

**GEORGE MASON UNIVERSITY**  
**School of Recreation, Health, and Tourism**  
**PRLS 501 (Section 001) –Natural Resources Law (3)**  
**Spring 2011**

<b>DAY/TIME:</b>	Web based Tele video	<b>LOCATION:</b>	Web based Tele video
<b>INSTRUCTOR:</b>	Dr. James C. Kozlowski	<b>E-MAIL:</b>	jkozlows@gmu.edu
<b>OFFICE:</b>	220a Occoquan Bldg.	<b>PHONE:</b>	703.455.8474
<b>OFFICE HOURS:</b>	by appointment	<b>FAX:</b>	703.993.2025

**PREREQUISITES:** PRLS 460 and 90 credits, graduate status, or permission of instructor.

**COURSE DESCRIPTION:** Selected legal issues involving conflicting use and preservation demands on our nation's limited natural resource base, particularly those involving public lands, open space, and recreation resources. Uses case studies of recent court decisions.

**COURSE OBJECTIVES:** At the completion of the course, students should be able to:

1. Define the role of the courts in balancing conflicting use and preservation demands on our nation's limited natural resource base, particularly those involving public lands, open space, and recreation resources.
2. Analyze the relevance and significance of specific facts in a particular case involving the acquisition, management and preservation of natural resources, specifically public park and recreation resources.
3. Identify the issues/questions of natural resources law to be resolved by the court in a particular case involving the acquisition, management and preservation of natural resources, specifically public park and recreation resources.
4. Identify the relevant sources and rules of law applied by courts to resolve issues of natural resources law involving the acquisition, management and preservation of natural resources, specifically public park and recreation resources.
5. Describe the legal analysis and methodology applied by courts to resolve issues of natural resources law, including the role of cases, regulations, legislative materials, and other relevant law related information used by courts to resolve natural resources law issues.

Further, upon completion of this course, students will meet the following professional accreditation standards:  
*Council on Accreditation of Parks, Recreation, and Tourism Related Professions standards met*

- 9A.01** Understanding of and ability to apply organizational and political techniques to foster meaningful and principled relationships with boards, commissioners, staff; governmental, non-profit and private organizations; and the public to enhance leisure service opportunities.
- 9A.03** Understanding of the use of the law in management of leisure services, including land management, personnel, human rights, financing, and risk management.
- 9B.02** Understanding of the process of natural resources recreation policy development and its implications for recreation resources management.
- 9B.05** Understanding of the body of law governing natural resources recreation management and its applications in natural resource settings.

**9B.06** Understanding of the use of the law in management of leisure services, including risk management, land management, human rights, financing, and personnel.

**REQUIRED READINGS & CLASS ITEMS:**

The "textbook" in this course is a compilation of case reports and related articles which I have written, in particular my monthly "NRPA Law Review" column in *Parks & Recreation* magazine (the official publication of the National Recreation and Park Association). These case reports and related articles will be available for reading, downloading and printing on the PRLS 501 site of my GMU homepage at the following address: <http://classweb.gmu.edu/jkozlows/501.htm>

**ACADEMIC INTEGRITY:** I take the GMU Honor Code very seriously. Allowing students to take PRLS 501 exams off campus on a more flexible schedule is a privilege which PRLS 460 students have traditionally appreciated and have conducted themselves responsibly, but it may be subject to abuse. I expect every PRLS 501 student to know and adhere to their personal duties and responsibilities under the GMU Honor Code.

Individual exam questions on each exam are randomly selected by Blackboard from question sets in the PRLS 501 question database. As a result, while testing a student's understanding of a similar principle in each question, no two exams are identical. Moreover, Blackboard provides extensive data on each exam to determine any irregularities on individual exams and identify patterns which may indicate collusion among students on PRLS 501 exams.

I am, therefore, able to examine each exam and/or exam question to determine whether there are irregularities that warrant further investigation pursuant to the Honor Code. Moreover, any irregularities could artificially inflate and skew the scores on individual exams and questions which might produce an adverse effect on the course curve to the detriment of individual students and the class as a whole.

Accordingly, you are reminded that the Honor Code is in effect for all exams in PRLS 460 on Blackboard. Further, to clarify and reiterate, no collaboration or group participation whatsoever is permissible during PRLS 501 examinations.

All PRLS 501 exams are open book, but you are limited to primary course materials and video lectures posted to the PRLS 501 course webpage, as well as your own notes prepared prior to the exam. The use of any other study aids, memoranda, books, data, or other information during PRLS 501 exam is prohibited.

Further, you are not to discuss the exam with any other student during or after the time which the exam is accessible. Providing or reproducing any information to another student about any questions on a PRLS 460 exam would constitute cheating within the context of the Honor Code, i.e., unauthorized use of study aids, memoranda, books, data, or other information. Such unauthorized information may provides individual students with an unfair advantage over other students in preparing for exams. Moreover, prior to each exam, practice questions taken from the PRLS 501 exam question database are made available to the entire class on Blackboard, providing an equal opportunity to prepare for the type and format of questions for each exam.

**Responsibility of the Students**

Students are responsible for understanding this PRLS 501 policy with regard to the Honor Code. Students are also responsible for understanding the provisions of the Honor Code. Students should also request an explanation of any part of the policy they do not understand.

All students have a duty to report to a suspected violation of the Honor Code to the course instructor.

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GMU Honor System and Code

<http://www.gmu.edu/catalog/9798/honorcod.html>

Cheating encompasses the following:

The willful giving or receiving of an unauthorized, unfair, dishonest, or unscrupulous advantage in academic work over other students.

The above may be accomplished by any means whatsoever, including but not limited to the following: fraud; duress; deception; theft; trick; talking; signs; gestures; copying from another student; and the unauthorized use of study aids, memoranda, books, data, or other information.

Attempted cheating.

George Mason University shares in the tradition of an honor system that has existed in Virginia since 1842. The Honor Code is an integral part of university life. On the application for admission, students sign a statement agreeing to conform to and uphold the Honor Code. Therefore, students are responsible for understanding the provisions of the code. In the spirit of the code, a student's word is a declaration of good faith acceptable as truth in all academic matters. Therefore, attempted cheating, plagiarism, lying, and stealing of academic work and related materials constitute Honor Code violations. To maintain an academic community according to these standards, students and faculty must report all alleged violations of the Honor Code to the Honor Committee. Any student who has knowledge of, but does not report, an Honor Code violation may be accused of lying under the Honor Code.

**COURSE OVERVIEW:**

Through the case study method, this course examines the role of the courts and federal and state law in addressing a variety of issues involving the acquisition, management and preservation of natural resources, specifically public park and recreation resources. Natural resource law will be defined by the administrative and environmental review process used by citizens and interest groups to challenge governmental actions. Further, the course will examine the mission and authority of individual federal resource agencies within the context of specific environmental and resource conservation laws. In particular, this course will examine a number of natural resources legal issues involving recreation resources on federal lands.

**EVALUATION:** 3 EXAMS on Blackboard (open book, weighted equally, each exam worth 33.3%)

**Grading Scale**

**Final grades are based on the percentage of points earned out of the total number of points available on all four exams as follows:**

Range out of 150 possible pts on 3 exams

Grade	Range
Grade <input type="text" value="A+"/>	<input type="text" value="120"/> and above
Grade <input type="text" value="A"/>	<input type="text" value="105"/> or greater, and less than 120
Grade <input type="text" value="A-"/>	<input type="text" value="90"/> or greater, and less than 105

Grade	Range
Grade <input type="text" value="B+"/>	<input type="text" value="82"/> or greater, and less than 90
Grade <input type="text" value="B"/>	<input type="text" value="75"/> or greater, and less than 82
Grade <input type="text" value="B-"/>	<input type="text" value="67"/> or greater, and less than 75
Grade <input type="text" value="C"/>	<input type="text" value="60"/> or greater, and less than 67
Grade <input type="text" value="F"/>	<input type="text" value="0"/> or greater, and less than 60

**ASSIGNMENTS:** Students are expected to read and study the required readings for each unit as well as view the televideo lecture which accompanies each unit. [CLICK Webstream PRLS 460 Video Lectures \(on demand\) GMU-TV website](#)

In addition, to prepare for each exam, students are encouraged to access and complete the practice questions provided on Blackboard.



- Students must adhere to the guidelines of the George Mason University Honor Code [See <http://academicintegrity.gmu.edu/honorcode/>].
- Students with disabilities who seek accommodations in a course must be registered with the George Mason University Office of Disability Services (ODS) and inform their instructor, in writing, at the beginning of the semester [See <http://ods.gmu.edu/>].
- Students must follow the university policy for Responsible Use of Computing [See <http://universitypolicy.gmu.edu/1301gen.html>].
- Students are responsible for the content of university communications sent to their George Mason University email account and are required to activate their account and check it regularly. All communication from the university, college, school, and program will be sent to students solely through their Mason email account.
- Students must follow the university policy stating that all sound emitting devices shall be turned off during class unless otherwise authorized by the instructor.
- Students are expected to exhibit professional behaviors and dispositions at all times.
- The George Mason University Counseling and Psychological Services (CAPS) staff consists of professional counseling and clinical psychologists, social workers, and counselors who offer a wide range of services (e.g., individual and group counseling, workshops and outreach programs) to enhance students' personal experience and academic performance [See <http://caps.gmu.edu/>].
- The George Mason University Writing Center staff provides a variety of resources and services (e.g., tutoring, workshops, writing guides, handbooks) intended to support students as they work to construct and share knowledge through writing [See <http://writingcenter.gmu.edu/>].
- For additional information on the College of Education and Human Development, School of Recreation, Health, and Tourism, please visit our website [See <http://rht.gmu.edu>].

## COURSE SCHEDULE:

### **Unit One:**

#### **National Environmental Policy Act (NEPA) and Section 4(f)**

(Webstream Lectures 1A & 1B for Spring 2010)

Video Lecture Notes pdf files: [NEPA notes](#) [Audubon v. Dailey](#) [Boomer Lake](#) [Sec. 4F Amendment](#) [4F Regs.](#)

Required Reading:

[Clean Water Act Permit Ignored Adverse Impacts on Park Environment](#)

[Environmental Challenge To Federal Highway Project Through Park](#)

[Parkland Protection "Paramount Importance"](#)

[Political Reversal on National Park Gun Ban](#)

RELATED LINKS:

[National Environmental Policy Act \(NEPA\)](#)

[RELATED LINKS:Environmental regulations for applying Section 4\(f\) 23 CFR 771.135 Council on Environmental Quality](#)

[CEQ - Regulations for Implementing NEPA](#)

[Part 1502 - Environmental Impact Statement](#)

### **Unit Two:**

#### **National Environmental Policy Act (NEPA)**

(Webstream Lectures 2A & 2B)

Video Lecture Notes pdf files: [Bicycle Trails v. Babbitt](#) [Fort Funston Dog Walkers v. Babbitt](#)

Required Reading:

[BICYCLE TRAILS COUNCIL OF MARIN v. BABBITT NPS bike regs in Golden Gate NRA, 9th Circuit, 1996](#)

[GOLDEN GATE NATIONAL RECREATION AREA enabling legislation, 16 U.S.C. 460bb](#)

[Fort Funston Dog Walkers v. Babbitt, 96 F. Supp. 2d 1021 \(N.Dist. Cal. 2000\)](#)

RELATED LINKS:

[NPS website: Dog Walking in the Golden Gate National Recreation Area](#)

[Golden Gate National Recreation Area Proposed Rulemaking for Dog Management](#)

[Negotiated Rulemaking for Dog Management at GGNRA](#)

[EIS/Dog Management Plan for GGNRA](#)

[Fort Funston Dog Walkers Association](#)

### **Unit Three:**

#### **National Environmental Policy Act (NEPA)**

(Webstream Lectures 3A & 3B)

Video Lecture Notes pdf files: [Davis v. Latscher](#) [DuBois v. USDA](#)

Required Reading:

[GETTYSBURG NATIONAL MILITARY PARK DEER MANAGEMENT PROGRAM, \*Davis v. Latschar\*, \(D.C.Cir. 02/22/2000\)](#)

[DUBOIS v DEPARTMENT OF AGRICULTURE LOON LAKE SKI EIS, 1996](#)

RELATED LINKS:

[NEPA/EIS general principles highlighted, Dubois v. Dept. of Agric. "Loon Lake"](#)

[CEQ - Regulations for Implementing NEPA](#)

[Part 1502 - Environmental Impact Statement](#)

### **Unit Four:**

#### **Recreation Resources: Recreation on Federal Lands**

(Webstream Lectures 4A & 4B)

Video Lecture Notes pdf files: [CLF v. Secy](#) [Mausolf v. Babbitt](#) [Personal Watercraft v. Commerce](#)

Required Reading:

[CONSERVATION LAW FOUNDATION OF NEW ENGLAND, INC. v. SECRETARY OF THE INTERIOR \(NPS Cape Cod ORV case\)](#)

[PERSONAL WATERCRAFT INDUSTRY ASN. v. DEPARTMENT OF COMMERCE jet ski regs in marine sanctuary, 48 F.3d 540 \(D.C. Cir. 1995\)](#)

[MAUSOLF v. BABBITT, \(8th Circuit 1997\) restrictions on snowmobiling in Voyageurs National Park](#)

[NORTHWEST MOTORCYCLE ASS'N v. USDA, 18 F.3d 1468 \(9th Cir. 1994\)](#)

**Exam One:** [sample multiple choice exam questions](#)

## Unit Five 10/4-10/8:

### Land and Water Conservation Fund Act (LWCF)

(Webstream Lectures 5A & 5B)

Video Lecture Notes pdf files: [Shawangunks](#) [Ironbridge](#) [Crater of Diamonds](#) [Save Our Parks](#)

Required Reading:

[LWCF ACT BLOCKS CONVERSION OF SCENIC EASEMENT TO GOLF COURSE, Aug. '94 NRPA Law Review Parks & Recreation](#)

[FRIENDS OF IRONBRIDGE PARK v. BABBITT LWCF regs "facility changes"\(1999 opinion U.S. Court of Appeals, 4th Circuit\)](#)

[SIERRA CLUB OF ARKANSAS v. DAVIES LWCF Case, USCA 8th Circuit, 1992, Crater of Diamonds State Park](#)

[Crater of Diamonds State Park](#)

[New Yankee Stadium Replaces Parkland \*Parks & Recreation\*. Apr.. 2007. Yankee Stadium Redevelopment Project LWCF Case Study](#)

[Golf Development Park Lease Environmental Reveiw, \*Parks & Recreation\* Mar. 2010 Jean Klock Park Case Study](#)

RELATED LINKS:

[LAND AND WATER CONSERVATION FUND ACT \(LWCF\)](#)

[§ 460l-8. Financial assistance to States](#)

[FEDERAL CASE: \*Save Our Parks v. Kempthorne\*, 2006 U.S. Dist. LEXIS 85206 \(S.D.N.Y 2006\)](#)

[STATE CASE: \*Save Our Parks v. City of New York\*, 2006 N.Y. Misc. LEXIS 2365; 236 N.Y.L.J. 35](#)

[New York City Department of Parks and Recreation: Yankee Stadium Redevelopment Project](#)

[Protesting the Yankees: 'It's About Respect,' Activists Say \(Aug. 17. 2009 Bronx News Network\)](#)

[Save Our Parks Blog](#)

[Yankee Stadium/Parks Exchange Underway, Gotham Gazette, Oct. 2006](#)

[National Park Service \(NPS\) LWCF website](#)

[Quick History of the LWCF PROGRAM](#)

[NPS website Urban Park & Recreation Recovery Program \(UPARR\)](#)

[2002 Virginia Outdoors Plan](#)

[Northern Virginia Regional Analysis/Recommendations Va Outdoor Plan 2008](#)

[Virginia Outdoors Fund \(Land and Water Conservation Fund \)](#)

[Virginia Code Title 10.1 CONSERVATION](#)

## **Unit Six:**

### **"Takings" unconstitutional taking of private property**

(Webstream Lectures 6A & 6B)

Video Lecture Notes pdf files: [Kelo](#) [Lucas](#) [Dolan](#) [Lake Tahoe](#) [Tualatin Hills](#)

Required Reading:

[WATERFRONT REVITALIZATION CONDEMNS HOMES, \*Kelo v. New London, Conn., Parks & Recreation\*, February 2006.](#)

[CONSTITUTIONAL DIRE STRAITS FOR PUBLIC BAN ON PRIVATE BEACH BUILDING : \*Lucas v. South Carolina Coastal Council\*, October 1992, \*Parks & Recreation\*](#)

[CONSTITUTIONAL GREENWAY DEDICATION REQUIRES "ROUGH PROPORTIONALITY" TO DEVELOPMENT'S IMPACT, \*NRPA Law Review, Parks & Recreation\*, September 1994](#)

[STATE MANDATORY DEDICATION OPINIONS ILLUSTRATE "ROUGH PROPORTIONALITY" ANALYSIS, \*Parks & Recreation\* , September 1994](#)

[LAKE TAHOE DEVELOPMENT MORATORIUM PASSES CONSTITUTIONAL TEST](#)

[DEVELOPERS CHALLENGE FEE FOR PARKS AND RECREATION](#)

[Riverwalk Bridge Obscured Neighbor's View](#)

## **Unit Seven:**

### **Diversion of Public Park & Recreation Resources**

(Webstream Lectures 7A & 7B)

Video Lecture Notes pdf files: [Central Park](#) [Griffith](#) [Metro Dade](#) [Ridgway](#) [Nickols](#) [Angel](#) [Cummings](#)  
[Brundage](#) [Vandemark](#)

Required Reading:

[THE RESTAURANT IN CENTRAL PARK: A DIVERSION CASE STUDY, \*NRPA LAW REVIEW\*, May 1985, \*Parks & Recreation\*](#)

[GRIFFITH v. CITY OF LOS ANGELES , TEMPORARY LANDFILL PROPER PURPOSE IN DEDICATED PARK?](#)



[WHITE v. METROPOLITAN DADE COUNTY, FLORIDA TENNIS TOURNAMENT DEPRIVED PUBLIC OF PARK USE](#)

[Borough of Ridgway v. Grant, 56 Pa. Commw. 450; 425 A.2d 1168 \(1981\)](#)

[NICKOLS v. COMMISSIONERS OF MIDDLESEX COUNTY \(Mass. 1960\)](#)

[ANGEL v. CITY OF NEWPORT \(R.I. 1972\)](#)

[Gift of Park Land in Perpetuity](#)

[Fairfax County Park Authority v. Brundage, Supreme Court of Virginia, 159 S.E.2d 831, March 4, 1968](#)

[HEIRS CLAIM UNDEVELOPED PARK PARCEL UNDER "USE IT OR LOSE IT" CLAUSE \(Vandemark\)](#)

RELATED LINKS:

[NRPA BRIEF URGES "MARKET" VALUE INAPPROPRIATE, JANUARY 1994, "NRPA LAW REVIEW," \*Parks & Recreation\*](#)

[COMPENSATION FOR CONDEMNED LAND NOT DEVALUED BY PARK DEDICATION, May 1994, "NRPA LAW REVIEW," \*Parks & Recreation\*](#)

[FAIRFAX COUNTY PARK AUTHORITY v. VIRGINIA DEPARTMENT OF TRANSPORTATION, 247 Va. 259 \(1994\) Virginia Supreme Court Opinion](#)

**Unit Eight:**

**First Amendment Issues in Parks & Recreation Resources**

(Webstream Lectures 8A & 8B)

Video Lecture Notes pdf files: [Clark v CCNV](#) [Ward v RAR](#) [Doe](#) [VietVets](#) [Thomas v CPD](#) [Fillyaw](#)

Required Reading:

[CLARK v. COMMUNITY FOR CREATIVE NON-VIOLENCE, 468 U.S. 288 \(1984\)](#)

[WARD v. ROCK AGAINST RACISM, 491 U.S. 781 \(1989\)](#)

[UNITED STATES v. DOE, 968 F.2d 86 \(D.C.Cir. 1992\)](#)

[FRIENDS OF THE VIETNAM VETERANS MEMORIAL v. KENNEDY \(D.C. Cir. 1997\)](#)

[NO THREAT OF UNCONSTITUTIONAL CENSORSHIP IN PARK PERMIT ORDINANCE ; Thomas v. Chicago Park District, 534 U. S. 316 \(2002\)](#)

[Naturist Society Inc. v. Fillyaw, 858 F.Supp. 1559 \(S.D. Fla. 1994\)](#)

**EXAM TWO**

## Unit Nine:

### Federal Liability for Recreational Injuries

(Webstream Lectures 9A & 9B)

Video Lecture Notes pdf files: [FedRec](#) [ARA](#) [Judd](#) [Soto](#) [Hegg](#) [McMurray](#) [Hannon](#) [Rost](#) [Montejo](#)  
[RUS Fees](#) [Central Green](#)

Required Reading:

*Discretionary Function Exception* [28 U.S.C. § 2680a.](#)

[Federal Tort Claims Act, 28 U.S.C. sec. 1346 \(FTCA\).](#)

[ARA LEISURE SERVICES v. UNITED STATES, NATIONAL PARK TOUR BUS ACCIDENT ON ERODED ROAD](#)

[JUDD v. UNITED STATES, DIVER RECEIVES NO WARNING FROM FOREST SERVICE](#)

[SOTO v. UNITED STATES, NO WARNING OR DIVING PROHIBITION IN CROWDED NFS AREA](#)

*Recreational Use Statutes*

[HEGG v. UNITED STATES, SWING SET INJURY ON FEDERAL SITE TESTS REC USE DEFENSE](#)

[McMURRAY v. U.S., BLM FAILURE TO WARN OF TEMPERATURES IN HOT SPRINGS](#)

[HANNON v. UNITED STATES, RUS IMMUNITY FOR NATIONAL FOREST THERMAL POOL](#)

[ROST v. UNITED STATES, CAMPER IMPALED ON FOREST SERVICE GATE](#)

[MONTEJO v. UNITED STATES, RECREATIONAL USE IMMUNITY FOR NPS CABLE](#)

[FEE EXCEPTION TO STATE RECREATIONAL USE LAWS ON FEDERAL SITES, NRPA LAW REVIEW, FEB. 1998](#)

*Federal Flood Control Immunity*

[UNITED STATES v. JAMES: DOES U.S. FLOOD CONTROL IMMUNITY INCLUDE RESERVOIR RECREATION?](#)

[Central Green Co. v. United States, 121 S.Ct. 1005, 531 U.S. 425, 531 U.S. 425, 177 F.3d 834, 148 L.Ed.2d 919 \(U.S. 02/21/2001\)](#)

RELATED LINKS:

[Virginia Recreational Use Statute § 29.1-509 Duty of care and liability for damages of landowners to hunters, fishermen, sightseers, etc.](#)

[Maryland Recreational Use Statute](#) (Is Maryland a "fee" or a "consideration" jurisdiction?)

## Unit Ten:

### Wildlife Resources & Endangered Species Protection

(Webstream Lectures 10A & 10B)

Video Lecture Notes pdf files: [Turtles](#) [Humane Society](#) [N.E. Naturist](#) [TVA v Hill](#) [Sweet Home](#)

Required Reading:

[ENDANGERED SEA TURTLES PROTECTED DURING CITY BEACH RESTORATION, JUNE 1993 Parks & Recreation](#)

[Humane Soc. of United States v. Lujan, Civil Action 768 F. Supp. 360 \(Dist. D.C. 1991\)](#)

[New England Naturist Assn. v. Larsen, 692 F. Supp. 75 \(Dist. R.I. 1988\)](#)

[TVA v. HILL, 437 U.S. 153 \(1978\)](#)

[ENDANGERED SPECIES ACT REGULATES CRITICAL HABITAT MODIFICATION ON PRIVATE LAND](#)

RELATED LINKS:

[U.S. Fish & Wildlife Service, Consultations with Federal Agencies, Section 7 Endangered Species Act](#)

## Unit Eleven:

### Themes & Variations

[Rainbow](#) [Nyazie](#)

[United States v. Rainbow Family, 695 F. Supp. 294 \(E.D. Tex. 1988\)](#)

[Nyazie v. Kennedy, CIVIL ACTION NO. 97-0120, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, August 24, 1998, drowning at Great Falls](#)

["Pine Tree" Cell Tower in Park](#)

[Gun Club Lead Shot "Hazardous Waste" For Environmental Cleanup Law](#)  
[James C. Kozlowski Parks & Recreation . Aug 1993. Vol. 28, Iss . 8](#)

[Camp Rafting Trips Unlicensed Commercial Activity](#)  
[James C. Kozlowski. Parks & Recreation. Nov. 2008. Vol. 43, Iss.11.](#)

[Surplus federal property for parks program in review.](#)  
[James C. Kozlowski. Parks & Recreation May 1982 v17 p32\(5\)](#)

## Exam Three

*Note: Faculty reserve the right to revise the course schedule.*