

Balancing Perspectives in Coastal Resource Management:

Maine Field Study

Syllabus

This course will examine the common law and statutory underpinnings of coastal resource ownership and use. Taught along one of the longest coastlines in the United States, this class will explore real life conflicts stemming from competing interests, including working waterfronts, energy development, conservation, and recreation. Given the field study nature, students will have the opportunity to visit a working waterfront and/or aquaculture facility and speak directly with leaders– from attorneys to fishermen– at the forefront of coastal resource conflict. Lastly, students will consider tools and policies to ensure a sustainable future for coastal communities. This class will be taught in mid-coast Maine from Friday afternoon through Sunday afternoon allowing time for students to travel to and from the field study location on Friday morning and Sunday late afternoon/early evening.

Maine offers a unique and front row seat into the types of challenges and disputes that often arise around coastal resource management. The goal of this class is not to introduce broad new legal substantive topics but rather to take a deep dive into a few of the most pressing disputes (including aquaculture leasing, coastal access, conflicts between fisheries and endangered species, and the challenges surrounding offshore wind development) and absorb different legal and policy perspectives from different stakeholders. In the end, we'll tie many of these disputes back to climate change and discuss how climate change has played a role or will play a role in these disputes in the future.

FRIDAY

Introduction to Contemporary Coastal Resources Issues:

- **Please Watch:** Warming Gulf of Maine Highlights Impacts of Climate Change on Maine: <https://www.youtube.com/watch?v=FeT8FBIR0jQ> (5 Minutes).
- **Watch:** What is Maine Coast Fishermen's Association? (Less than 2 minutes) [Maine Coast Fishermen Yield Pitch Video](#)
- Duff, John. 2016. Public Shoreline Access in Maine: A Citizen's Guide to Ocean and Coastal Law, Third Edition. Orono, ME: Maine Sea Grant College Program.(Pages 2-3)

LECTURE: Guest Speakers:

- Ben Martens, Executive Director of Maine Coast Fishermen's Association

- Willy Leathers: Co-Owner, Maine Ocean Farms (Oyster Farm in Recompense Bay). From Wolfe's Neck Farm, we'll get a view of Maine Ocean Farms' aquaculture site, a few hundred yards into the bay.

SATURDAY MORNING

Section 1: Primer on coastal ownership and regulation

- Primer on Ocean Jurisdictions (all)
- Submerged Lands Act, 43 U.S.C. §§ 1311, 1312
- *Shively v. Bowlby* (Must read highlighted sections but may skim the rest)

Lecture to follow concerning the origins of the public trust – the Jus Publicum and Jus Privatum

Section 2: Offshore Disputes case study: the Atlantic Right Whale

Quick Lecture concerning the Endangered Species Act and its relevant provisions

- Courthouse News: *Along the Coast of Maine, Lawsuits over North Atlantic Right Whale regulations coming to a boil*
- *North Atlantic right whales critically endangered by climate crisis, new study finds*, The Guardian (Sept. 3, 2021)
- Right Whale Scientific Background
- *Center for Biological Diversity v. Ross*, ---F.Supp.3d--- (D.C. 2020) (Read in full)
- *Mills Administration Granted Intervenor Status to Support Maine's Lobster Industry in Lawsuit*
- *District 4 Lodge of the International Association of Machinists and Aerospace Workers Local Lodge 207 v. Raimondo*, 18 F.4d 38 (1st Cir. 2021) (Beginning of case to end of Section A, skim Section B)
- Federal Budget Package Includes Pause on Whale Regulations and Needed Funding for Research (December 2022).

GUEST LECTURE:

- Erika Kranz, of the Maine School of Law, who is the former Department of Justice Attorney who litigated the 1st Circuit Appeal on behalf of NMFS

SATURDAY P.M.

Section 3: Tidal and Near Shore Disputes

Tidal Resource Access

- Island Institute Working Waterfront 2021 Report
- Harpswell Anchor – *Harpswell Clammers Confront Challenges*
- MACNP Memorandum to Lawmakers

Aquaculture

- *Maquoit Bay, LLC v. Department of Marine Resources* (read in full)
- Maine Ocean Farms Lease Application Packet (skim)
- Maine Ocean Farms Standard Lease 9.88 Acres (skim)

Recreational access

- *Bell v. Town of Wells* (please read the entire case, including the dissent)
- Complaint filed in *Masucci v. Judy's Moody*

SUNDAY MORNING

GUEST LECTURE: Ben Ford, Esq. Ben is one of the lead attorneys in the *Masucci* lawsuit.

Section 4: Climate Change and the future of coastal resource conflicts

Please Read:

- *The Green Crab Invasion*, Downeast Magazine
- Parts of the Gulf of Maine Less Suitable for Right Whales by 2050 – Bigelow Laboratories
- Maine Offshore Wind Fisheries Recommendations (Draft)
- RODA Notice of Intent to Sue

In class, we will discuss the scientific impacts of climate change on Maine's coastal resources and fisheries, discuss opportunities to address climate change and how these very solutions can create conflict, and hold a facilitated discussion on the future of Maine's waterfront communities and potential actions to create an equitable and viable future.