

Law 272.1
Water Resources Law
(Fall 2006)

Units: 3

Instructor: Antonio Rossman
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Location: 107 Boalt
Time: Thursdays 2:20-5:00

Course Description:

The course emphasizes western water law with special attention to California. We deal at length with public rights in water, the public trust, area of origin claims, federal and Indian reserved rights, interstate controversies, environmental assessment, and the limitations of the takings clause on reallocations of water use. Water pollution and water quality are addressed only peripherally. The course thesis asserts that water is a distinctive species of property, a community resource that can never be fully privatized and that must be used in the public interest. We explore this remarkable idea.

Texts:

1. Sax, Thompson, Leshy, Abrams. *Legal Control of Water Resources* (4th ed. 2006)

Syllabus

Class 1 – August 24	Overview	1-26
	Riparianism I (reasonable use)	27-79
Class 2 – August 31	Riparianism II (municipal supplies and future)	79-123
Class 3 – September 7	Appropriation I (basic, waste and conservation)	124-197
Class 4 – September 14	Appropriation II (recapture, administered systems, area of origin) (<i>SWRCB Cases</i> : area of origin)	197-264 Supp.
Class 5 – September 21	Appropriation III (water markets, practical issues)	264-324
Class 6 – September 28	Western Water Law Evolution, Constitutional Issues (<i>United States v. Gerlach Live Stock Co.</i>)	325-392 Supp.
Class 7 – October 12	Groundwater I (judicial doctrine and administration)	393-443
Class 8 – October 19	Groundwater II (administration) (Allegretti)	443-520 Supp.
Class 9 – October 26	Public Rights I (navigation) [Takings Conference]	521-590
Class 10 November 2	Public Rights II (public trust)	590-639
Class 11 – November 9	Public Rights III (ESA, NEPA/CEQA, other statutes) (<i>SWRCB Cases</i> : public trust) (<i>CEQA and NEPA: Vermont Yankee, Friends of Mammoth, Inyo v. Los Angeles III, PCL V. DWR, Bay Delta Programmatic</i>)	639-680 Supp.
Class 12 November 16	Water Institutions (State and Reclamation)	681-731, 746-798
Class 13 – November 30	Federal and Indian Water Rights	903-979
Class 14 – December 7	Colorado River and other interstate allocations CRWUA Essay; NRE Article	799-859, 731-746 Supp.
Meeting 15 – December 8	Review Session	10:00 a.m.
Meeting 16 – December 19	Final Examination	8:30 a.m.