

Energy, Environmental, and Natural Resources Law Clinic 2017-2018

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MEMORANDUM

TO: EENR Law Clinic interns

FROM: Jay Jerde 
Special Assistant Attorney General

RE: Research Assignment — Public Comments

Please provide your responses in a separate memorandum, addressed to me, on Clinic letterhead using the Clinic memorandum format. Please submit the completed assignment via WyoCourses no later than 5 pm on Sunday, September 17, 2017.

1. Find a document that provides tips or guidance on how to draft public comments on a proposed federal agency action. The document should be published by a source that: (1) you deem to be credible; and (2) is not a federal agency.
 - A. Give the Bluebook citation for the document.

- B. What source did you use to find the document (e.g. Lexis, a website, or a particular printed source)?
 - C. Why do you believe the source that published the document is credible regarding the topic of how to draft public comments?
 - D. **Briefly** summarize what, if anything, the document says about providing documentation with your comments.
2. On the regulations.gov website, find the public comment letter submitted by Earthjustice during the reopened comment period of the 2016 proposed rule to delist the grizzly bear population in the Greater Yellowstone Ecosystem.
- A. What is the Federal Register Docket Number for the proposed rule?
 - B. **Briefly** summarize what Earthjustice said about the issue of peer review of the final conservation strategy.
 - C. Did Earthjustice submit supporting documents with its comment letter? If so, **briefly** describe the different types of documents Earthjustice submitted (e.g., law review articles, studies, etc ...).
3. Find a published decision from the federal district court in Wyoming in which the court addressed the issue of whether a party waives the right to seek judicial review of a federal agency action if the party did not comment during the public comment period for the proposed federal action.
- A. **Briefly** summarize the court's analysis of the failure to comment/waiver issue.
 - B. Have other federal courts adopted a different rule on the failure to comment/waiver issue? If so, provide the Bluebook citation for the decision from **one** court that has adopted a different rule and **briefly** summarize how that court analyzed the issue.
 - C. Give the Bluebook citation for the decision.
 - D. What source did you use to find the rule in question? (e.g. Lexis, a website, or a particular printed source)

4. Locate a document on the regulations.gov website that provide tips for drafting public comments.
 - A. Give the Bluebook citation for the document.
 - B. What source did you use to find the rule in question (e.g. Lexis, a website, or a particular printed source)?
 - C. **Briefly** summarize what the document says about the effectiveness of form comments.

5. Locate a 2005 law review article authored by Stephanie Tai regarding public comment and informed federal agency decision-making.
 - A. Give the Bluebook citation for the article.
 - B. What source did you use to find the rule in question (e.g. Lexis, a website, or a particular printed source)?
 - C. **Briefly** summarize what Ms. Tai says about the goals of the public comment process in federal statutes such as the APA or NEPA.