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# EVST 594.01: Key Natural Resource Policies of the American West

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KEY NATURAL RESOURCE POLICIES OF THE AMERICAN WEST  
EVST 594, Section 1

Fall Semester  
2000

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COURSE DESCRIPTION

For more than one hundred years, the American West has had a coherent politics, economy and culture tied to a strong regional identity as a supplier of natural resources. The region's sense of itself – what some writers have called its "mythic identity" – has been closely linked to this historic role as a resource supplier, and still persists despite the fact that the region's economy has undergone fundamental changes that have made the production of agricultural commodities, wood products and minerals far less important to the job base, personal income and overall economy.

At the core of this historic coherence lies a set of policies – some state-based, some federal – that guide the allocation of natural resources on both public and private lands. The noted law scholar Charles Wilkinson has called this set of policies, all with roots in the 19th century, "the Lords of Yesterday," an apt metaphor to describe the profound grip of these antique institutions on the contemporary West.

This seminar will examine the Lords of the Yesterday – their history, the milieu in which they came into existence, and their effect on the natural environment, human communities, and politics of the modern West. The allocation policies we'll examine in detail include the Doctrine of Prior Appropriation and federal development schemes for water; the Mining Law of 1872; and federal timber and grazing policies, implemented by the U.S. Forest Service and the Bureau of Land Management. The seminar will also briefly examine the original policy formulations that led to the creation of the national park system, and the movement for land preservation which has stood for more than a hundred years against the American tendency toward privatizing public resources.

We will investigate various perspectives on the key natural resource policies of the West. A few important questions we will try to answer pertain to the longevity of "the Lords of Yesterday." Why has the increasingly powerful national and regional environmental movement been unable to tear down the edifice of 19th century western resource policies? What would it take to create substantive reform of any of these antique political institutions? To what extent have environmentalists and others learned to work within the framework of the "Lord of Yesterday," instead of trying to erase or replace them?

SEMINAR REQUIREMENTS

Grading for the seminar will be based upon performance in two areas:

1. Participation in discussions.

Discussions will be based primarily on the readings but are not limited to the scope of the readings. Members of the seminar will also bring their own experience and previous learning to bear on our discussions. Some of our readings are purely informative; some are argumentative, included to provide perspective. We will try to follow a similar pattern in the seminar sessions: informing each other, presenting and understanding arguments, providing a variety of perspectives on our topic as the semester progresses.

In order for our seminar to work as a seminar, it is imperative that each member contributes insights, information, ideas, arguments. Points of view contrary to the prevailing sentiments of the group are welcome. We are not coming together to create uniform agreement.

**One-third of your grade will be based on participation in discussions.** If you're a shy sort, this seminar will be an excellent opportunity to hone your group-speak skills in a congenial atmosphere of discussion.

## 2. Paper

**Two-thirds of your grade will be based on a research paper or annotated essay.** The paper should be no fewer than fifteen pages, double-spaced, but no more than thirty (unless I have approved a longer paper in advance).

Well before mid-term, I shall ask you to draft a brief proposal (one page or less) on the subject you wish to research and your approach to that subject.

### Deadlines:

1. Your brief proposal is due September 28.
2. The first complete draft of your paper is due no later than November 2. You will receive detailed commentary from me within two weeks of submitting the draft.
3. The final draft of your paper is due December 14 (in my mailbox, please, or placed in my hand).

### A WORD ON GRADING

I grade papers on the basis of two main elements: content and form. Content involves rigor: did the writer bring sound research skills to the subject? Is the research thorough? Does the treatment take into account the complexities and nuances of the subject? Is the thinking sound and of high quality? Does the writer add a fresh or original perspective? Is the paper merely a one-sided diatribe, or does it pay attention to the nuances and multiple points of view that inevitably accompany complex natural resource issues? Does the paper contribute positively to debate, discussion, and/or the provision of information in the arena?

I do not want you to write a mere literature review on your topic. I want to see your point of view, carefully constructed and presented with clear logic and reasoning, and accurate references to authoritative sources. I also do not want a paper that is loaded with disciplinary jargon. Write in clear, plain English.

Form means the quality of the writing and physical presentation. Is the writing clear? Does the paper have a beginning, a middle and an end? Does it use sophisticated elements of rhetoric? Does the writer exhibit skill using transitions and bridges? Does the text demonstrate fluency with topic sentences; is there evidence of "framing" such that each central idea finds a proper place in the narration? Does the writer avoid jargon and stilted or academically inflated language? Is the physical presentation excellent?

The first draft of your paper is due in early November. I'll review it carefully, write you a letter of critique, and return the draft to you for revision. As far as I am concerned, the second draft I see will be the final draft. That one will be due before finals week.

Grading your daily participation in the seminar is a bit trickier, since discussions tend to take the course of interesting conversations (when they work well). I try to grade this part essentially on your demonstration of comprehension and your willingness to help make this a productive learning experience for yourself and others (including me). It's my job to challenge you; it's your job to remain open-minded enough that you can be challenged. I will never ask that you simply agree with me; I will ask that you try to see the world of western natural resource policy through multiple points of view, and that you take the authors and scholars we read seriously.

KEY NATURAL RESOURCE POLICIES OF THE AMERICAN WEST  
EVST 594, Section 1

SEMINAR OUTLINE AND REQUIRED READINGS

Fall Semester  
2000

Don Snow, Instructor and Seminar Leader

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I. The Background, Near and Far

Week 2 (9/11, 13)

- \* Charles F. Wilkinson, "The Lords of Yesterday," Chapter 1 in *Crossing the Next Meridian: Land, Water, and the Future of the West*, 1992.
- Christopher Klyza, "The Ideas: Competing Conceptions of the Public Interest," Chapter 2 in *Who Controls Public Lands?*, 1996.
- John Locke, "Of Property," from *Second Treatise on Civil Government*, 1690.
- Robert H. Nelson, "Ineffective Laws and Unexpected Consequences: A Brief Review of Public Land History," from *Public Lands and Private Rights*, 1995.

II. Western Water Development and The Doctrine of Prior Appropriation

Week 3 (9/18, 20)

- Wallace Stegner, "Blueprint for a Dryland Democracy," pages 202-242 in *Beyond the Hundredth Meridian: John Wesley Powell and the Second Opening of the West*, 1953.
- \* Charles F. Wilkinson, "Harvesting the April Rivers," Chapter 6 in *Crossing the Next Meridian*, 1992.

Week 4 (9/25, 27)

- Robert Dunbar, chapters 3, 7, 8, 9, and 10 from *Forging New Rights in Western Waters*, 1983.
- Donald J. Pisani, "Enterprise and Equiry: A Critique of Western Water Law in the 19<sup>th</sup> Century," Chapter 1 in *Water, Land, and Law in the West*, 1996.

Week 5 (10/2,4)

Marc Reisner, "The Go-Go Years," and "Rivals in Crime" Chapters 5 and 6 in *Cadillac Desert*, 1986.

- \* Charles Wilkinson, "The River Was Crowded with Salmon," Chapter 5 in *Crossing the Next Meridian*, 1992.

Randy T. Simmons, "The Progressive Ideal and the Columbia Basin Project, Chapter 5 in *The Political Economy of the American West*, edited by Terry Anderson and P.J. Hill, 1994.

Week 6 (10/9, 11)

Matt McKinney, et. al., "The Protection of Instream Flows in Montana: A Legal-Institutional Perspective," Chapter 15 in *Instream Flow Protection in the West*, 1989.

Week 7 (10/16, 18)

Elizabeth Checchio and Bonnie G. Colby, "The Context for Indian Water Settlements" and "Case Studies – What Can We Learn?" pages 7-20 and 49-65 (also Table 1, pages 4-5) from *Indian Water Rights: Negotiating the Future* (Tucson: University of Arizona Water Resources Research Center, 1993).

Week 8 (10/23, 25) [Catch-up Week – Summary Discussions]

### III. 1872: The Mining Law, Yellowstone and the National Parks

Week 9 (10/23, 11/1)

- \* Charles F. Wilkinson, "The Miner's Law," Chapter 2 in *Crossing the Next Meridian*, 1992.

John Leshy, Chapters 1, 2, 3, and 14 from *The Mining Law: A Study in Perpetual Motion*, 1987.

Week 10 (11/6, 8)

David Gerard, "The Mining Law of 1872: Digging a Little Deeper," PERC Policy Series, PS-11, 1997.

Week 11 (11/13, 15)

Alfred Runte, chapters 1, 2, 3, and 9 from *National Parks: The American Experience*, 1987.

[We won't devote much class time to discussion of the following 2 texts; they are here mostly as background and reference information.]

#### IV. Revenue-Sharing and State-Local Dependency on Federal Resource Development

Sally K. Fairfax and Carolyn Yale, Chapters 1 and 2 in *Federal Lands: A Guide to Planning, Management, and State Revenues*, 1987.

#### V. Forest Reserves, the National Forests, and the U.S. Forest Service

Samuel T. Dana and Sally K. Fairfax, Chapter 2 in *Forest and Range Policy, Its Development in the U.S.*, 1980.

Week 12 (11/20, 22)

- \* Charles F. Wilkinson, "Forests for the Home-Builder First of All," Chapter 6 in *Crossing the Next Meridian*, 1992.

Week 13 (11/27, 29)

- \* Paul Hirt, Introduction and Chapters 2, 3, 7, 9, 11, 12 in *A Conspiracy of Optimism*, 1994.

Week 14 (12/4, 6) [Catch-up Week – Summary Discussions]

#### VI. Grazing and Competing Values on Western Public Rangelands

Week 15 (12/11, 13)

- \* Charles F. Wilkinson, "The Rancher's Code," Chapter 3 in *Crossing the Next Meridian*, 1992.

Robert H. Nelson, "Uneconomic Analysis: Scientific Management on the Public Rangelands," Chapter 3 in *Public Lands and Private Rights: The Failure of Scientific Management*, 1995.

\* Denotes reading in a book required for the course.