

Recommended Reading (RR): On reserve in Library or URLs

Office Hours: 1:00-2:00 p.m., Mondays - Thursdays

Exam: Open-book, take-home, anonymous grading, due 3:00 pm, June 19

Required Reading: Advance reading required for first class

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May 30 – June 2 / Michael Sutton

**CLASS I:**

**Tuesday, May 30:** Course Introduction: Marine Boundaries and Jurisdictions; United Nations Convention on the Law of the Sea

Required Reading:

- Preface – *OCL Preface, pp. v-vi*
- The Origin of U.S. Rights & Responsibilities in the Oceans – *OCL Chapter 1, pp. 1-7, 19-23, 29-38, 48-71*


*Please access using the links*

- *The South China Sea*, The Economist, July 12, 2016
- *What Can the South China Sea Learn from the Arctic?* The National Interest, April 5, 2017

*RR is not necessary for the class. These materials provide additional information and legal authority for the issues discussed in the corresponding class.*
Recommended Reading:


RR Ken Weiss, Altered Oceans – A five-part series on the crisis of the Seas, Los Angeles Times (July 30-August 3, 2006)

CLASS II:

Wednesday, May 31: Federal Fisheries Management

Required Reading:

Producing Food from the Oceans:
Evolution of the Magnuson-Stevens Act – OCL Chapter 6, pp. 610-658
Allocating Conservation Benefits and Burdens – OCL Chapter 6, pp. 665-693

SM 025 How Dwindling Fish Stocks Got a Reprieve, New York Times, April 19, 2016

Recommended Reading:


CLASS III:

Thursday, June 1: International Fisheries and Trade

Required Reading:

Foreign & International Fisheries – OCL Chapter 6, pp. 701-721, 731-744

SM 043 Straddling & Highly Migratory Fish Stocks Agreement; Arts. 5-6 (1995)
SM 046 The Rio Declaration: Art. 15 – The Precautionary Approach
SM 048 General Agreement on Tariffs & Trade: Art. 20 – Trade Sanctions

Recommended Reading:


CLASS IV:
Friday, June 2:  State Fisheries, Protected Areas and New Approaches

Required Reading:

State Fisheries Authority – **OCL Chapter 6, pp. 571-573, 596-600**
Marine Reserves & Spatial Planning – **OCL Chapter 8, pp. 944-969**

SM 049  Memorandum of Understanding, California Marine Life Protection Act
SM 060  California Marine Life Protection Act Text and Summary
SM 068  Scientific Consensus Statement on Marine Ecosystem-Based Management (2005)

Recommended Reading:

RR  Elliott A. Norse, Larry B. Crowder, Kristina Gjerde, David Hyrenbach, Callum Roberts, Carl Safina, and Michael E. Soulé, “Place-Based Ecosystem Management in the Open Ocean”, pp. 302-327
RR  Place-Based Ecosystem Management in the Open Ocean (Norse, E.A. et. al.)

CLASS V:
Monday, June 5:  Coastal Ownership and Public Trust Rights

Required Reading:

The Tidelands Controversy – **OCL pp. 73-74; 82-90**
Public Trust in Coastal Lands and Waters – **OCL pp. 125-162**
Public Purpose: Warriors Case Study (Slides)

SM 102  *San Francisco Baykeeper v. California State Lands Commission*, California Court of Appeals, First Appellate District, November 18, 2015

June 5-8 / Tim Eichenberg
Recommended Reading:


CLASS VI:
Tuesday, June 6:  Coastal Zone Management

Required Reading:

- Saving the Bay: The Nationals First Coastal Management Agency (Video)
- The Coastal Zone Management Act – OCL pp. 249-311

SM 113  *Surfrider Foundation v. Martins Beach*, Case No. CIV520336 (2014)
SM 123  Presidential Exception from the CZMA (January 15, 2008)

Recommended Reading:


CLASS VII:
Wednesday, June 7:  Beach Erosion, Public Access and Private Property Interests

Required Reading:

- Beach Erosion, Sea Level Rise and Shoreline Protection – OCL pp. 338-351
- Private Property Interests in Coastal Waters and Lands – OCL pp. 163-179
- Loss of Littoral Rights – OCL pp. 193-205
- Public Access and Use of Beaches and Shores – OCL pp. 216-238


Recommended Reading:


CLASS VIII:
Thursday, June 9: The Takings Issue, Climate Change and Sea Level Rise

Required Reading:
Creating Beach Access by Regulation – OCL pp. 238-248
The Takings Issue and Sea Level Rise – OCL pp. 364-385
Effects of Government Funding – OCL pp. 351-364
Climate Change and Sea Level Rise in San Francisco Bay (slides)
Lecture by Dr. Heidi Weiskel, ELAW on “How Scientists and Lawyers Work Internationally to Protect Coastal Communities and Environments.”
Class Discussion (if time permits): Effect of the Trump Administration’s Agenda on Climate Change, Oceans and Coasts (see links below for background on Clean Power Plan, Gorsuch Nomination, Waters of the U.S. Rule, and EPA Budget).

SM 135

SM 138
J. Upton, Bay Area Adopts Historic Climate-Change Rules, Bay Citizen, October 6, 2011

Also access these links at SM 139
See “Analysis of Trump Budget for EPA” at https://drive.google.com/file/d/0B-47Xatsg07SQk5rMGhkSHQtc0U/view

Recommended Reading:
RR BCDC, “Bay Plan Amendment No. 1-08 to the San Francisco Bay Plan” addressing climate change and sea level rise, October 6, 2011 http://www.bcdc.ca.gov/proposed_bay_plan/10-01Resolution.pdf
June 12-15 / Donald Baur

NOTE: * indicates a case for which a volunteer student presentation is requested

Sunday, June 11:  Non-required screening of *The Cove* in the classroom beginning at 6:00 pm.

CLASS IX:  
Monday, June 12:  **PART I: International Authorities – Species Conservation/Whales and Whaling**

**Required Reading:**

- **SM 141*** Japan Whaling Ass’n v. American Cetacean Society, 478 U.S. 221 (1986)
- **SM 151** Letter from Department of the Interior to the President regarding Iceland and the Fisherman’s Protective Act (Jan. 31, 2014)
- **SM 156** “Saving Whales, Saving Whaling, Saving the Whaling Convention,” *Environmental Forum*, at 40-45 (May/June 2007) (video shown in class on Taiji dolphin hunt)
- **SM 164** “Whale Wars – Eco-Terrorism as Reality TV”, *Huffington Post* (June 5, 2009)
- **SM 165*** Institute of Cetacean Research v. Sea Shepherd Conservation Society, 708 F.3d 1099 (9th Cir. 2013)
- **SM 171** Whaling in the Antarctic, *Australia v. Japan*, Int’l Court of Justice (March 31, 2014)
- **SM 190** United Nations, Japan Declaration Under Article 36(2) Rescinding ICJ Jurisdiction (October 6, 2015)
- **SM 191** “Japan kills more than 300 whales in annual Antarctic hunt,” *The Guardian* (March 31, 2017)
- **SM 193** “Under intense international pressure, why does Japan continue whaling?” *Asian Correspondent* (March 29, 2017)

Taiji Dolphin Hunt (video shown in class)

**Recommended Reading:**

- **RR** Institute of Cetacean Research v. Sea Shepherd Conservation Society, 774 F.3d 935 19th Cir. 2014
CLASS IX:
Monday, June 12:  PART II: Federal Marine and Coastal Protected Areas

Required Reading:
SM 211* United States v. Brown, 552 F.2d 817 (8th Cir. 1977)

Recommended Reading:
RR  J. McPhee, Encounters with the Archdruid, Part 2 (1971)

CLASS X:
Tuesday, June 13:  The Marine Mammal Protection Act

Required Reading:

Federal Preemption


The Moratorium and Take/Import Prohibitions and the Exceptions – OCL pp. 787-791

SM 239  Center for Biological Diversity v. National Science Foundation, 55 ERC 1873 (N.D. Cal. 2002)
SM 242* Strong v. Secretary of Commerce, 5 F.3d 905 (5th Cir. 1993); United States v. Hayashi, 5 F.3d 1278 (9th Cir. 1993)

Keiko and the MMPA (video shown in class)

SM 271* Conservation Council for Hawaii v. NMFS, 97 F. Supp. 3d 1210 (D. Hawaii 2015) (also discussed under Endangered Species Act on June 14)

Fisheries Incidental Take/Domestic – OCL pp. 787-791
Screening and discussion of *Sonic Sea*, beginning 6:30 pm, with discussion by a panel of experts.

**Recommended Reading:**


**CLASS XI:**

**Wednesday, June 14:**  **Marine Endangered Species**

**Required Reading:**

Listing and Critical Habitat – *OCL pp. 840-847*

SM 299*  *Center for Biological Diversity v. Lohn*, 296 F. Supp. 2d 1223 (W.D. Wa. 2003)

Consultation and Jeopardy – *OCL pp. 864-872* (*Greenpeace Foundation v. Mineta)*

SM 313*  *Oceana v. Gutierrez*, 488 F. 3d 1020 (D.C. Cir. 2007)


SM 322  *Marbled Murrelet v. Babbitt*, 83 F.3d 1060 (9th Cir. 1996)
SM 328  *Drifting in Static*, National Geographic (Jan. 2011)
SM 332  *Conservation Council for Hawaii v. NMFS*, 2015 WL 1499589 (D. Hawaii, Mar. 31, 2015) - (Please refer to SM 271-Class X)

Mandatory Brown Bag Lunch Lecture by Jean-Michel Cousteau:

*An Ocean Life - Reflections on a Lifetime of Advocacy, Adventure, Education and Science for the Protection of Our Blue Planet.*
Recommended Reading:

RR D. Domning, “Endangered Species: The Common Denominator”

CLASS XII:
Thursday, June 15: **PART I: Offshore Energy**

Required Reading:

Offshore Oil and Gas Energy Development – OCL pp. 392-394, 397-415

CLASS XII:
Thursday, June 15: **PART II: Deepwater Horizon and Spill**

Required Reading:


Student volunteer teams to give presentations on causes of the spill, effects of the spill, future actions. Discussion lead by Dr. Heather Rally.

CLASS XII:
Thursday, June 15: **PART III: Ocean Policy**

Required Reading:

SM 348 National Ocean Implementation Plan (April, 2013)
SM 381 Ocean Action Agenda - Ocean Priorities for the Trump Administration
Recommended Reading:


RR Deepwater: The Gulf Oil Disaster and the Future of Offshore Drilling, Report to the President, National Commission in the BP Deepwater Horizon Oil Spill and Offshore Drilling (Jan. 2011)

RR Executive Order 13547 (July 19, 2010)


**Thursday, June 15:**  **Hot Topics Lecture**

**Mandatory Brown Bag Lunch Lecture:**

*Lions and Tigers and Bears, Oh My! The Captive Wildlife Crisis in Our Backyard,* with Dr. Heather Rally.