

# **Balancing Perspectives in Coastal Resource Management:**

## **Maine Field Study Syllabus**

Vermont Law School

2024 Course Dates: July 22-August 1

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.

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.

### **Schedule:**

- Sunday, July 21
  - Welcome BBQ @ Ben & Lindsay's House: 220 Beech Hill Road, Rockport ME, 5:00-7:00pm (Dinner provided)
  - Camping at Camden Hills State Park, Camden, ME
  
- Monday, July 22 (Professor Leoni)
  - Introduction to Maine Field Study (9:00am-10:30am)
    - Course Goals
    - An Ode to Jack Tuholske
    - Course Topics and Subject Areas
    - Student Introductions, Goals for Learning (Why are you taking this class?)
    - Professors and Guest Lectures
    - Grading, Participation, Final Paper
    - Schedule and Logistics Review
    - Note: Please Complete All Readings/Videos Prior to Class Each Day
    - Student Questions
  - Welcome to the Maine Coast (10:30am-11:30am)
    - Overview Material
      - Watch Warming Gulf of Maine Highlights Impacts of Climate Change on Maine: <https://www.youtube.com/watch?v=FeT8FBIR0jQ> (5 Minutes)
      - Watch The Captain: <https://www.youtube.com/watch?v=qzQQZknltPmY> (8 minutes)
    - Contemporary News Articles
      - Read about Offshore Wind siting disputes, accessed at <https://www.mainepublic.org/2024-02-20/janet-mills-announces-sears-island-as-preferred-site-for-offshore-wind-power-port>

- Read *Towns Fear, Fight Aquaculture Expansion*, Island Institute
      - Read *A Whale Washed up Dead, Greens Blame a Democrat*
    - Review Resources from the Island Institute
      - Read Island Institute Working Waterfront 2021 Report, accessed at [https://www.islandinstitute.org/wp-content/uploads/2021/11/WWF-Report\\_web.pdf](https://www.islandinstitute.org/wp-content/uploads/2021/11/WWF-Report_web.pdf)
    - Professor Leoni Lecture
  - Coastal Ownership & Regulation (1:00pm-5:00pm)
    - Public Access
      - Read 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)
    - Public Trust Concepts & Supreme Court Cases
      - Read Submerged Lands Act, 43 U.S.C. §§ 1311, 1312
      - *Shively v. Bowlby* (Must read highlighted sections, but may skim the rest)
    - Ocean Jurisdiction
      - Read Primer on Ocean Jurisdictions
    - Professor Leoni Lecture
  - Camping at Camden Hills State Park, Camden, ME
- Tuesday, July 23 (Professor Leoni & Professor Bourgoine)
  - Climate Change Impacts on the Gulf of Maine (8:00am Departure, 9:30am Arrival)
    - Readings
      - Watch: Bold Science for a Blue Planet (5 Minutes), accessed at <https://www.bigelow.org/about/>
    - Field Trip to Bigelow Laboratory for Ocean Sciences in Boothbay Harbor, Maine (approx. 1 Hour Drive, One Way)
    - Onsite Tour & Boat Tour
      - Introduction to Bigelow Labs & Guest Lecture: Karen Stamieszkin, PhD Research Scientist (9:30am-11:00am)
      - Boat Tour (11:00am-1:00pm, Please Pack Snacks, Water)
    - Stop for Lunch at East Boothbay General Store (1:00pm-2:00pm)
    - Afternoon Discussion/Swim at Ocean Point or Hendricks Head (2:00pm-3:00pm)
    - Return to Camden (3:00pm-4:30pm)
  - Camping at Camden Hills State Park, Camden, ME
- Wednesday, July 24 (Professor Leoni & Professor Bourgoine)
  - Oceans & Energy: Offshore Wind
    - Readings
      - Read BOEM and NOAA Gulf of Maine Offshore Wind History overview, accessed at <https://storymaps.arcgis.com/stories/771b8c91e5714eb3830f4ab8c0924a71>
      - Read BOEM and NOAA North Atlantic Right Whale and Offshore Wind Strategy
      - Read Nantucket Residents Against Wind Turbines 1st Circuit Decision

- Review Maine’s Offshore Wind Roadmap Executive Summary (February 2023) and One Year Update (March 2024), accessed at <https://www.maine.gov/energy/initiatives/offshorewind/roadmap>
- Read LD 1895 from Maine’s 131st Legislative Session (2023), accessed at <https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0766&item=5&snum=131>
- Read Perkins Coie Article on BOEM Proposed Lease Sale in the Gulf of Maine, accessed at <https://www.perkinscoie.com/en/news-insights/floating-offshore-wind-in-the-gulf-of-maine-boem-and-state-of-maine-take-next-steps-toward-development-and-procurement-of-power>
- Skim Request for Information from Maine Governor’s Energy Office regarding their/the Public Utilities Commission Request for Proposals (Review this [website](#) and the [RFI](#))
- Read or Listen to “The Plans for Maine’s Floating Wind Port, Explained” from Maine Public Radio, accessed at <https://www.mainepublic.org/business-and-economy/2024-05-31/the-plans-for-maines-floating-wind-port-explained>
- Read “Mack Point or Sears Island” accessed at <https://www.penbaypilot.com/article/mack-point-or-sears-island-debate-over-state-offshore-wind-port-site-continues/188058>
  - Professor Leoni Lecture (9:30am-10:30am) Federal Offshore Wind Permitting
  - Professor Bourgoine Lecture (10:30am-11:00am) Maine Context
  - Guest Lecture: Eliza Donoghue, Maine Renewable Energy Association (11:00am-12:30pm) *Please bring your lunch to eat during lecture*
  - Guest Lectures from Local Attorney David Perkins (1:00pm-2:00pm)
  - Offshore Wind Case Study (2:30pm-5:00pm)
- Camping at Camden Hills State Park, Camden, ME
- Thursday, July 25 (Professor Leoni, Professor Bourgoine in PM)
  - Offshore Disputes Case Study: Right Whale & Endangered Species Act
    - Readings
      - Read Courthouse News: *Along the Coast of Maine, Lawsuits over North Atlantic Right Whale regulations coming to a boil*
      - Read *North Atlantic right whales critically endangered by climate crisis, new study finds*, The Guardian (Sept. 3, 2021)
      - Read Right Whale Scientific Background
      - Read Whale Death Revives Debate over Ropeless gear
      - Read *Maine Lobstermen Assn. v. National Marine Fisheries Service*, - - F.3d - - (D.C. Cir. 2023)
      - Read *Mills Administration Granted Intervenor Status to Support Maine’s Lobster Industry in Lawsuit*
      - Read Federal Budget Package Includes Pause on Whale Regulations and Needed Funding for Research (December 2022)
      - Parts of the Gulf of Maine Less Suitable for Right Whales by 2050 – Bigelow Laboratories
    - Professor Leoni ESA Lecture (9:30am-10:30am)
    - Professor Leoni Readings Lecture (10:30am-12:00pm)

- Break and travel to Rockport Marine Park at 111 Pascal Avenue (12:00pm-1:30pm)
    - Professor Leoni Discussion, Fisheries Intro (1:30pm-3:00pm)
  - Fisheries Management
    - Confirmed Lecture: Sadie Samuels Lecture, local lobster boat captain (3:00pm-4:30pm)
      - If you haven't yet, please watch The Captain: <https://www.youtube.com/watch?v=qzQZknltPmY> (8 minutes) prior to Sadie's lecture
    - Potential Rockport Harbor/Boat Tour
  - Camping at Camden Hills State Park, Camden, ME
- Friday, July 26 through Sunday, July 28
  - Student Free Time/Days Off
  - Optional Camping at Camden Hills State Park on Thursday, Friday, and Saturday Nights if needed
  - Check in at Wolfe's Neck Campground in Freeport, ME on Sunday Night
- Monday, July 29 (Professor Leoni)
  - Aquaculture/Near Shore Issues
    - Readings
      - *Read Maquoit Bay, LLC v. Department of Marine Resources* (read in full)
      - Read Harpswell Anchor – *Harpswell Clammers Confront Challenges*
      - Read MACNP Memorandum to Lawmakers
      - *The Green Crab Invasion*, Downeast Magazine
      - *Towns Fear, Fight Aquaculture*, The Island Institute
      - Drummond Woodsum Model Aquaculture Development Moratorium
    - Professor Leoni Lecture (9:00am-12:00pm)
    - Guest Lecture and Boat Tour: Willy Leathers, Maine Ocean Farms (1:30pm-4:30pm, including travel time to boat launch)
  - Camping at Wolfe's Neck Campground, Freeport, ME
  - Conference Room Reserved at Wolfe's Neck Center
- Tuesday, July 30 (Professor Leoni)
  - Recreation Issues
    - Readings - Maine
      - *Bell v. Town of Wells* (Read entire case, including dissent)
      - *Almeder v. Town of Kennebunkport*
      - *Cedar Beach/Cedar Islands et al. v. Gables Real Estate inc.*
      - Complaint filed in *Masucci v. Judy's Moody*, and the Superior Court Decision
    - Readings - other jurisdictions
      - *Stop the Beach Renourishment v. Fla. Dept. of Env't'l Protection*
    - Professor Leoni Lecture (9:00am-12:00pm)
  - Introduction to Oral Argument Practicum (1:30pm-2:00pm)
  - Discussion re: Waterfront Ownership (2:00pm-3:00pm)
  - Reading/preparation for guest lecture, oral argument on Wednesday (3:00-4:00)

- Review *Masucci, Bell, Shively*
    - Constitutional Provision Establishing Equal Footing Doctrine - Spend time with Shively.
    - Optional Reading: *Oregon ex rel. State Land Bd. v. Corvallis Sand & Gravel Co.*, (Part II and Part III only)
  - Guest Lectures: Ben Ford, Archipelago Law (4:00pm-5:00pm)
  - Camping at Wolfe's Neck Campground, Freeport, ME
  - Conference Room Reserved at Wolfe's Neck Center
- Wednesday, July 31 (Professor Leoni, (Professor Bourgoine in PM))
  - Tidal Issues
    - Readings
      - Read *Ross v. Acadian Seaplants*
      - *The Judicial Privatization of Wild Seaweed in Maine*. ABA Natural Resources and Environment Journal
    - Professor Leoni Lecture (9:00am-10:30am)
  - Oral Argument Practicum + Lunch Break (10:30am-1:00pm)
    - Oral Argument for Masucci (1:00pm-2:00pm)
  - Access to Working Waterfront
    - Break to complete readings (2:00pm-4:00pm)
    - *Working Waterfront Report 2021*, Island Institute
    - Working Waterfronts Conservation Easements (*Land Trusts Can Now Protect Working Waterfronts*, Island Institute).
    - Professor Leoni Lecture and Discussion (4:00pm-5:00pm)
  - Camping at Wolfe's Neck Campground, Freeport, ME
  - Conference Room Reserved at Wolfe's Neck Center
- Thursday, August 1 (Professor Bourgoine)
  - Climate Change & Climate Change Case Study
    - Readings
      - Maine Won't Wait Climate Action Plan Executive Summary, 2020, accessed at [https://www.maine.gov/climateplan/sites/maine.gov.climateplan/files/inline-files/MaineWontWait\\_EXSum.pdf](https://www.maine.gov/climateplan/sites/maine.gov.climateplan/files/inline-files/MaineWontWait_EXSum.pdf) and pages 26-37 of the full Maine Won't Wait Climate Action Plan, accessed at [https://www.maine.gov/climateplan/sites/maine.gov.climateplan/files/inline-files/MaineWontWait\\_December2020\\_printable\\_12.1.20.pdf](https://www.maine.gov/climateplan/sites/maine.gov.climateplan/files/inline-files/MaineWontWait_December2020_printable_12.1.20.pdf)
      - Watch Marine & Coastal Working Group of the Maine Climate Council 2024 Draft Recommendations (13 minutes), accessed at <https://www.youtube.com/watch?v=hoNikDIrmbQ> and review the slide deck, accessed at
      - Read the Marine & Coastal Working Group of the Maine Climate Council 2024 Draft Recommendations in full, accessed at [https://www.maine.gov/future/sites/maine.gov.future/files/inline-files/WG%20Coastal%20and%20Marine\\_Final%20Recommendations%20June%202024.pdf](https://www.maine.gov/future/sites/maine.gov.future/files/inline-files/WG%20Coastal%20and%20Marine_Final%20Recommendations%20June%202024.pdf)
    - 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.

- Professor Bourgoine Lecture (9:00am-10:00am)
- Climate Change Practicum (10:00am-12:00pm, 2:00pm-3:30pm)
- Guest Lecture: Kelt Wilska, Offshore Wind Director, Environmental League of MA (12:00pm-1:00pm) *Please bring your lunch to eat during lecture*
- Guest Lecture: Nick Battista, Island Institute (TBD) Solutions to Coastal Resource Management Issues
- Course Ending Lecture, re: Final Paper (3:30pm-4:00pm)
- Optional Camping at Wolfe's Neck Campground, Freeport, ME
- Conference Room Reserved at Wolfe's Neck Center
- Course Ends