



## **Energy, Environmental, and Natural Resources Law Clinic**

**Fridays 10:00 – 11:40, Room 180**

### **Fall 2019 Semester Syllabus**

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#### **Clinic Adjunct Professor**

During the Fall semester, the classroom aspect of the clinic will be taught by:

Robert C. Mathes  
Occidental Petroleum Corporation  
Senior Counsel  
720-929-4326  
Robert\_Mathes@oxy.com

#### **The Classroom Component**

During the Fall semester, the Clinic will provide you with an overview of key aspects of administrative law and practice, federal court litigation in the energy, environmental, and natural resources arena, state law regulatory schemes administered by the State of Wyoming. The classroom component of the Clinic will consist of classroom instruction, experiential learning through simulated exercise assignments, skills development classes and a guest lectures on the general practice of natural resource law. Some students in the Fall Clinic will continue on to practice with the State of Wyoming Attorneys' General Office in the Spring Clinic.

**Classroom Instruction** — Classroom instruction will consist of a series of instructional lectures addressing topics relevant to the litigation of administrative record review cases in federal court and natural resources or environmental litigation in state court.

As background for these lectures, you will be asked to complete five short research memos to find materials associated with the lecture/or you will be provided with materials. The materials will include: published cases, law review articles, excerpts from treatises, court rules, and/or other relevant materials. You are expected to complete the research assignment and the reading before each class and to actively participate in classroom discussions. In addition to the reading materials, you may be given sample documents or other reading materials before or during class that are relevant to the topics being discussed in class.

**Experiential Learning** — This semester you will complete several experiential learning assignments. The assignments this semester will be:

- Assignment # 1 - Draft a Freedom of Information Act Request
- Assignment # 2 - Review an actual federal environmental document and draft a comment letter
- Assignment #3 – Draft a Petition for Review in the U.S. District Court for the District of Wyoming; Draft a Complaint for Review of Agency Action in U.S. District Court for the District of D.C.
- Assignment #4 - Draft a motion to intervene and accompanying court documents (affidavit or declaration).

For most of the written assignments, you will complete a first draft of the assignment with minimal direction from the instructor. After completing the first draft, you will receive verbal and/or written feedback on the assignment, either individually or as a class, from one or more of the instructors. You then will be required to revise their assignment based upon the feedback you receive and resubmit the assignment.

The meetings to provide verbal feedback on assignments may be scheduled before or after the regularly scheduled class time, or at some other suitable time during the week.

**Guest Lecture** — For one or more classes during the Fall semester, a practicing attorney or attorneys from Wyoming or another state in the Rocky Mountain region who has a law practice that focuses on energy, environmental, or natural resources issues will speak to the class about their practice.

### **General Information**

**Time Reporting** — During the semester, you must submit weekly time reports via WyoCourses. Time entries will be modeled after a submission in a law firm that could be used for billing purposes.

Your time reports must account for all of the time you spend working on matters involving the Clinic. The specific requirements for the content of the weekly time reports will be provided to you before the first time report is due. The time period for each weekly report will be 12 a.m. Monday through 11:59 p.m. on the immediately following Sunday. Time reports for a specific week must be submitted no later than 5 p.m. of the Wednesday of the immediately following week.

**Grading** — Student performance in the Clinic will be assessed using an A-F grading system. You will receive a final letter grade of A-F for the semester. The final letter grade will be assigned using the law school format set forth in the Student Handbook.

The final letter grade for the semester will be based upon your performance in the following categories:

Research Memos 5 memos total; 45% of the final semester grade). For the experiential learning assignments, you will receive a letter grade based upon the quality of your performance.

Experiential Learning Assignments 4 assignments total; 45% of the final semester grade). For the experiential learning assignments, you will receive a letter grade based upon the quality of your performance.

Weekly time reporting (5% of the final semester grade) — For each weekly report, you will receive a letter grade based upon the timeliness and quality of the report.

Class Participation This is a discussion-based class and participation is expected and will be included in your final evaluation.

**Late Assignments/Missed Assignments** — You will receive a 25% reduction in your final grade for the memo or assignment for any late memo or assignments. If you fail to turn in a memo or an assignment, you will receive an Incomplete for the class until you do so.

**Office Hours and Class Communication** — If you have questions about any aspect of the Clinic, you may contact Rob Mathes during office hours, via telephone, email or before or after class.

The instructor reserves the right to modify the syllabus and/or class schedule. If a modification is made, we will communicate that modification to the students.

**Class Attendance** — In accordance with the College of Law Attendance Requirement and American Bar Association requirement of regular and punctual attendance, you must attend at least 75% of the class meetings. The instructors will take attendance and enforce this requirement.

**Academic Honesty** — The College of Law Honor Code and the University of Wyoming Code of Conduct apply to this course. You are expected to be familiar with the requirements of both Codes and to adhere to them at all times. Failure to do so may subject you to severe sanctions including but not limited to possibly failing this course, and/or dismissal from the University.

The College of Law Honor Code and the UW Code of Conduct are available for review on the College of Law website on the “Current Student Resources” page under the heading of “Forms and Handbooks.”

**Respect, Diversity, Equity, and Inclusion** — The University of Wyoming values an educational environment that is diverse, equitable, and inclusive. The diversity that students and faculty bring to class, including age, country of origin, culture, disability, economic class, ethnicity, gender identity, immigration status, linguistic, political affiliation, race, religion, sexual orientation, veteran status, worldview, and other social and cultural diversity is valued, respected, and considered a resource for learning.

**Student Support** — If you have a physical, learning, or psychological disability and require accommodations, please let me know as soon as possible. You will need to register with, and provide documentation of your disability to, University Disability Support Services (UDSS) in SEO: Room 109 in Knight Hall | 766-6189 TTY: 766-3073.

I encourage an environment of open communication and trust; beyond course-specific conversations, I am here to support you as a whole person and holistic learner. Additionally, if you share issues you may be struggling with or concerns you may be having, please be aware that I have expectations and duties to report that are part of my job requirements at UW. For example, if you inform me of an issue of sexual harassment, sexual assault, or discrimination I will keep the information as private as possible, and I am required to bring it to the attention of the institution’s Title IX Coordinator. If you would like to talk to those offices directly, you can contact Equal Opportunity Report and Response (Bureau of Mines Room 319, 766-5200, [reportit@uwyo.edu](mailto:reportit@uwyo.edu), [www.uwyo.edu/reportit](http://www.uwyo.edu/reportit)). Additionally, you can also report incidents or complaints to the UW Police Department. You can also get support at the STOP Violence

program ([stopviolence@uwyo.edu](mailto:stopviolence@uwyo.edu), [www.uwyo.edu/stop](http://www.uwyo.edu/stop), 766-3296) (or SAFE Project  
([www.safeproject.org](http://www.safeproject.org), [campus@safeproject.org](mailto:campus@safeproject.org), 766-3434,  
24-Hour hotline: 745-3556).



**Energy, Environmental, and Natural Resources Law Clinic**  
**Fall 2019 Semester**

**Class and Assignment Schedule**

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**August 30 EENR Law Introduction and Expectations and Freedom of Information Act**

- Please review the following prior to class
  - o Freedom of Information Act (5 U.S.C. 552)
  - o BLM FOIA regulations at 43 C.F.R. part 2
  - o *Food Marketing v. Argus*, 139 S.Ct. 2356 (2019)

Distribute Experiential Assignment #1 – Draft FOIA Request

Distribute Research Memo #1 – Public Comment

Distribute Experiential Assignment #2 – Public Comment Process

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**September 6 Drafting Public Comments**

Due: Research Memo #1 – Drafting Public Comments

Due: FOIA Request

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**September 13 Drafting Public Comments – Clinic Work Time**

Due: Draft of Public Comment Letter

Distribute Research Memo #2 – Administrative Record

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**September 20 Administrative Record**

Due: Research Memo #2 – Administrative Record

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**September 27 Administrative Challenges to Agency Actions**

- Please review the following prior to class
    - o 43 C.F.R. subpart 3165
    - o 43 C.F.R. part 4, subpart A
    - o 43 C.F.R. §§ 4.400 – 4.423
    - o WildEarth IBLA Case (to be provided)
- Due: Experiential Assignment #2 - Final Comment Letter (note extension)

**October 4                      FLPMA and Land Use Planning**

- Read 43 C.F.R. Part 1600
  - Read Veronica Larvie, Federal Land Policy and Manage Act: Multiple Use and Sustained Yield Across 264 Million Acres . . . RMMLF 2014.
  - Review/Skim BLM Land Use Planning Handbook, BLM Handbook H-1601
  - Review/Skim Buffalo Approved Land Use Plan (2015)
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**October 11                      Land Use Planning – Part 2**

- Review 36 C.F.R. Part 219 – Forest Service Planning
  - Review Buffalo Wyoming Resource Management Plan and Accompanying Final EIS (2015)
  - Review Final Sage-Grouse RMP (2019).
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**October 18                      Complaints and Petitions for Review**

Due: Research Memo #3 – *Olenhouse* and Agency Review  
Distribute Experiential Assignment # 3- Petition for Review and Complaint

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**October 25                      Attend the Landscape Discussion on Energy  
Law and Policy Conference**

Due: Experiential Assignment # 3a - Petition for Review (Dist. of Wyoming)

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**November 1    Natural Resources Pleadings/Motions #1  
Guest Lecture – Phil Lowe**

Due: Experiential Assignment #3b - Draft Complaint  
Distribute Research Memo #4 – Pleadings Practice

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**November 8   Clinic Work Time/ Natural Resources Pleadings/Motions #2**

Distribute Research Memo #5 – Motions Practice  
Due: Research Memo #4 – Pleadings Practice  
Due: Experiential Assignment # 3b - Final Complaint

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**November 15 Natural Resources Pleadings/Motions #3**

Due: Research Memo #5 – Motions Practice

Distribute: Experiential Assignment # 4 – Motion to Intervene

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**November 22 TBD**

Due: Research Memo #5 – Motions Practice

Due – Draft Motion to Intervene

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**November 29 No Class – Thanksgiving Week**

Due: Experiential Assignment # 4 – Final Motion to Intervene

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