THE ENDANGERED SPECIES ACT
SYLLABUS FOR SPRING TERM, 2019
Willamette University College of Law
Scott Beckstead, Adjunct Professor

Contact Information:

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Required Course Materials:


- This is also the required text for Wildlife Law, which will be offered in alternating years

Additional reading materials may be added to the syllabus prior to the beginning of the semester. Some of these materials will correspond with the areas of expertise of guest lecturers. Students will also be provided with any developments in the law of the ESA that arise during the semester, and discussions of pending cases and policy debates will be incorporated into the classroom discussions.

Course Description:

This course will explore the Endangered Species Act, the nation’s most groundbreaking and controversial wildlife protection law. Beginning with an overview of the political and biological landscape that gave rise to the ESA, students will read and discuss the key provisions of the ESA and the most important cases that have interpreted and applied those provisions.

Students will learn what events will trigger the listing of a species under the ESA; what constitutes “critical habitat” and how it is designated; how the ESA is enforced; and what steps an agency must take to ensure recovery of a designated species and its habitat

Learning Outcomes:

By the end of this course, students will understand and be able to articulate the underlying values at work in preserving biodiversity, as well as the forces and ideas that threaten it; they will understand what events trigger decisions to list of a species under the ESA, what legal standards apply in judicial review of those decisions, and how those decisions are challenged in the courts; what constitutes “critical habitat,” how it is designated, and what legal standards apply in challenging critical habitat designations; how the ESA is enforced; and what steps an agency must take to ensure recovery of a designated species and its habitat, what legal standards apply in
challenging recovery plans, and how those decisions are challenged in the courts. Students will be assigned to draft pleadings in support of a Motion for Summary Judgment in litigation involving the ESA.

**Evaluation:**

Student grading will be based on attendance and participation (25%), and completion of two writing assignments (75% of grade).

The writing assignments will call upon practical skills for drafting legal documents and pleadings that are commonly used by lawyers practicing in the field of wildlife protection, such as pleadings used in civil proceedings. I will provide the fact patterns and other materials for students’ reference in completing these assignments.

Class attendance and participation are an important component of a successful academic and students will be expected to be ready to discuss the assigned reading for each session (25% of grade). The class will rely heavily on lively discussions of both the theoretical and philosophical underpinnings of the ESA, as well as the real-world application of those ideas in the everyday work that wildlife advocates and professionals do on a daily basis.

The syllabus sets forth the basic reading assignments for class sessions, which may be supplemented each week with additional materials. Exact dates and assignments may change as the semester progresses, and there will likely be occasions where the subject from one class will carry over to the next.

**Schedule and Reading:**

**Week 1:** No reading assignment; general overview of class; discussion of biological, scientific, and social classifications of wildlife species and how those classifications inform the discussion and debates around the ESA.

**Week 2:** Biodiversity

Required reading: Chapter XII, “Biodiversity: A Primer on Science, Values, and Policy pp. 851-914

Guest speaker: Michael Sutton

**Week 3:** Biodiversity

Required reading: Continue with Chapter XII, “Biodiversity: A Primer on Science, Values, and Policy pp. 851-914


Guest speaker: Delcianna Winders

**Week 4:** The Endangered Species Act: History, Structure, and Purpose


**Week 5:** The Listing Decision
Required reading: Chapter X, pp. 920-968

Week 6: The Listing Decision
Required Reading: Chapter X pp. 968-1000

Week 7: Preventing Extinction: Critical Habitat Designations and Consultations
Required Reading: Chapter X, pp. 1000-1023
Guest speaker: Nick Arrivo

Week 8: Preventing Extinction: Consultations (cont’d)
Required Readings: Chapter X, pp. 1000-1023

Week 9: Prohibitions and Penalties
Required Reading: Chapter X, pp. 1086-1159

Week 10: Prohibitions and Penalties

Week 11: Recovery Actions
Required Readings: Chapter X, pp. 1159-1198

Week 12: Recovery Actions
Required Readings: Chapter X, pp. 1159-1209

Week 13: Assessing the ESA
Required Readings: Chapter X, pp 1209-1221

Week 14: The ESA and State Wildlife Protection Laws
Required Readings: ORS 496.171-200
Guest Speaker: TBA

Assignments:

Writing Assignments: With reference to the Endangered Species Act, students will be asked to prepare a written memorandum on two separate current and pending ESA controversies in support of or in opposition to a Motion for Summary Judgment. The pleading will be in the correct format for a pleading filed in the appropriate federal district court. Students will have an opportunity to submit a first draft for review two weeks prior to the assignment’s due date. I will provide the topics and due dates within the first two weeks of class.