



The University of New Mexico

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Examination No. _____

Natural Resources

UNM School of Law
Final Examination 2008
Three Credits

Professor Denise Fort

INSTRUCTIONS

A. This is a take-home, open-book examination. You may use:

1. All materials supplied in connection with the course in Federal Public Lands, including postings on the class page on TWEN;

2. materials prepared by you, including class notes, any outlines or notes you have prepared as a study aid; and

3. the assigned casebook.

4. You may use the full text of any relevant statutes from the internet or any written source.

You may not discuss any of these questions with any person, ask any person's assistance in research, nor discuss these questions until the close of the exam period.

B. Be sure to answer every question, and every subpart of every question. Be complete, but not verbose. Do provide (informal) citations to authority (cases, statutes, etc.) and discuss relevant authorities.

Have a great summer; enjoy the environment!

I. The sky above your town is crisscrossed by lights from new theatres, baseball lighting, and lights above highways. A group of amateur astronomers has asked you to represent them in reducing this pollution. Assume that courts have ruled that the lights constitute a public nuisance in other jurisdictions, in certain circumstances. Can you think of any other theories (mentioned in this course) under which light pollution could be prevented? What would your argument be? Before what bodies would you make it?

II. New Mexico has procured a right to additional water from a river in federal legislation, provided that it builds a diversion to remove the water from the stream. The state is proceeding to do so, using federal funds that were authorized and appropriated by the Congress. As the diversion structure is being constructed, the state discovers that there is a much larger groundwater reserve in the region than had been believed. You represent an environmental group that is bitterly opposed to the project. Scientists also have recently published papers announcing that the effect of climate change on surface water flows is much greater than had been thought at the time that construction began. What do you do with this new information?

III. The U.S. Fish and Wildlife Service has reintroduced Mexican wolves (a threatened and endangered species) into a national forest, with a regulation that bars any private citizen from killing a wolf, except where human life is threatened. Ranchers in lands adjoining the national forest contend that they have the right to kill wolves that are threatening their livestock. Please analyze the ranchers' claims: what legal grounds could there be for such a federal regulation? Bonus question: if a calf is killed by a wolf on private lands, would there be a valid takings claim against the federal government?

IV. A law student who is ignorant of natural resources law has said that ranchers have no rights to grazing permits on public lands. Is that statement true? What circumstances bear on the answer? Please cite to cases we read and any applicable statutory sections.