

**Wildlife Law - LAW 520-01/ENST 595-02 (CRN: 35637)/NRSM 595-05**  
**Professor Sandra Zellmer**  
**Syllabus (Fall 2020)**

**Course Description**

Many experts believe that the world is facing the sixth episode of mass extinction for life on Planet Earth. Unlike previous ones, this episode is caused by humans. What are the implications, and how does U.S. law and policy strive to avoid such an outcome?

This class examines legal mandates for management and protection of wildlife and biological diversity. Substantively, we will analyze the private interests in and liability for wildlife, the constitutional underpinnings of state and federal wildlife laws, state regulation of fish and game, and the special case of American Indians' rights to, and control over, wildlife resources. We will also take a look at Animal Law, which is a different but related topic. Federal statutes will include the Migratory Bird Treaty Act, the Marine Mammal Protection Act, and the Endangered Species Act. We will also consider management of wildlife under statutes such as the National Forest Management Act and National Wildlife Refuge System Improvement Act, and take a glimpse at international efforts to protect biodiversity. In light of the spectacular array and richness of wildlife-related issues and expertise in the Northern Rocky Mountains, a number of guest speakers from government and from the private and non-profit sectors are anticipated.

**Class Schedule**

Where: Zoom (*primarily synchronous with some asynchronous delivery*)

When: T 4:30-7:00pm

**Contact Information**

Professor Sandra Zellmer

[sandra.zellmer@umontana.edu](mailto:sandra.zellmer@umontana.edu)

Office: Room 207

Office hours: W 12:30-2pm (*and by appointment*): <https://umontana.zoom.us/j/3520366302>

**Reading Materials**

Freyfogle, [WILDLIFE LAW | 2<sup>nd</sup> Edition 2019](#)

Supplemental cases and materials posted on Moodle. *Regular use of Moodle is required.*

**Evaluation/Assessment**

10 points - Class attendance, preparation, and participation

20 points - Small group "Teach-In" to classmates on wildlife law/policy issues (in pairs)

- *Sept. 15 or Sept. 22 (signup ahead of time on Moodle with your teams' topic)*

30 points - Comments (3-5 pp) (20 pts) and testimony (10 pts) on Montana wildlife law/policy issue

- *Testimony on Oct. 13 or Oct. 20 (signup ahead of time with your topic)*

40 points - Comments (5-7 pp) (30 pts) and testimony (10 pts) on Federal wildlife law/policy issue

- *Testimony on Nov. 17 or Nov. 24 (signup ahead of time with your topic)*

**Course Objectives**

- (1) Enhance understanding of the framework of wildlife and biodiversity laws and policies;
- (2) Increase ability to navigate and analyze major federal and state wildlife statutes and regulations;
- (3) Hone skills in identification of problems, problem-solving, and formulating effective arguments; and
- (4) Gain insights on comparative approaches to wildlife management.

## **Learning Outcomes**

The Law School has adopted Learning Outcomes, <https://www.umt.edu/law/files/admissions/student-learning-outcomes.pdf>, which reflect the knowledge, skills, and values the Faculty has identified as necessary for our graduates to serve society as lawyers. In particular, this course strives to promote the following:

- A. Practical understanding of substantive law and policy. By the end of the semester you should be able to identify and evaluate legal issues dealing with:
  - 1) Statutes, regulations, and administrative tools (e.g., permits) used in wildlife management and conservation;
  - 2) The relationships between the common law (primarily property and tort law) and public laws governing management and conservation of wildlife; and
  - 3) Understanding of federal, state, and Native American interests in wildlife.
- B. Comprehension of legal theory and legislative, executive, and judicial roles in law and policy-making.
- C. Practical understanding of wildlife laws significant to the Rocky Mountain West.
- D. Skills: Identification of legal issues; Legal analysis; Objective and persuasive oral and written communication; Collaboration with professionals and clients in your own discipline and other disciplines.
- E. Values: Self-reflection as key to continuous learning and development; professional responsibility and ethics.

## **Attendance, Class Participation, and Course Requirements**

### **A. Participation**

***Classroom instruction*** often will rely on student discussion. To facilitate discussion, all students must be prepared to participate every day. *I expect all students to help cultivate an atmosphere where ideas and opinions can be debated with mutual respect and without intimidation.*

I will generally rely on volunteers for class discussion. However, I also will call on students, particularly those who have been shy about weighing in. My objective for students is to improve their critical thinking about legal materials and sharpen their abilities to make creative arguments. Class participation is necessary to this end.

The students in this year's class come from a wide variety of backgrounds. You should expect to learn from your fellow students. Don't get upset if students contribute information and insights that you do not have. This course is designed to bring together students with varying levels of

experience and different academic orientations. Use class discussion as a rehearsal for practice settings, such as the public sector, that call for interdisciplinary or collaborative work.

I may *raise* by one increment (e.g. from a B- to a B) the grades of students whose class participation is outstanding. Class participation includes attendance, preparedness, quality of contributions, and quantity of contributions. Class participation is also a willingness to take risks. I also reserve the option to *lower* by one increment grades of students who have shown unpreparedness or disengagement in class discussions. *If you miss more than 2 classes (6 hours of class time) during the semester, or exhibit a lack of preparedness, you should expect that your grade will be lowered.* (Note that the law school's attendance policy, below, requires withdrawal if you miss more than 8 class hours per semester).

**Zoom Class Sessions:** As students and faculty adjust to distance education, we all benefit from having clear expectations for the conduct of our class sessions. Please review the following guidelines and be ready to approach our classes accordingly.

- ***Be punctual and present.*** Please show up on time and focus on what we are doing in class. Make a practice of closing out of non-class applications and websites, and try not to get distracted by any devices.
- ***Readiness.*** Read the assigned material and be ready to discuss it, including any holdover material assigned for a previous day but not yet covered in class. If there is an assigned pre-recorded video for the day, please watch it before class.
- ***Using your camera.*** I encourage you to keep your camera on while class is in session, but you are not required to do so while we are meeting as a group. However, you should always be ready to turn your camera on when we go into breakout rooms, or when I call on you. I realize that there are many reasons why you might not want to have your camera on at any given moment, but please do your best to be ready to participate in the same way you would in the classroom.
- ***Breakout rooms.*** During class, I may send you into “breakout rooms” where you will meet briefly with a small number of students (about 4) chosen randomly by Zoom. I may “drop in” to your breakout rooms without notice. Every student in the chosen rooms should be ready to speak when we return, and I may call on any of you.
- ***Chat.*** By now you have probably used the “Chat” function in a Zoom session. Chat is class discussion and I will review the chat feed after class. Please keep it on-topic, respectful and professional or I will disable the chat function.
- ***Polling.*** I may ask you to answer poll questions during class. We will often do a poll as we come out of breakout rooms, although I may wait to share the results until after some class discussion. I may also poll you to get student input on matters like scheduling, or some other issue of how the class will work. Polls will be anonymous unless I tell you otherwise.
- ***Recording.*** Class sessions will be recorded. Recordings will be made available online. They are for the benefit of our class members only. Do not share them or post them.

## **B. Attendance Policy**

Under ABA accreditation standard 308, the law faculty assumes that students will attend all classes in each course for which the student is enrolled. The Law School adheres to the ABA

policy which requires “regular class attendance.” A student who does not attend a class session according to the professor’s published attendance policy is absent. For remote instruction courses in which the professor requires synchronous instruction in the syllabus, failure to attend synchronously is an absence.

- 1. Maximum Allowable Absences.** Regardless of the reason for any absence, including mandatory excused absences (see para. 2) and exigent circumstances (see para. 3), a student may not be absent for more than *twenty percent* of the aggregate class hours during the semester rounded up to the nearest hour. (For example, *20% of 39 hours for a 3 credit class is 8 class hours; 20% of 26 hours for a 2 credit class is 6 class hours; and 20% of 13 hours for a 1 credit class is 3 class hours.*) A student who exceeds the twenty percent aggregate class hour limit for absences must withdraw from the class. The student is responsible for withdrawing from the course in the manner set forth in this handbook. A student who does not take the necessary steps to withdraw by the last allowable date as set forth in the student handbook shall receive a failing grade for the course.
- 2. Excused Absences that Do Not Count as Absences.** The following excused absences are not to be counted as an absence in a written attendance policy of an individual professor that permits only a specific number of absences before sanctions ensue, but shall count as an absence to determine the maximum allowable absences subject to the 20% aggregate class hour limit: School absences from class due to participation in school approved competitions (including the competition and travel there and back), participation at the Montana Law Review conference, participation at the Public Land Law Review conference, participation in a scheduled clinic-related event, jury duty, military service, and a subpoenaed appearance.
- 3. Exigent Circumstances.** At the discretion of the Dean or the Dean’s designee, a student may be allowed excused absences for exigent circumstances including without limitation the unexpected illness or surgery of the student, serious illness or death of the student’s immediate family member, the student’s unexpected need to care for an immediate family member or, for academic year 2020-21, other difficult circumstance caused by remote instruction. For the purpose of this policy “immediate family member” includes the student’s spouse or partner, parent, child, sibling, grandparent, and other such persons of significance to the student. *Procedure for Exigent Circumstances.* A student shall communicate with the Dean or the Dean’s designee as soon as possible regarding the need for excused absences and/or delay of examinations or due dates because of an exigent circumstance. Once the Dean or the Dean’s designee has granted an excused absence for exigent circumstances, the Dean or the Dean’s designee shall inform the student’s professor of the excused absence. The student shall then confer with the professor as soon as possible to establish a timeline for making up exams or due dates.
- 4. Notice.** I do not need to know in advance that you will miss a class. Students juggle a number of important activities and all time management choices have their trade-offs. I accept that students sometimes need to miss class; students should accept whatever extra work they must do to catch up or make up. However, if you need to miss more than one class because of illness or family emergency, please do let me know.
- 5. Remote Instruction.** “Remote instruction” means one or more class sessions in which one or more students are separated from the professor or each other and the instruction

involves the use of technology to support regular and substantive interaction among students and between the students and the professor, either synchronously or asynchronously, and is designed to allow for the student's meaningful class participation. The professor will designate remote instruction for synchronous, asynchronous, combination of synchronous / asynchronous, or hyflex delivery. (Synchronous requires attendance by the student at the scheduled time. Asynchronous allows attendance during the week scheduled for the class at the discretion of the student within a time frame determined by the professor. Combinations of hyflex / synchronous / asynchronous allow the professor to designate which class sessions qualify for hyflex / synchronous / asynchronous instruction. Hyflex requires attendance either in-person or synchronously, at the student's choice.) The dean or dean's designee shall ensure the law school provides faculty and staff the technology and support necessary to achieve quality instruction. Each course offered during academic year 2020-2021 will be offered for remote instruction.

### My Anti-Racism Pledge

I am on a journey to be anti-racist. If you would like to help me on that journey, please point out racism in any of my behaviors or in what I say. Below is my personal pledge:

- ◆ I pledge not to interrupt you.
- ◆ I pledge not to be defensive.
- ◆ I pledge to thank you for your willingness to talk to me.
- ◆ I pledge to engage with you about how I can work on being better.
- ◆ I pledge to work on my beliefs and to share my experience with my loved ones.