

SIOB 218: Ocean Law and Policy

Fall 2021

Instructor: Samantha Murray | smurray@ucsd.edu | 415.823.5577 | Eckart 203
Course Assistant: Kellan Warner (MAS MBC '21) | k1warner@ucsd.edu | 310.283.1871

Lecture: 11:00-12:20 pm, Monday and Wednesday
Discussion session (mandatory): Mondays, 12:30 pm -1:20 pm
Eckart 227

Grade option: letter grade; must be taken for 4 units
Samantha's office hour: Tuesday, 11:00 – 12:00 (@ PinPoint unless otherwise arranged)
and by appointment
Kellan's office hour: Tuesday, 10:00 – 11:00 (@ PinPoint unless otherwise arranged)
and by appointment

Course Learning Outcomes

This course provides an overview of key laws and policies governing U.S. and international ocean and coastal waters; examines timely case studies of these policies in practice; and brings in a variety of perspectives to illustrate complexities of policy-making. It combines lectures with student presentations and in-class exercises. Reading materials are assigned, including statutes, case law, media publications and law review articles. Students will develop critical thinking, writing and public speaking skills.

Name & Gender Pronouns

I will gladly honor your request to address you by an alternate name or gender pronoun. Please advise me early in the quarter so that I may make appropriate changes to my records.

Diversity and Inclusion Statement

I support the values of UC San Diego to "create a diverse, equitable, and inclusive campus in which students, faculty, and staff can thrive." I strive to uphold the values articulated by the Office of the Vice Chancellor for Diversity, Equity, and Inclusion: "[w]e believe that true excellence is achieved through productive relationships among people of diverse perspectives. When the collective talents of our students, faculty, and staff at UC San Diego are united in an environment that is open and inclusive, creativity and innovation prospers." I hope you will join me in creating a class that upholds these values to further enhance our learning as a community.

Communication Statement

It is my hope that in this course we will develop a supportive learning community that will foster rich discussions through the sharing of personal ideas, experiences, and relationships to course

material. Your participation and feedback are important to the success of the course and I welcome your thoughts throughout the quarter on how we might improve class processes that will encourage effective communication and dialogue.

SYLLABUS

DATE	TOPIC & ACTIVITY	ASSIGNMENTS
Sept 27	<p>Introduction to Course</p> <ul style="list-style-type: none"> • Class overview • Class expectations • Grading • Class assignments <p>Introduction to Law: Ocean Law and Policy</p> <ul style="list-style-type: none"> • U.S. sources of law • How courts work in the U.S. • How bills become laws • Substantive Law <p>12:30-1:20: Continuation of morning</p>	<p>Read</p> <ul style="list-style-type: none"> • Steve Roady’s Primer • Chapter 1: in Appendix 6: Review of U.S. Ocean and Coastal Law (U.S. Comm’n Ocean Policy) • <i>Mass v EPA</i> 127 S.Ct. 1438 (2007) <p>Assignment</p> <ul style="list-style-type: none"> • Take the integrity pledge (in Canvas) by Sept 29 @ 9 am • Sign up for student presentations (in Canvas) by Sept 29 @ 9 am
Sept 29	<p>Intro to Law, continued</p> <p>Agency Deference + Procedure</p> <ul style="list-style-type: none"> • Administrative Procedure Act <p>The Art of Commenting</p> <ul style="list-style-type: none"> • Written comments • How to give compelling public comment at a hearing 	<p>Read</p> <ul style="list-style-type: none"> • How to Read a Legal Opinion • <i>Chevron v. NRDC</i>, 467 U.S. 837 (1984) • <i>NRDC v. Daley</i>, 209 F.3d 747 (2000) • ELI Tips for Public Comments • Regulations.gov Tips for Commenting
Oct 4	<p>11:00-12: 15 Art of Commenting, continued</p> <p>12:25-1:20 National Environmental Policy Act ***</p>	<p>Read</p> <ul style="list-style-type: none"> • Legal Framework of NEPA (CRS (2020)) • Trump White House: NEPA Modernization Rulemaking • <i>NRDC v Morton</i>, 458 F.2s 827 (1972)

Oct 6	Coastal Zone Management Act, California Coastal Act and Beach Access: Guest Lecturer, Angela Howe (Legal Director, Surfrider Foundation) <ul style="list-style-type: none"> • CZMA • Coastal Access • California Coastal Act • California Coastal Commission 	Read <ul style="list-style-type: none"> • CZMA Primer (CRS) • Additional readings TBD
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Oct 11	Indigenous Peoples Day 11:00 – 11:25 Legal Research and writing 11:25 – 12:20 Offshore Energy <ul style="list-style-type: none"> • Offshore oil and gas exploration in the U.S • Outer Continental Shelf Lands Act*** 12:30-1:20 Offshore Energy, continued <ul style="list-style-type: none"> • Oil and gas, continued • Offshore renewables 	Bring laptop for in-class legal research exercise. Assignment is due October 18 @ 9 am. Read <ul style="list-style-type: none"> • Offshore Oil and Gas Development: A Legal Framework • America-First Offshore Energy Strategy • <i>League of Conservation Voters v. Trump</i> (2018) • BOEM Renewable Energy website (skim)
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Oct 13	Offshore Energy, continued: Decommissioning + Oil Spills <ul style="list-style-type: none"> • Key case studies <ul style="list-style-type: none"> ◦ Deepwater Horizon*** • Oil Pollution Act of 1990 • Natural Resource Damage Assessment 	Read <ul style="list-style-type: none"> • Oil Spills: Background and Governance • EPA Overview of OPA 1990 • ELI Summary of NRDA • NOAA Deepwater Horizon Overview (skim)
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Oct 18	11:00 – 11:50 Offshore Energy, continued 12:00- 1:20 California Oil and Gas: In-Class Exercise <ul style="list-style-type: none"> • In-class exercise on oil and gas exploration in state submerged lands of California 	Read <ul style="list-style-type: none"> • See Canvas
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Oct 20 Water Quality & Pollution

- **Guest Lecturer: Matt O'Malley (Executive Director, San Diego Coastkeeper)**
 - Clean Water Act
 - International agreements
 - Trash and Plastic
 - Once-through Cooling
 - Desalination

Read

- CWA: A Summary
- TBD

Assignment

- Half-page OLP final paper idea due @ 9 am

Oct 25 U.S. Fisheries

- Magnuson-Stevens Fishery Conservation and Management Act***
- Fishery Management Councils

12:30 – 1:20 U.S. Fisheries, continued

- MSA, continued
- Aquaculture

Read

- MSA Overview
- MSA National Standard One implementing regulations
- Josh Eagle "Taking Stock" Report: Guide to Pacific Fishery Management Council

Oct 27 Political Realities of Fishing

- **Guest Lecturers: Dr. Alexis Jackson (Associate Director, Ocean Program, The Nature Conservancy), Dave Rudie (founder, Catalina Offshore Company) + Dr. Geoff Shester (Senior Scientist, Oceana)**
- Various case studies re: drift gillnet and pelagic longlining

Read

- TBD

Nov 1 11:00-11:45 U.S. Fisheries Wrap-up

- U.S. Fisheries
- West Coast case studies

Read

- See Canvas

12:00-1:20 International Fishing,

- **Guest Lecturer, Dr. Sara McDonald (Senior Scientist, Monterey Bay Aquarium Seafood Watch)**
 - Illegal, Unreported and Unregulated Fishing
 - Flags of Convenience
 - Human Rights Abuses

Read

- TBD

Nov 3	Mid-Term Exam	In-class exam
Nov 8	<p>U.S. Protected Species: Marine Mammal Protection Act</p> <ul style="list-style-type: none"> • Marine Mammal Protection Act • Import Provisions Rule <p>12:30-1:20: International Protected Species:</p> <ul style="list-style-type: none"> • Convention on International Trade in Endangered Species *** • Lacey Act 	<p>Read</p> <ul style="list-style-type: none"> • <i>NRDC v. Ross</i> (2018) • NOAA website: MMPA • Additional readings TBD • CITES text • CBD Aichi Targets
Nov 10	<p>U.S. Protected Species: Endangered Species Act</p> <ul style="list-style-type: none"> • Endangered Species Act • <i>TVA v. Hill</i> *** 	<p>Read</p> <ul style="list-style-type: none"> • Endangered Species Act: A Primer (2016) • <i>TVA v. Hill</i>, 437 U.S. 153 (1978) • ESA regulatory revisions
Nov 15	<p>U.S. Protected Species continued</p> <ul style="list-style-type: none"> • Endangered Species Act, continued <p>12:30-1:20 ESA, continued</p>	<p>Read</p> <ul style="list-style-type: none"> • See Canvas
Nov 17	<p>11:00 – 11:30 Intro to Marine Protected Areas Philosophy and 30 x 30</p> <ul style="list-style-type: none"> • Large, remote MPAs • 30 x 30 <p>11:30 – 12:20 Marine Protected Areas:</p> <ul style="list-style-type: none"> • Guest Lecturer: Dr. Letise LaFeir (Senior Advisor, NOAA) 	<p>Read</p> <ul style="list-style-type: none"> • See Canvas
Nov 22	<p>11:00-12:20 Marine Protected Areas: International and U.S. Protected Places</p> <ul style="list-style-type: none"> • National Marine Sanctuaries Act • Antiquities Act 	<p>Read</p> <ul style="list-style-type: none"> • See Canvas

**12:30 – 1:20 Marine Protected Areas,
continued**

Nov 24 Case Study: Marine Life Protection Act Read
• See Canvas

**Nov 29 11:00-12:20 Climate Change and
Litigation** Read
• Juliana v US and PCFFA v
Chevron ***
• *Juliana v. U.S.*, 217 F Supp.3d 1224
(2016)
• *PCFFA v. Chevron* (2018)
• TBD

**12:30-1:20: Climate change and
litigation, continued** Read:
• Blog on CA local govts and climate
change lawsuits

Dec 1 Climate Change and Imperial Beach Read
• Guest Lecturer: Dr. Serge
Dedina (Mayor, Imperial Beach
& Executive Director,
WILDCOAST) • TBD

Dec 3 Final Paper due by 9 am **FINAL PAPER DUE: 9 am Pacific Time (via
Canvas and email).**

Dec 7 Final Exam @ 11:30 -2:30

CLASS REQUIREMENTS

READINGS

Students will read all assigned readings and be prepared to answer questions in class, based on readings.

Readings found in Canvas are the most current; where a discrepancy exists between the syllabus and Canvas, please use Canvas.

MID-TERM AND FINAL EXAM: 40% (@ 20% each)

- We will have two exams over the course of the quarter.
- Both exams will be taken in class, in-person.
- The mid-term exam will be: November 3 @ 11:00-12:20.

- The final exam will be: December 7 @ 11:30-2:30.
 - Any student who cannot take the final exam at this time should reach out to Samantha immediately to schedule an oral exam.
- The answers to the exams will be directly related to the materials covered in class by Samantha, in student-led presentations and by guest lecturers.

PARTICIPATION (15%)

- Participation will be measured based on the following:
 - Regular class attendance and engagement in class discussions
 - Can miss 2 days of class and get full participation credit
 - However, without answering questions or engaging in discussion, will not receive full participation points.
 - Student reads readings
 - Student answers questions in class when asked by professor
 - Participates in in-class exercises and submits legal research worksheet and ½ page OLP paper summary on time
 - Pays attention during class; not multitasking
- Rubric
 - 15 points: missed no more than 2 classes, completes class assignments on time and with significant effort, engages in class and answers questions
 - 14 points: missed no more than 2 classes, but does not answer questions; or answers and engages, but missed more than 2 classes
 - 12/13 points: missed 3-4 classes, varying levels of engagement
 - 10/11 points: missed 5+ classes, varying levels of engagement
- COVID-19:
 - Please fill out the daily symptom screening each Monday and Wednesday before coming to class.
 - If you get a green thumb, you may attend class in Eckart 227.
 - If you get a yellow or red thumb, please follow the instructions you are given.
 - If you are sick, please stay home and get a COVID test.
 - Information on [free COVID testing can be found here.](#)
 - Following illness, please come in only when you've received a negative test.
 - Please let Samantha and Kellan know if you are not able to come to class due to sickness. We will do our best to make the lecture available by Zoom and will share the podcast.
 - Please note that Zoom participation is for illness only. Please reach out to Samantha and Kellan if you have any questions or needs.

STUDENT-LED PRESENTATIONS (12.5%)

- For all class topics notated with a *******, 3-4 students will work together to provide a brief group overview of an assigned law or case to be discussed in class that day. This presentation will be in person and no more than 10 minutes long.
- Please sign up for one presentation slot by 9 am on September 29, 2021. Sign-up is in Canvas.
- This presentation will be a starting point for that topic's discussion and relevant legal framework.

- For presentations about:
 - **A specific law:** students should research and share information about the issue in the broad sense. It can include, for example, the following: history of the law, details of how it is applied/implemented, positive aspects of the law, and any legal challenges to the law.
 - **An event/issue:** students should research and share information about the issue in the broad sense. It can include, for example, the following: history of the issue/event, why it happened, how it happened, what laws/policies govern the issue, details of what the resolution was, and what the ramifications were following this event, as well as any controversy.
 - **A legal case:** identify the plaintiffs and defendants, the facts of the case, the law at issue and the legal holding and reasoning from the court (if it has been decided). You may also discuss whether/how this case has been applied since the legal opinion and whether/why it has been controversial.
- Please keep your presentation to 10 minutes. You can use PowerPoint if you so choose, but are not required to do so.
- Student presenters will answer 10 mins of questions about their presentation/topic in class on their scheduled day.

PUBLIC TESTIMONY (12.5%)

Students will attend a commission/council meeting or administrative hearing on a public policy issue of their choice (ideally ocean or coastal) by December 10, 2021. Students will do the following:

- Attend the hearing for at least 1.5 hours;
- Give testimony on a policy issue;
- Submit the **written version of the testimony on Canvas by 9 am December 10, 2021** (please also include the meeting link if you have it); and
- Submit a **1-2 page (maximum) write-up by 9 am December 10, 2021** that summarizes the following:
 - What struck you about the meeting/hearing?
 - Was it what you expected?
 - Was the committee/commission/council professional?
 - How did you feel about your comment? What would you have done differently?
 - Which other public commenters were compelling (or not)? Why?

You may go to any hearing or public meeting you like, however a silver lining of COVID-19 is that there are many, many meetings to choose from, because many will allow public participation by Zoom or another virtual platform. It is nice if it is related to ocean issues, but it doesn't need to be.

Some examples for this Fall include the following (this is non-exhaustive!):

- **California Coastal Commission hearing**

- October 13-15, 2021
 - Agenda: <https://www.coastal.ca.gov/meetings/agenda/#/2021/10>
 - Location: virtual
- Nov 17-19, 2021
 - Agenda: Not yet available
 - Location: Newport Beach (may become virtual)
- **California Fish and Game Commission meeting**
 - October 14, 2021
 - Agenda: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=194951&inline>
Location: virtual
 - Will see issues related to
 - Regulations for California’s experimental fishing program, take of protected Western Joshua Tree, listing petition for Pacific leatherback sea turtle, commercial kelp harvest of invasive *Sargassum horneri*, listing of summer steelhead and Upper Klamath-Trinity River spring Chinook salmon, the Commission’s JEDI policy, and many more topics
 - Nov 9, 2021 (Marine Resources Subcommittee)
- **Pacific Fisheries Management Council meeting**
 - November 15-22, 2021
 - Location: Costa Mesa (may become virtual)
 - Agenda (will be posted in coming weeks):
https://www.pcouncil.org/council_meeting/november-15-22-2021-council-meeting/
- **Ocean Protection Council**
 - December 7, 2021: <https://www.opc.ca.gov/category/meetings/>
- **California State Lands Commission**
 - October 21, 2021: <https://www.slc.ca.gov/meetings/>
 - December 8, 2021

FINAL PAPER (20%)

- Each student will conduct a legal and policy analysis on a timely ocean or coastal topic that is relevant and complex enough to have contested legal/policy issues or multiple legal interpretations.
- The paper should include an analysis of specific cases (decided or pending) related to your topic.
 - If you are an MAS MBC student, the topic can be related to your Capstone project theme, but the focus of this paper must be a legal and policy analysis of your issue.
- Further guidance:
 - The paper should pull apart, tease out and compare cases and legal holdings. Did the court(s) distinguish the cases? Why? Are the outcomes different? Did the court get it right? Why or why not? If an undecided case, what is the likely outcome? Is the outcome likely to be different from what other courts have held?

- Your paper could instead dissect a single, complex case and look at the issues and holdings within that case. Is there existing precedent that guided this court? Did this court get the holding(s) right, based on the facts of the case? Why or why not?
- This paper should *not* be a high level overview or Wikipedia entry on a topic or ocean policy issue. Please go deep and narrow on this analysis.
- See examples and further guidance in Canvas.
- The paper should be 2,500 words (maximum). This word count excludes graphics and references.
 - Over limit papers: 5% OFF FOR EVERY 20 WORDS OVER THE LIMIT
- **Half-page summary is DUE by 9 am Pacific Time on Wednesday, October 20, 2021(via Canvas)**
- **The final paper is DUE by 9 am Pacific Time on Friday, December 3, 2021 (via Canvas and email).**
 - Late Papers: 15% OFF FOR EVERY DAY IT IS LATE

Structure and Content

- Exec Summary
 - Briefly introduce topic and provide reader with a summary of the paper, including your recommendation/conclusion
- Intro and Background
- Body
 - Present more detailed facts and provide background to lay the groundwork for legal analysis;
 - Present legal structure that informs issue that will be addressed by the paper; and
 - Conduct a legal analysis of the problem, arguing for or against the issue.
 - Use subheadings to separate/organize the issues!
- Recommendations and/or Conclusions
 - Policy recommendations: if you have these, they should be well thought out and not be an afterthought; three recommendations is plenty; OR
 - Conclusions: did the court get it right? If still pending, how do you think the court should rule and why? Anything else that should be considered?
- References
 - References should be from primary and grey literature, actual legal opinions, and original sources (e.g., actual case law, journal articles, statutes; not Wikipedia and blogs).
 - Work should be appropriately referenced (if it is not your opinion, cite it). Be sure to put quoted material in quotes and cite.
 - Plagiarism will result in a **zero**.
 - References should be in footnotes. You can use whatever style you would like, but please be consistent throughout the paper. No parenthetical citations.
 - A bibliography is not necessary.
 - Any legitimate style is acceptable, though the preferred citation format is Bluebook.
 - Blue Book Guide: <https://guides.ll.georgetown.edu/bluebook>.
 - Here is a resource for how to format: <https://www.law.cornell.edu/citation/2-200>. It describes how to cite each category of legal literature with several examples, including how to cite a dissent.

GRADING

Your final course grade will be based on the following breakdown:

- 20% mid-term
- 20% final exam
- 15% participation
- 12.5% student-led presentations
- 12.5% public testimony
- 20% final paper

Grades will be assigned based on the following scale:

- A+: 98-100
- A: 93-97
- A-: 90-92
- B+: 88-89
- B: 83-87
- B-: 80-82
- C+: 78-79
- C: 73-77
- C-: 70-72
- D: 60-69
- F: <60

OVERALL COURSE EXPECTATIONS

What you can do to support your success in the course:	What I will do to support your success in the course:
Read the syllabus and stay current with course information	Be prepared and bring my enthusiasm for teaching to each session
Keep up with readings, as each one builds on the previous one.	Respond to emails and provide timely feedback on assignments / submissions.
Contribute to the learning environment with fairness, cooperation, and professionalism	Establish a learning environment with fairness, cooperation and professionalism, and will take action if these principles are violated.

Treat your classmates, instructional assistants and myself honestly and ethically	Treat you honestly and ethically, and will address any concerns you might have
Commit to excel with integrity ¹ . Have the courage to act in ways that are honest, fair, responsible, respectful & trustworthy.	Uphold integrity standards and create an atmosphere that fosters active learning, creativity, critical thinking, and honest collaboration.
Communicate with me if you determine that a deadline cannot be met due to extenuating circumstances	Consider requests for adjustments and will make reasonable exceptions available to all students when approved

RESOURCES FOR SUPPORT & LEARNING

Learning and Academic Support	
<p>Ask a Librarian: Library Support</p> <p><i>Chat or make an appointment with a librarian to focus on your research needs</i></p> <p>Course Reserves, Connecting from Off-Campus and Research Support</p> <p><i>Find supplemental course materials</i></p> <p>First Gen Student Success Coaching Program</p> <p><i>Peer mentor program that provides students with information, resources, and support in meeting their goals</i></p> <p>Office of Academic Support & Instructional Services (OASIS)</p>	<p>Writing Hub Services in the Teaching + Learning Commons</p> <p><i>One-on-one online writing tutoring and workshops on key writing topics</i></p> <p>Supplemental Instruction</p> <p><i>Peer-assisted study sessions through the Academic Achievement Hub to improve success in historically challenging courses</i></p> <p>Tutoring – Content</p> <p><i>Drop-in and online tutoring through the Academic Achievement Hub</i></p> <p>Tutoring – Learning Strategies</p>

<p><i>Intellectual and personal development support</i></p>	<p><i>Address learning challenges with a metacognitive approach</i></p>
<p>Support for Well-being and Inclusion</p>	
<p><u>Basic Needs at UCSD</u></p> <p><i>Any student who has difficulty accessing sufficient food to eat every day, or who lacks a safe and stable place to live is encouraged to contact: foodpantry@ucsd.edu basicneeds@ucsd.edu (858) 246-2632</i></p> <p><u>Counseling and Psychological Services</u></p> <p><i>Confidential counseling and consultations for psychiatric service and mental health programming</i></p> <p><u>Triton Concern Line</u></p> <p><i>Report students of concern: (858) 246-1111</i></p> <p><u>Office for Students with Disabilities (OSD)</u></p> <p><i>Supports students with disabilities and accessibility across campus</i></p>	<p><u>Community and Resource Centers</u></p> <p><u>Office of Equity, Diversity, and Inclusion</u></p> <p><i>As part of the <u>Office of Equity, Diversity, and Inclusion</u> the campus community centers provide programs and resources for students and contribute toward the evolution of a socially just campus</i></p> <p>(858).822-.3542 diversity@ucsd.edu</p> <p><u>Get Involved</u></p> <p><i>Student organizations, clubs, service opportunities, and many other ways to connect with others on campus</i></p> <p><u>Undocumented Student Services</u></p> <p><i>Programs and services are designed to help students overcome obstacles that arise from their immigration status and support them through personal and academic excellence</i></p>