Please note: The contact information above is my personal cell number and email. Please treat this information with respect. Please respect the hour of day if you are going to phone me. It is best that you email me and we set up a time for a call. However, please don’t hesitate to contact me: just know I may not get back to you immediately. When emailing me, please make sure your subject line clearly states “WATER LAW CLASS - [your topic/issue]”. This will help me organize. Thank you for your help and understanding on these things.

General course information: I envision the class to be an overview of the several concepts found in U.S. Water Law. However, because, as a general matter, Water Law as a practice area is most often found in the western states, and because my own practice is centered on western water policy, a significant portion of the class will focus on that region. We will be using the Desire 2 Learn online course system. You should have access to this system by visiting https://online.siu.edu. You will also need to establish a username and password with CALI.org.

To register yourself for CALI access, please follow these instructions.


2. Click on “Register” on the top menu bar. “Create New Account” should be the open tab on the next screen. If not, click on that.

3. The authorization code for law students is “SOUILLstu193” with capital letters as indicated and without the quote marks.

4. Create your username and password, and enter your email address. Make sure to record your sign on information, because we do not have access to it if you forget it.

5. Enter your name and check the box by “I agree” under Terms of Service.

6. Click on “Create new account.”

7. You should receive an email to the address you entered asking you to verify your account.

Follow the instructions in the email, and you will have access to CALI. If you experience problems setting up your CALI account, please contact Nancy Strohmeyer, nstrohmeyer@law.siu.edu.

Course Objectives: Upon completion of this course you should:
1. know the different approaches to water allocation for both surface water and groundwater.
2. know which level of government is responsible for regulating different types of water use.
3. be able to talk about the intersection of various other laws and policies with water law and policy.
4. understand federal water management agencies and the constraints under which they operate.
5. appreciate the important role water supply plays in the energy policy of the U.S.

**Course Grading and Performance Requirements:** There will be several components to your course grade, as follows:

- 75% final exam
- 25% weekly news summary

I may draft a “mid-term” or several short answer questions following spring break to gauge your progress. Completion would be voluntary and not graded.

**What is the Weekly News Requirement?** Because this class will not have the benefit of meeting face to face and having discussions, I want to make sure you/we meet the ABA credit hour requirements. Therefore, more independent learning will be required. Each week, you are required to read, analyze and summarize **at least two** (certainly you can read more!) news or blog posts related to water law and/or policy. Sometimes summarizing a straight news piece gets monotonous, and so opinion pieces are also welcome. **Your summaries are due each Sunday, by 11:59 p.m. Central time. For purposes of this assignment, a week will run Monday-Sunday.** You will submit these assignments using the D2L dropbox. You will be graded on this assignment. I will expect to see, particularly as we move through more material in the semester, a thoughtful consideration of what policy or legal matter(s) is/are being discussed in the articles you are reading. I want you to put some effort into it and pay attention to how the material we are covering translates into practice. Each assignment is worth 5 points.

I recommend you set up a Google News alert for this assignment. Some key terms for you to try entering: water, reclamation, Bureau of Reclamation, Corps of Engineers, drought, California, Colorado River, groundwater, fracking, hydraulic fracturing, Columbia River, (pick any other major river system, really), marijuana (some very interesting stuff being editorialized recently). The list could go on, but you should try to experiment and see what works for you.

Some blogs or specialized news sources you can follow/check:
High Country News, Rough and Tumble, National Geographic Water Currents
The University of Arizona has a more complete list of blogs here:
[https://wrrc.arizona.edu/awr/sp11/blogs](https://wrrc.arizona.edu/awr/sp11/blogs)
And if you find a really great blog - please don’t hesitate to share it! **Remember, though - this is a class about water use and management, and not water pollution. If you are reading a bunch of articles on the Clean Water Act, you (generally) are reading the wrong stuff.**
**Class Lectures:** This is a largely independent learning class, particularly during the first half of the semester. I am taking the California Bar Exam on February 21 & 23. In the past I have required students to attest to their completion of the weekly assignment. Instead, this year - because of my own schedule, I am giving you free reign (at least for the first half of the semester) as to how you choose to complete assignments. The syllabus is set up so that weekly assignments are manageable. However, if you want to front load and work “ahead” that is your choice. If you prefer to lag behind and put it all off until Spring Break - - your choice. However, I do hope to do one in-person class and so you will need to have completed all assignments up to that point in the class in order to participate and be considered adequately prepared.

I will not be tracking your completion of the assignments. This is a self motivated exercise.

**Absences:** Because this is an online class, and designed for you to be able to participate at your own pace and availability, there will be no absences. *If you have circumstances that may require you to complete a week’s news summaries late, please email me as soon as possible when you know you have an issue.*

**Penalties for late submissions to D2L dropboxes:** If you miss the deadline for the news summary, you will receive a 0 out of the 5 possible points for that week’s assignment.

**Mid-term Exam:** I will not be administering a mid-term. However, I may develop some short answer questions or a mid-term type exercise. Your completion is voluntary. But if you do choose to complete it, I will review and give you feedback on your progress in understanding the concepts of the course up to that point.

**Final Exam:** The final exam will be administered through ExamSoft. I expect you to complete the exams according to the University’s and the School of Law’s honor codes and to work alone, not to discuss the exam question with any of your classmates until the submission period has closed. I have not determined whether the final will be open notes or not. More information on the final later as I coordinate more with the Registrar’s Office.

**Bonus Opportunity:** American Water Resources Association has a free webinar scheduled for Wednesday, January 18 @ 1:00 ET entitled, “Water is for Fighting Over and Other Myths About Water in the West.” If all class participants are free during that time, I will allow you to “attend” the webinar and provide me with proof of your attendance as a skip for one week of the news summary. You’d simply email me that week and inform me you are using your “bonus.” I will make an announcement about whether this option is available as a bonus after I learn of the class’s availability. Even if I cannot offer this as a “bonus,” if you are free during that time, I still encourage your to participate. Register at [www.awra.org/webinars](http://www.awra.org/webinars).

If I hear of other such opportunities, I will let you know and may choose to offer the same “bonus” for such attendance/participation.
In-person class: When I previously taught this class I traveled to Carbondale for one in-person class. I recently moved back to IL from DC, and so this possibility is now a lot more likely. We will look at everyone’s schedules and see if we can accommodate this.

Workload Expectations: The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), “a “credit hour” is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” This is a 3-credit hour class. Each week’s lectures, because they are passive on your part, take about an hour. Therefore, the amount of assigned reading, CALI Lessons, and out of class assignments (news summaries) are substantial and should take you 7-8 hours for each week week. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending a total of 9 hours per week on course-related work.

Disability Policy: Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. [http://disabilityservices.siu.edu/](http://disabilityservices.siu.edu/). Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations.

Emergency Procedures: Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT’s website at [www.bert.siu.edu](http://www.bert.siu.edu), Department of Safety’s website [www.dps.siu.edu](http://www.dps.siu.edu) (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency. Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. **It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.** The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility. (Note: I am required to include this language by the University. Obviously, because we do not meet in a classroom, and you will be following the course on your own time and your desired location, this is minimally applicable to this class.)

Saluki Cares: The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical,
emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, http://salukicares.siu.edu/index.html. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

**Weekly Assignments:**

**Week 1 - January 17: Riparianism**
- Part A: Adler 1-20, 23-46
- Part B: Adler 46-73, 77-82
- CALI Lesson: Water Law Basics: Riparianism

**Week 2 - January 23: Prior Appropriation**
- Part A: Adler 87-97, 102-109
- Part B: 110-134
- CALI Lesson: Water Law Basics: Prior Appropriation

**Week 3 - January 30: Prior Appropriation continued**
- Part A: Adler 135-148
- Part B: 148-161
- CALI Lesson: Water Law: The California System

**Week 4 - February 6: Groundwater**
- Part A: Adler 173-206
- Part B: Adler 206-225
- CALI Lesson: Water Law Basics: Rights in Groundwater

**Week 5 - February 13: Conjunctive Management**
- Adler 225-229, 477-middle 478

**Week 6 - February 20: Winters Doctrine and Federally reserved water rights**
- Adler 377-400
- CALI Lesson: Federal Reserved Rights

**Week 7 - February 27: Start reading the Tarlock book**
- *CA v. US*
- Adler 401-412, 418-419
**If you haven’t taken Environmental Law, please read the following:**

**Week 8 - March 6:** Continue reading Tarlock

**Week 9 - March 13:** Spring Break

**Week 10 - March 20:** Reclamation Law & Klamath Agreements
I’ll assign readings/make readings available at a later date.

**Week 11 - Week of March 27:** Takings
Part A: 729-757
Part B: 757-784
Arkansas Fish and Game Commission v. US available at:
Complaint in Ideker Farms v. US - I will make available
Klamath Irrigation v. U.S. - recent opinion by the Federal Court of Claims, available at
https://ecf.cofc.uscourts.gov/cgi-bin/show_public_doc?2001cv0591-474-0

**Week 12 - April 3:** In person class
We will discuss all of the topics covered in the materials thus far. Our main objective is to weave everything together through the case study of the Klamath Basin.

**Week 13 - April 10:** Other Water Management Agencies
Part A:
S. Doc. 78-191 (Ask the library staff if you are unsure where/how to find legislative history documents.) (This is an essential function for any federal agency attorney, so it is a good exercise for this clas.)
http://www.usbr.gov/history/ProjectHistories/PSMBP%20OVERVIEW.pdf
USACE Policy paper on easements - I will distribute
Part B: We’ll examine one of the power marketing agencies like BPA, WAPA or TVA.

**Week 14 - April 17:** Water/Energy Nexus
“Marketing Missouri River Water: Competing Plans for Commoditizing a Natural Resource” available at:

“The Water-Energy Nexus: Challenges and Opportunities”, June 2014 report by DOE, available at:
Abend, Katharine, Avoiding Water-Intensive Energy Production: How to Keep the Water Running and the Lights On, 41 ELR 11020 (please find on Lexis or Westlaw)

**Week 15 - April 27: Great Lakes**


**If you have not taken Environmental Law, I recommend you look at the following CALI Lesson:**

Clean Water Act Permitting Basics