

ANIMAL WELFARE LAW
ANI 5422
Summer 2023, Term 2

COURSE INFORMATION AND SYLLABUS

Professor Contact Information

Mary Hollingsworth
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Schedule: Oakes Hall 208
Tuesday, June 20 1:00-4:30pm
Wednesday, June 21 1:00-4:30pm
Thursday, June 22 1:00-4:30pm
Monday, June 26 1:00-4:30pm
Tuesday, June 27 1:00-4:30pm
Wednesday, June 28 1:00-4:30pm
Thursday, June 29 1:00-4:00pm

Course Objectives: A student who completes this course will:

- Gain knowledge of the interface of law, animal ethics, and animal welfare science and how these can inform policy and legal strategy to protect animals
- Learn how to interpret and apply federal animal welfare-related statutes and regulations
- Understand how animal welfare laws intersect
- Understand where the limitations, challenges, and opportunities exist in the landscape of the budding field of animal law

Course Materials: Required readings are set out in the syllabus below. The materials will be available for download on TWEN or are available online. You are required to read assignment materials prior to class. Please have accessible

during class the statutory provisions noted in the syllabus for that particular class.

Attendance: Vermont Law School Academic Regulations require students to attend all classes except where religious observance, serious illness, personal emergency, or a reason that is adequate in the judgment of the professor prevents attendance. The Academic Regulations further provide that a student will be automatically withdrawn from this class with a grade of F-Wd if the student is absent from two classes without adequate excuse.

Accommodations: If you need an accommodation for an illness or disability, please contact the Vice Dean for Students Joe Brennan, jbrennan@vermontlaw.edu.

Office Hours: Immediately after class and by appointment

Grading: Your grade will be based on your exam (70%) and a 10-12 minute in-class presentation on Wednesday, June 28. We reserve the right to raise grades by one increment (e.g., B to B+) for exceptional in class participation.

Note: This class will explore controversial topics that may be sensitive for some and evoke strong beliefs. Courteous participation is expected.

Exam: Open-book, take-home, anonymous grading, posted on TWEN 9:00AM, Friday, June 30, due 3:00PM, Sunday, July 2

Case Presentation: On Wednesday, June 28, students will present on an animal law-related topic. Students must confirm approval of their topic selection with Profs. Hollingsworth and Rally no later than the end of the day on Monday, June 26. Additional guidance on presentation content and structure will be provided during class.

Tuesday, June 20: Course Introduction/Overview of Animal Ethics and Welfare

Required Reading

Lori Gruen, *ETHICS AND ANIMALS: AN INTRODUCTION* 1-43 (2021)

Recommended Reading

Jeremy N. Marchant-Forde, *The Science of Animal Behavior and Welfare: Challenges, Opportunities, and Global Perspective*, FRONT. VET. SCI. (2015)

David Fraser, *Assessing Animal Welfare: Different Philosophies, Different Scientific Approaches*, 28 ZOO BIOL. 507 (2009)

David J. Mellor, *Updating Animal Welfare Thinking: Moving Beyond the “Five Freedoms” Towards “A Life Worth Living,”* 6 ANIMALS 21 (2016)

Ian J.H. Dunca, *The Changing Concept of Animal Sentience*, 100 APPL. ANIMAL BEHAV. SCI. 11 (2006)

Marc Beckoff & Jessica Pierce, *Animal Welfare Cannot Adequately Protect Nonhuman Animals: The Need for a Science of Animal Well-Being*, 1 ANIMAL SENTIENCE (2016)

Wednesday, June 21: Introduction to Wildlife Protection and the Endangered Species Act

Virtual Guest Lecture: Jessica Blome, Greenfire Law

Required Reading

16 U.S.C. §§ 1531, 1532(19), 1533(a), (b), 1538(a)(1), 1540 (e), (g)

In re Polar Bear Endangered Species Act Listing and § 4(d) Rule Litigation, 794 F. Supp. 2d 65 (D.D.C. 2011)

Weyerhaeuser v. U.S. Fish & Wildlife Service, 139 S. Ct. 361 (2018)

Kuehl v. Sellner, No. 6:14-cv-2034, Docket #2 (Complaint)

Kuehl v. Sellner, 887 F.3d 845 (8th Cir. 2018)

Recommended Reading

State of Missouri v. Holland, 40 S.Ct. 382 (1920)

Mark Beckoff, *Compassion in Conservation: Don't Be Cruel to Be Kind*, NEW SCI. (June 8, 2014)

Lori Gruen, 2021. Animals in the Wild, In *Ethics and Animals, An Introduction*, 2nd Ed. p. 177-202

Joy Mench, *Why It Is Important to Understand Animal Behavior*, 39 ILAR J. 20 (1998)

Thursday, June 22: Endangered Species Act, Part 2: Standing, Captive Animals & CITES

Required Reading

16 U.S.C. § 1538(c); 50 C.F.R. § 17.3 (definitions of “harass” and “harm”)

Sierra Club v. Morton, 405 U.S. 727 (1972)

Lujan v. Defs. of Wildlife, 504 v. 555 (1992)

American Society for Prevention of Cruelty to Animals v. Feld Entertainment, 659 F.3d 13 (D.C. Cir. 2011)

People for the Ethical Treatment of Animals v. Miami Seaquarium, 879 F.3d 1142 (11th Cir. 2018)

People for the Ethical Treatment of Animals v. Wildlife in Need, Wildlife in Deed, 17-cv-186, Docket # 5 (S.D. Ind. 2017) (Motion for Temporary Restraining Order)

United States v. 85 Big Cats, 21-cv-228, Docket # 2 (E.D. Okla. 2021) (Complaint)

Recommended Reading

Delcianna J. Winders, Jared Goodman & Heather Rally, *Captive Wildlife Under the Endangered Species Act*, in *ENDANGERED SPECIES ACT* (Donald C. Baur & Ya-Wei Li eds., 3d. ed. forthcoming 2020)

Lori Marino, et al., *The Harmful Effects of Captivity and Chronic Stress on the Well-Being of Orcas (Orcinus orca)*, 35 J. VET. VEHAV. 69 (2019)

Naomi A. Rose and Georgia Hancock Snusz, *Marine Mammal Standards Under the Animal Welfare Act*, 25 Animal L. 168-78 (2019)

Monday, June 26: Introduction to Animal Welfare Act & Animals in Research

Required Reading

7 U.S.C. §§ 2131, 2133, 2134, 2140, 2143; 9 C.F.R. §§ 1.1 (definition of “animal”), 2.31

International Primate Protection League v. Institute for Behavioral Research, 799 F.2d 934 (4th Cir. 1986)

Chevron, U.S.A. v. Natural Resources Defense Council, 467 U.S. 837 (1984)

United States v. Mead Corp., 533 U.S. 218 (2001)

West Virginia v. EPA, 142 S. Ct. 2587 (2022)

PETA v. USDA, 7 F. Supp. 3d 1 (D.D.C. 2013)

American Anti-Vivisection Society and Avian Welfare Coalition v. USDA, 946 F.3d 615 (D.C. Cir. 2020)

Practical Exercise (Petition for Rulemaking)

Recommended Reading

David Degrazia, On the Ethics of Animal Research, in PRINCIPLES OF HEALTHCARE ETHICS 689-95 (2d ed. 2007)

Jessica Eisen, *Beyond Rights and Welfare: Democracy, Dialogue, and the Animal Welfare Act*, 51 U. Mich. J. L. Reform 469 (2018)

Tuesday, June 27: Animal Welfare Act, Part 2

Mandatory Hot Topics Lecture

Noon-1pm, Animals as Property, Quasi-Property or Quasi-Person at vermontlaw.edu/live

Required Reading

7 U.S.C. §§ 2146(c), 2159; skim 9 C.F.R. §§ 2.40, 3.1-3.12

United States v. Lowe, 20-cv-423, Docket #65 (order on motions for preliminary injunction and temporary restraining order; Docket # 73, 75, 114 (E.D. Okla 2021) (motion to dismiss briefing)

United States v. Gingerich, 21-cv-283, Docket # 1, 2, 4 (complaint and motion for temporary restraining order, TRO)

United States v. Envigo RMS, 22-cv-28, Docket # 1, 2, 6, 21, 25, 26 (W.D.Va. 2022) (Complaint, motion for temporary restraining order, Amended TRO, Motion for Consent of the Court to Proceed with Fulfilling Existing Customer Orders, Motion for Clarification)

Recommended Reading

USDA Office of Inspector General Report: Animal Care Program Oversight of Dog Breeders, https://www.oversight.gov/sites/default/files/oig-reports/USDAOIG/33601-0002-31finaldistribution_0.pdf (June 2021)

Goldie's Act, H.R. 1788 – 118th Congress (2023-2024)

Wednesday, June 28: Presentations

Thursday, June 29: Criminal Enforcement of Federal Animal Welfare Statutes

Guest Lecture: Ethan Eddy, Senior Trial Attorney, Environmental Crimes Section, DOJ/ENRD

Required Reading

Animal Fighting Venture Prohibition: 7 U.S.C. § 2156

United States v. Sixty-three pit bull-type dogs seized from 2083 Rozar Boolsby Rd, Eastman, Georgia, 18-cv-00021, Docket #1 (S.D.Ga. March 26, 2018) (Complaint)

Lacey Act: 16 U.S.C. §§ 3371(b), (h), 3372(a), (d), (e)

United States v. Casacci, 20-cr-00005, Docket #1 (W.D.NY. Jan. 8, 2020), Indictment

What you need to know about the Big Cat Public Safety Act, <https://www.fws.gov/what-you-need-know-about-big-cat-public-safety-act>