

Dr. Keith R. Criddle

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LP 203

TR 10-12 or by appointment

Thu 5:20-7:20 pm Juneau (LP 103) and by video conference to Fairbanks and other sites as demand warrants.

This course introduces students to the key Federal, State, and International laws that govern fisheries in Alaska state waters and in the US Exclusive Economic Zone off Alaska. In addition, the course introduces students to seminal court rulings that have helped shape those laws. *Prerequisite: ENGL 213; graduate standing or permission of instructor. (2+0)*

This is a course on Fisheries Law for non-lawyers. Studen

should provide background on the case (who did what and why did it lead to litigation), a summary of the arguments advanced by the plaintiffs and defendants, a summary of the decision and reasoning behind the decision, and a discussion of the immediate effects and broader implications of the decision and what you think can be learned from it. You should plan on at least 10 pages and in no case should your paper exceed 20 pages. Students are expected to attend all class sessions having completed reading assignments and being prepared to engage in discussion. Students will be asked and are expected to be able to answer questions about the content and implications of laws covered in the reading assignments.

Each exam and the research paper will be

OMB (2003) Circular A-4

McDeavitt, M.J. 2001. Impact of the Regulatory Flexibility Act on the implementation and judicial review provisions of the MSFCMA

E.O. 12866, E.O. 12291, E.O. 12898, E.O. 13175

f. MSFCMA(continued) week 6

A. Quota Programs

Alliance Against IFQs v. Brown, 84 F.3d 343 (9th Cir. 1996).

Fisherman's Finest, Inc. v. Locke (9th Cir. 2010).

Becky Mansfield, *Rules of Privatization: Contradictions in Neoliberal Regulation of North Pacific Fisheries*

Peter Schikler, Has Congress Made It Harder to Save the Fish? An Analysis of the Limited Access Privilege Program (LAPP) Provisions of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, New York University *Environmental Law Journal* (2008).

Daniel W. Bromley, Rights-Based Fishing: The Wrong Concept and the Wrong Solution for the Wrong Problem, in Pew Oceans Commission, *Managing Marine Fisheries in the United States* (2003) at pp. 35-39.

[http://www.pewtrusts.org/our_work_report_detail.aspx?id=30045]

B. Review MSA provisions and case law and be prepared to discuss hypothetical examples in class.

g. NEPA week 7

A. Overview

Ronald E. Bass, et al., *The NEPA Book*, Chapter 1.

The *National Environmental Policy Act*, Sections 101-103 only (pay close attention to section 102(C))

The *Council on Environmental Quality's Regulations*. 40 CFR parts 1500-1518

B. The Requirement to Prepare Environmental Impact Statement (EIS)

1. Is It a Major Federal Action?

Kleppe v. Sierra Club, 427 U.S. 390 (1976)

2. Does It Significantly Affect the Quality of the Human Environment?

Grand Canyon Trust v. Federal Aviation Administration, 290 F.3d 339 (D.C. Cir. 2002)

3. Mitigating to a Fing9Ig0[t.9(2n0[t(rt(, rL5e.0005 Tw[(2. Do)8.3(es I)71 g7(ct)4.7(Sta)5.7(t)-1.3(e)3.9(m)-.9(ent)4.7(04.7(E)-1t)]T

B. Navy Sonar

Section 101 of the *Marine Mammal Protection Act* (MMPA)

Natural Resources Defense Council v. Evans, 279 F.Supp.2d 1129 (N.D. Cal. 2003)

Exam 1 will be given out at the end of week 9 and due at the beginning of week 10.

- a. The Alaska Constitution and fisheries management week 10
[Article VIII](#) of the Alaska Constitution. Compare Article VIII (paying particular attention to §3) to [Title VIII](#) of the Alaska National Interest Lands Conservation Act (ANILCA).
[State v. Ostrosky](#), 667 P.2d 1184 (1983).
[CFEC v. Apokedak](#), 606 P.2d 1255 (1980).
[State of Alaska v. Grunert](#), 109 P. 3d 924 (2005).
- b. Alaska statutes and regulations relating to fisheries management week 11
The “Nuts and Bolts of Testifying Before the Board of Fisheries,” Sue Aspelund.
The 1883 Organic Act – An Act Providing a Civil Government for Alaska.
- a. International Treaties and Conventions week 12
FAO Circular No. 1054, The Role of International Fishery Organizations and Other Bodies in the Conservation and Management of Living Aquatic Resources
(<http://www.fao.org/docrep/012/i1493e/i1493e.pdf>)
Cerne, M. 1996. Enforcement aspects of the agreement for the implementation of the provisions of the United Nations convention on the law of the sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.
- b. UN Convention on the Law of the Sea weeks 13 & 14
UNCLOS has been in force since 1994. Although the US is not a signatory, the US has parallel domestic legislation for key provisions related to extended jurisdiction, pollution, transportation, and fisheries.
- a. Structure and function of enforcement in State, Federal, and International fisheries week 15
FAO International plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing
(<http://www.fao.org/docrep/003/y1224e/y1224e00.HTM>)
Coast guard fisheries enforcement strategic plan Ocean Guardian
(<http://www.uscg.mil/hq/cg5/cg531/lmr.asp>)
NOAA OLE (http://www.nmfs.noaa.gov/ole/ole_about.html)
NOAA OLE Alaska Division (http://www.nmfs.noaa.gov/ole/ak_alaska.html).

Exam 2 will be given out at the end of week 15 and due at end of the scheduled final exam period.