

Working with the Endangered Species Act: A Practical Primer for Decisionmakers, Biologists and Staff Specialists

Presented by
Lewis & Clark Law School
May 14-17, 2018
Asheville, North Carolina
Hotel Indigo

Monday, May 14

*Location: Hotel Indigo – Inspiration Room
Asheville, North Carolina*

Today's Objectives:

- *Participants' Hot Issues*
- *General Legal Concepts*
- *Policies Underlying the ESA*
- *Listing & Recovering Species*
- *ESA Prohibitions & Exceptions*



8:00 am **Check-In. Continental Breakfast Available.**



8:45 am **Welcome/Overview of Course & Learning Methods**
*Janice Weis, Associate Dean & Director, Environmental, Natural
Resources & Energy Law Program, Lewis & Clark Law School*

9:00 am **Collaboration and Hot Issues**
Janice Weis
Break into groups to (1) complete “biogrids” and (2) identify additional
“hot issues” (building on initial hot issues provided in advance by
participants). What ESA issues are important to you?



10:00 am **Break**

- 10:15 am **Introduction to Legal Process and Administrative Law**
Janice Weis
Overview of sources of law (U.S. Constitution, cases, statues, regulations); federal court system, citizen suits, administrative discretion and its limits, and the standards of judicial review in ESA and other environmental cases.
- 11:45 am **Lunch** (on your own) (hotel restaurant and local places available)
- 1:15 pm **Protecting and Managing Biodiversity in an Era of Change**
Professor Dan Rohlf, Lewis & Clark Law School
The 21st century brings with it significant uncertainty for species facing extinction. Threats such as climate change and invasive species were not on lawmakers’ radar screens in 1973, but loom large today. The Endangered Species Act itself, however, has not changed in two decades. Beginning with an interactive group exercise, we’ll explore how to best implement – and perhaps amend – the ESA in a changing and uncertain world.
- 2:15 pm **Break** 
- 2:30 pm **The ESA’s Listing Process and Recovery Planning: Section 4**
Dan Rohlf
Discussion of the main ESA provisions that govern the listing of species, designation of critical habitat, and recovery planning. Evaluation of the roles of law, science, and policy in these arenas.
- 3:30 pm Break
- 3:45 pm **ESA Prohibitions and Exceptions: Sections 9 and 10**
Dan Rohlf
Overview of prohibitions once a species is listed. Discussion of tools to allow non-federal entities to conserve and take listed species (setting context for Tuesday’s discussion of the relationship of non-federal obligations to federal agency obligations under the ESA under Section7).
- 5:00 pm **Welcome Reception (Location TBD)**
Light appetizers provided; no host drinks available

Tuesday, May 15

Location: Hotel Indigo – Inspiration Room

Today's Objectives:

- *Federal Obligations & Opportunities under the ESA*
- *Incidental Take for Federal Agencies & Non-Federal Entities*
- *The Process of Consultation*

8:00 am **Continental Breakfast Available**

8:30 am **Quick Review of Day 1**

8:45 am **The Role of Federal Agencies in ESA Implementation: ESA Section 7 & Consultation**

Dan Rohlf

Overview of federal agencies' procedural and substantive duties under Sections 7(a)(1) and (a)(2) and process for allowable incidental take for federal agencies.

10:15am **Break**



10:30 am **Q & A on Section 7 with Fish & Wildlife Service**

Jerry Ziewitz, Endangered Species Act Consultation Coordinator, Southeast region

Opportunity to ask questions of FWS about consultation; tips on making consultations effective; highlights from FWS/NMFS Consultation Handbook.

Noon **Lunch** (on your own) (hotel restaurant and local places available)

1:30 pm **Section 7 (continued)**

Dan Rohlf

Continuation of discussion on consultation. Pose consultation hypothetical and begin small group work.

~~ Breaks as needed ~~

3:00 pm **Discussion of Hypothetical and Wrap Up**

5:00 pm **Adjourn**

Wednesday, May 16

Field Day

Location: Roan Mountain (Tentative)

Breakfast on your own (hotel restaurant and local places available)



Today's Objectives: Evaluating Implementation of the ESA on the Ground

- *Exploration of innovative approaches to TES management and resource conflicts using real world regional examples*
- *Applying ESA concepts on the ground*
- *Inspiring ideas and connections for you to take home*

Field-Based Discussion of Endangered Species Conservation and Natural Resources Management



Notes: It will be warm! Bring water, hat, sunscreen!

- Box lunches provided
- Dress for outdoor comfort and walking (hiking shoes/boots)
- Bring binoculars and camera if you have them
- Bring a day pack if you want to pack a water bottle, hat, snack, etc.



Thursday, May 4

**Location: Hotel Indigo – Inspiration Room
Asheville, North Carolina**

Today’s Topics:

- *Where do we go from here?*
- *Best Practices*
- *Wrap Up & Conclusions*

8:00 am **Continental Breakfast Available**

8:30 am **Section 7(a)(1) in Practice**
Speakers To Be Confirmed
Discussion of opportunities for integrating affirmative programs for conservation under section 7(a)(1)

10:00 am **Break**

10:15 am **Views from OGC**
Matthew Tilden, USDA Office of General Counsel, Atlanta office
Overview of OGC role; general notes on legal updates.

11:30 pm **Lunch** (on your own) 

1:00 pm **Review of Hot Issues List and Final Q & A**
Dan Rohlf and Janice Weis

2:30 pm **Closing “Game Show”**
THIS – IS – JEOPARDY! (Pun intended) Test your knowledge:
Determine the answer to the ESA questions with our own Alex Trebec imposters!

3:00 pm **Adjourn** *Have a safe trip home!*

