v. Fejes, 232 F. 3d 696 (2000, 9th Cir.) (hunting guide liability under Lacey Act)

United States v. FMC Corporation, 572 F. 2d 902 (1978, 2nd Cir.) (migratory birds killed in corporate waste pond)

United States v. Moon Lake Electric Association, 45 F. Supp. 2d 1070 (1999)

United States v. Thirty-eight Golden Eagles or Eagle Parts, 649 F. Supp. 269 (1986, D. Nevada) (Native Americans may not keep Golden Eagle parts)

Wyoming Farm Bureau Federation v. Babbitt, 199 F. 3d 1224 (10th Cir, 2000)
(experimental populations under ESA)

Other Required Readings

Finding and Briefing Cases (on Blackboard – no summaries due for these two)

1. Buck, Susan J. “Understanding Case Law.”
2. Buck, Susan J. “Finding Case Law.”

Endangered Species Act:

1. Goble, Dale, J. Michael Scott, and Frank Davis, eds. 2006. *The Endangered Species Act at Thirty*. Washington, DC: Island Press. **Two** selections on Blackboard (the third one is the references for the other two:

“ESA:History and Numbers”;

“ESA: Habitat”; and

“ESA: Bibliography.”

CITES: Convention on International Trade in Endangered Species

1. Read CITES: <http://www.cites.org/>

National Wildlife Refuge System

1. Read NWRS: <http://www.fws.gov/refuges/>

Wild Free-Roaming Horses and Burros Act

1. Read http://www.blm.gov/wo/st/en/prog/wild_horse_and_burro.html

2. Read Buck, Susan J. 2006. “Wild Free-Roaming Horses and Burros Act” in *Understanding Environmental Administration and Law*, 3rd ed. Washington, DC: Island Press, 158-161. (on Blackboard in “documents”)

Wrong essay: due 23 January

Write on any topic you choose, incorporating as many errors of usage and composition as possible. Identify the errors (using *Elements of Style*) in the right hand margin, by numbering each error consecutively and then, in the margin, identifying the error by label and page number in *Elements of Style*. **Page limit: 2 pages.**

Your score depends on the number of errors, but each kind of error only counts once. We will score these in class: one point for each type of error, and minus one for each mistake which is not marked or is marked incorrectly. First place gets a free cappuccino (or a similar nifty drink) from Tate Street Coffee House. Students who make a good-faith effort (my call), follow directions, and turn the wrong essay in on time will earn full credit.

Sample:

Each student needs to carefully place their punctuation (for example, periods, commas, etc.) within quotation marks.

Exams: midterm on 17 March; final exam is take home, due 7 May at 2:00.

The midterm is short identification and essay. I will give you a review sheet about one week before the exam. The final is essay format and will probably require some research.

Case briefs and reading summaries: due in class on the day they are discussed.

You are expected to turn in a formal brief for all cases in **bold** and to have rough briefs for all other cases, as well as answering any questions in the schedule for that case. Briefs must follow the format given in class. Briefs that are turned in must be typed. Briefs should be about a page long, although complicated briefs may need to be longer.

You should also turn in summaries (single-spaced, one-page maximum) for all the readings except web-sites and the two selections on how to find and to brief cases. On days we have more than one reading, do ONE response that covers all of the day's assignments. Correct grammar and punctuation count.

Summary content:

First, summarize the main ideas; keep this part very brief – the main purpose here is to remind you of the content (one or two sentences).

Second, provide your reactions: why do you agree or disagree? do you have further questions? How does this connect to other assignments? Etc.

If you know in advance that you will miss class, you may turn assignments in early or send them with a classmate. If you are absent, I'll accept an assignment at the beginning of the next class period, although there is a penalty. No late submissions if you have sat through the discussion. Don't e-mail assignments without permission; for example, I'll probably take an e-mailed summary if you are out of town for a family emergency. Also, don't send assignments as attachments. You may fax them: 334-4315. Emails or faxes that arrive after class is over are late.

Assignments are graded as *good* (3 points) *satisfactory* (2 points), *satisfactory and late* (1 point), or *unsatisfactory/later than one class period* (0 points). The grade here is the percentage of points you earn out from the possible total. ****For example, if you turned in six good briefs (18 points), 2 passing summaries (4 points), and two assignments that were satisfactory but late (2 points), you would have 24 points. If we end up with eighteen assignments (54 possible points), you would earn 24/54 or 45% of the 400 points available for summaries and briefs. This would not be good.

Writing guidelines:

- * All assignments must be typed, normal margins, 12-point or larger type. Briefs and summaries are single-spaced; the final exam should be double-spaced.
- * Do not put an extra space between paragraphs. If your computer program does this automatically, figure out how to fix it.
- * Do NOT use quotations in either briefs or summaries, and avoid them in the final.
- * Use Turabian (Chicago School) or APA style, parenthetical reference citations:
<http://library.uncg.edu/depts/ref/qil/styles.asp#apa>
- * No folders, covers, or cover pages (it wastes trees).
- * Writing assignments are due at the beginning of class.
- * It's okay to put class notes on your briefs before you turn them in.
- * Keep a copy of all work.
- * Deadlines are absolutes. Don't ask for exceptions or extensions short of catastrophes such as the death of a family member or a life-threatening illness. If you can't turn the work in on time, be prepared to accept the consequences.

Having a problem with your computer, or the printer, or compatibility between your system and someone else's is not a valid reason for missing an assignment or for being late.

A Note on Plagiarism

Plagiarism is using the language, ideas, or data of another scholar without acknowledging the source. The faculty view it as an extremely serious offense. Sanctions for plagiarism range from failing the plagiarized assignment to expulsion from the University.

There are three central reasons to acknowledge the work of other scholars. First, scholars' works are their professional products. To use them as your own is stealing, and your own work becomes a forgery. Second, other scholars may wish to build on your work or to explore some idea further. If you have provided good documentation, their work is simplified. Third, your source may be wrong. If you use the information without attribution, you are responsible for the error.

Remember: be honest, be helpful, be safe.

Here's the Golden Rule of Citations: **when in doubt, cite**. No one ever got in trouble for too many citations.

Myths:

1. Paraphrasing eliminates the need for citations. FALSE. It only eliminates the need for quotation marks.
2. Any data found in three places is common knowledge and needs no citation. FALSE. Common knowledge is a pit for the unwary. The safe test is whether an average person would know this information. Thus, that the Declaration of Independence became official on 4 July 1776 is probably common knowledge,

but a reference to *Brown v. Board of Education* needs a citation. Remember the Golden Rule of Citations: when in doubt, cite.

3. Tables, charts, and diagrams don't need citations. FALSE. They are data and their design is creative. Cite_

Schedule (subject to tweaking)

Note: You are expected to turn in briefs for the cases in **bold**. For the other cases, if the schedule indicates a question, be prepared to answer it; you should also have a rough brief prepared.

- Jan 14 Introduction
Jan 16 Definitions, how to brief a case. Read Buck, "Understanding Case Law" and "Finding Case Law" on Blackboard, no summaries.
- Jan 21 **No Class: Martin Luther King holiday**
Jan 23 **WRONG ESSAY DUE**
- Jan 28 meet in CitiLab on first floor of library
Jan 30 topic: Public trust doctrine. Read *Martin v. Waddell* (no brief due but we will brief it in class as practice)
- Feb 4 ***National Audubon Society*** ("Mono Lake")
Feb 6 topic: State ownership doctrine: *Smith v. Maryland*, *McCready v. Virginia*, *Manchester v. Commonwealth of Massachusetts*, and ***Geer v. Connecticut*** (know question and precedent on first three, brief *Geer*)
- Feb 11 ***Missouri v. Holland***, *Hughes v. Oklahoma*, *Baldwin v. Fish and Game Commission of Montana*
Feb 13 topic: State regulation of federal land. ***Hunt v. United States***, *Kleppe v. New Mexico*
- Feb 18 topic: Federal protection for species. Lacey Act. ***United States v. Lee***, *United States v. Fejes*.
Feb 20 read CITES: <http://www.cites.org/>; film: *Wildlife for Sale*
- Feb 25 topic: Migratory Bird Treaty Act. *United States v. FMC Corporation*, ***United States v. Boynton***
Feb 27 topics: Bald Eagle Protection Act, Wild Bird Conservation Act, ***United States v. Moon Lake Electric Association***, *United States v. Abeyta*, *United States v. Thirty-eight Golden Eagles or Eagle Parts*
- Mar 3 topic: Wild Free-Roaming Horses and Burros Act. Read Buck, "Wild Free-Roaming Horses and Burros" and http://www.blm.gov/wo/st/en/prog/wild_horse_and_burro.html ; film: *El Caballo* **Exam review handed out.**

- Mar 5 *Fallini v. Hodel* 1986 and 1992, ***Animal Protection Institute v. Hodel***
- Mar 10 **NO CLASS: SPRING BREAK**
Mar 12 **NO CLASS: SPRING BREAK**
- Mar 17 **MID-TERM EXAM material through March 5**
Mar 19 lecture: Federal protection of wildlife habitat. Pittman-Robertson Act of 1937, Dingell-Johnson Act of 1950, Land and Water Conservation Fund Act of 1963.
- Mar 24 Topic: National Wildlife Refuge System. Read <http://www.fws.gov/refuges/>. ***Humane Society v. Lujan***.
- Mar 26 topic: National Parks. ***National Rifle Association v. Potter***, *Michigan United Conservation Clubs v. Lujan* (How does *Michigan United Conservation Clubs* extend our understanding of *Potter*?), *Fund for Animals v. Lujan*, *Fund for Animals v. Clark*
- Mar 31 film: *Buffalo War*
Apr 2 topic: Endangered Species Act. Read Goble et al. *TVA v. Hill*. Species listing under ESA: ***Center for Biological Diversity v. Norton*** (see note in case list).
- Apr 7 ESA experimental populations: ***Wyoming Farm Bureau Federation v. Babbitt***
- Apr 9 Critical Habitat: *New Mexico Cattle Growers Assn. v. United States Fish and Wildlife Service*; ***Sierra Club v. United States Fish and Wildlife Service***, Private property: *Babbitt v. Sweet Home Chapter*.
- Apr 14 film: *God Squad*

For the remainder of the semester, we will study zoos: how they evolved, current issues in zoo management, how zoos are involved in species protection and recovery. We will have three field trips: North Carolina Zoo, Natural Science Center (Greensboro), and the Carnivore Preservation Trust (Pittsboro). Readings and field trip schedules will be worked out during the second week of classes.

- Apr 16

Apr 21
Apr 23

Apr 28
Apr 30

May 5

May 7

**Reading Day: final exam due on my door or in the PSC office
by 2:00.**