

Environmental Law

NRM 407, 3 Credits

UAF Spring Semester 2021

Tuesday and Thursday 5:30pm-7:00pm

Synchronous Online Course via Zoom and Blackboard

Instructor: Brittany Templeton
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Office Hours: By appointment
Prerequisites: Junior or senior class standing

Course Description

This is a survey class that aims to cover the role of common law theory in regulatory, statutory, and constitutional interpretation in the field of environmental protection, including air and water pollution, toxic/hazardous substances, and land-use regulation.

Student Learning Outcomes

Upon completion of this course, you should be able to:

- Have a basic understanding of the major federal environmental laws in place in the United States;
- Interpret case law and how it applies to the environmental legal framework;
- Have an understanding of the foundations of environmental law; and,
- Demonstrate how environmental laws effects land management.

Textbook

Ewing, Kevin A., et al., *Environmental Law Handbook*, 24th Edition, Bernan Press, 2019. This book is available at the campus bookstore.

Supplemental Course Readings/Materials

Additional course readings will include legal cases, research articles, and news articles posted on Blackboard in the Weekly Unit folder.

Instructional Method and Course Format

This course is an interactive online lecture course with in-class presentations of legal cases by students. The lectures will be synchronous via Zoom and posted for asynchronous viewing on Blackboard after each class. You are expected to read the text, attend and/or view the course online, prepare and participate in in-class discussions, in addition to taking the quizzes, mid-term exam, and final exam.

Technology Requirements

This is an online course. Participants will use a computer to communicate and to access online multimedia (video). Students must have regular access to a computer and the internet to access,

view, and download online materials within Blackboard. Students need to have access to a laptop, desktop, or tablet computer. Students will be expected to download course material as well as upload assignments. Use of your @alaska.edu email account is required. Consistent internet access and a computer with the ability to record and broadcast sound via a built-in or external mic or a headset are required. Students will need to be able to access the internet and will use the following programs: Zoom, Blackboard, PowerPoint, YouTube videos, and web browsers (Chrome, Firefox, Safari, etc.).

Evaluation

Attendance, Preparation, and Class Participation:

Attendance and proper preparation for each class session are highly recommended for you to get the most out of this course. Students will regularly be called on to answer questions based on the reading material or lectures. If you feel you are unable to properly answer questions on a given day, please let me know at the start of the class and I will refrain from calling on you for that day. These three components will make up 5% of your final grade.

Case Presentations:

Each student will present at least two cases to the class that describe the issues, rules, analysis, facts, and decision for the case. During the first week of the course, I will send a sign up to the class to determine when you will present your case. Your case presentations will make up 15% of your final grade.

Exams:

There will be one mid-term exam and one final exam. The final exam is not cumulative. Each exam will account for 30% of your final grade. Exams will take place on Blackboard, must be completed within two hours, and will be open note and open book. Exam questions will be drawn from the required readings, lectures, and the course discussions. A close understanding of the course material is important as exam questions will require you to apply information you learned in class to new situations. Exams will include multiple choice, essay, and short answer questions. If you are unable to take the exam on the date scheduled and you have a good reason, please see me as soon as possible.

Quizzes:

There will be 4-6 quizzes over the course of the semester. The quizzes will be on Blackboard, open note, and open book. The quizzes will all be pop quizzes and will take place during the last 30 minutes of a class period. The lowest quiz grade will be dropped. There will be no makeup quizzes. The quizzes will account for a total of 20% of your final grade.

Grades:

This course is graded with a letter grade which corresponds to the numerical score you receive. No items are graded on a curve. This class uses +/- grades.

The grade scale is as follows:

Grades scored between	97%	and	100%	will earn an	A+
Grades scored between	93%	but less than	97%	will earn an	A
Grades scored between	90%	but less than	93%	will earn an	A-
Grades scored between	87%	but less than	90%	will earn a	B+
Grades scored between	83%	but less than	87%	will earn a	B
Grades scored between	80%	but less than	83%	will earn a	B-
Grades scored between	77%	but less than	80%	will earn a	C+
Grades scored between	73%	but less than	77%	will earn a	C
Grades scored between	70%	but less than	73%	Will earn a	C-
Grades scored between	67%	but less than	70%	will earn a	D+
Grades scored between	63%	but less than	67%	will earn a	D
Grades scored between	60%	but less than	63%	will earn a	D-
Grades scored between	0%	but less than	60%	will earn an	F

Course Schedule

Tuesday, January 12 – Course Introduction

- Review of syllabus, course requirements and expectations
- Explanation of how to diagram a case
- Basic description of American Legal System
 - Common law v. statutory law
 - Federal courts v. state courts
 - Criminal cases v. civil cases

Thursday, January 14 – Origins of Environmental Law ELH pp. 4-6, 10-24 & Bb readings

- Private Nuisance: *Madison v. Ducktown Sulphur, Copper & Iron Co.*
- Public Nuisance: *Missouri v. Illinois*, *Georgia v. Tennessee Copper Co.*

Tuesday, January 19 – The Regulatory Process ELH pp. 57-59 & Bb readings

- Basic administrative law
- Regulatory approaches to environmental protection
- Congressional, Executive, and Judicial roles: *Sierra Club v. Costle*, *Chevron USA v. NRDC*

Thursday, January 21 – RCRA ELH pp. 165-172 & Bb readings

- The Waste Problem
- What is Solid Waste? *American Mining Congress v. EPA*

Friday, January 22 – Last day for student- and faculty-initiated drops with refund (course does not appear on academic record)

Tuesday, January 26 – RCRA ELH pp. 172-203 & Bb readings

- What is hazardous waste under Subtitle C? *City of Chicago v. EDF*
- Subtitle D

Thursday, January 28 – CERCLA ELH pp. 603-621 & Bb readings

- Owners: *NY v. Shore Realty Corp.*
- Operators: *U.S. v. Bestfoods*
- Arrangers: *Burlington Northern and Santa Fe Railway Co. v. US*

Tuesday, February 2 – CERCLA ELH pp. 621-653 & Bb readings

- Type of Liability: *Burlington Northern and Santa Fe Railway Co. v. US*
- Contribution: *U.S. v. Vertac Chemical Corp.*
- Settlement: *AKZO Nobel Coatings Inc. v. Aigner Corp.*

Thursday, February 4 – Toxics and Uncertainty Bb readings

- *Reserve Mining Co. v. EPA*
- *Ethyl Corp. v. EPA*

Tuesday, February 9 – TSCA ELH pp. 791-799, 801-804, 813-817, 824, 827 & Bb readings

- *Corrosion Proof Fittings v. EPA*

Thursday, February 11 – FIFRA, Food Safety ELH pp. 883-892, 897-904, 906-908, 923-928 & Bb readings

- Health Based Standards
- Delaney Clause: *Public Citizen v. Young*

Tuesday, February 16 – Alternative Approaches to Toxics Bb readings

- California's Proposition 65
- Emergency Planning and Community Right to Know

Thursday, February 18 – Questions About Distribution Bb readings

- NIMBY, LULU
- Environmental Justice: *In the Matter of Louisiana Energy Services*

Tuesday, February 23 – Water Pollution ELH pp. 353-361, 364-368 & Bb readings

- Point Source Limitations: *NRDC v. Costle, U.S. v. Plaza Health Laboratories*
- POTWs

Thursday, February 25 – Water Pollution ELH pp. 368-372, 380-383 & Bb readings

- Review of CWA
- Water Quality Based Controls: *AR v. OK, PUD No.1 of Jefferson County v. WA. Dept. of Ecology, American Farm Bureau Federation v. EPA, South Florida Water Mgmt District v. Miccosukee Tribe of Indians*

Tuesday, March 2 – In-Class Review for Midterm

Thursday, March 4 – Midterm

Monday-Friday, March 8-12 – Spring Break

Tuesday, March 16 – Wetlands

ELH pp. 384-388 & Bb readings

- Quick review of CWA
- What is a wetland? *US v. Riverside Bayview Homes*, *SWANCC v. ACE*, *Rapanos v. U.S.*
- Intro to §404 of CWA: *Coeur Alaska Inc v. SE AK Conserv. Council*
- §404 Permits: *National Mining Assoc. v. ACE*

Thursday, March 18 – Air Pollution

ELH pp. 263-270 & Bb readings

- Clean Air Act
- NAAQS: *Lead Industries Assoc. v. EPA*, *Whitman v. American Trucking Asscs.*
- Role of the State: *Union Electric v. EPA*

Tuesday, March 23 – Air Pollution

ELH pp. 279-293 & Bb readings

- Role of the Federal Government: *Virginia v. EPA*
- Other issues in implementation: *AK Dept. of Environment Conservation v. EPA*

Thursday, March 25 – Air Pollution

ELH pp. 305-306, 314-320, 336-338 & Bb readings

- What is an Air Pollutant? *Mass. v. EPA*
- CO₂ Endangerment Finding: *Utility Air Regulatory Group v. EPA*

Tuesday, March 30 – Air Pollution

ELH pp. 320-322 & Bb readings

- Transboundary pollutants: *Alliance for Clean Coal v. Bayh*, *Michigan v. EPA*
- Mobile Sources
- California's Role in Mobile Source Mgmt

Thursday, April 1 – NEPA

ELH pp. 681-696 & Bb readings

- Structure: *Calvert Cliffs v. U.S. AEC* & *Stryker's Bay Neighborhood Council v. Karlen*
- When must an EIS be prepared? *Hanley v. Kleindienst*, *Dept. of Transportation v. Public Citizen*, *Center for Biological Diversity v. NHTSA*

Tuesday, April 6 – NEPA

ELH pp. 696-706 & Bb readings

- Timing and Scope: *Kleppe v. Sierra Club*, *Sierra Club v. Peterson*

Thursday, April 8 – NEPA

ELH pp. 713-717, 724-730 & Bb readings

- Is the EIS adequate? *Thomas v. Peterson*, *Vermont Yankee v. NRDC*, *Sierra Club v. USACE*, *Marsh v. OR Natural Resources Council*
- Does NEPA work?

Tuesday, April 13 – Endangered Species

Bb readings

- God Squad: *TVA v. Hill*
- Delisting and Recovery Plans: *Friends of Blackwater v. Salazar*

Thursday, April 15 – Endangered Species

Bb readings

- Federal Actions: *Thomas v. Peterson*, *Carson-Truckee Water Conservancy v. Clark*
- Private Action: *Babbitt v. Sweet Home Chapter Communities for a Great OR*

Tuesday, April 20– In-Class Review for Final

Thursday, April 22 – FINAL EXAM

Monday, April 26 – Last day for student- and faculty-initiated withdrawals (W appears on academic transcript)

Course Policies

Academic Integrity:

As described by UAF, scholastic dishonesty constitutes a violation of the university rules and regulations and is punishable according to the procedures outlined by UAF. Scholastic dishonesty includes, but is not limited to, cheating on an exam, plagiarism, and collusion. Cheating includes providing answers to or taking answers from another student. Plagiarism includes use of another author's words or arguments without attribution. Collusion includes unauthorized collaboration with another person in preparing written work for fulfillment of any course requirement. Scholastic dishonesty is punishable by removal from the course and a grade of "F." For more information go to [Student Code of Conduct](#).

Explanation of NB/I/W Grades:

This course adheres to the UAF policies regarding the granting of NB Grades. The NB grade is for use only in situations in which the instructor has No Basis upon which to assign a grade. In general, the NB grade will not be granted.

This course follows the University of Alaska Fairbanks Incomplete Grade Policy:

The letter "I" (Incomplete) is a temporary grade used to indicate that the student has satisfactorily completed (C or better) the majority of work in a course but for personal reasons beyond the student's control, such as sickness, has not been able to complete the course during the regular semester. Negligence or indifference are not acceptable reasons for an "I" grade.

Successful, timely completion of this course depends on committing yourself early and maintaining your effort. Failure to submit assignments in a timely manner may result in faculty-initiated Withdrawal from the course, which can result in a "W" on your transcript.

Extra Help:

If you find at any time during the semester that you are having trouble understanding the concepts discussed in class, please see me before you fall behind. I am happy to provide additional explanations and other help to any student who is interested.

If you have a physical or learning disability, please advise me of any special consideration necessary as soon as possible. I will do everything possible to accommodate you in accordance with the Americans with Disabilities Act.

COVID-19 Statement

COVID-19 statement: Students should keep up-to-date on the university's policies, practices, and mandates related to COVID-19 by regularly checking this website:

<https://sites.google.com/alaska.edu/coronavirus/general-info/updates>. Further, students are expected to adhere to the university's policies, practices, and mandates and are subject to disciplinary actions if they do comply.

Student Protections Statement

Every qualified student is welcome in my classroom. I am happy to work with you, disability services, veterans' services, rural student services, etc., to find reasonable accommodations. I will work with the Office of Disability Services to provide reasonable accommodation to students with disabilities. The Office of Disability Services implements the Americans with Disabilities Act (ADA), and ensures that UAF students have equal access to the campus and course materials.

UAF embraces and grows a culture of respect, diversity, inclusion, and caring. Students at this university are protected against sexual harassment and discrimination (Title IX). Faculty members are designated as responsible employees which means they are required to report sexual misconduct. Graduate teaching assistants do not share the same reporting obligations. For more information on your rights as a student and the resources available to you to resolve problems, please go to the following site: <https://catalog.uaf.edu/academics-regulations/students-rights-responsibilities/>.

Title IX

University of Alaska Board of Regents have clearly stated in BOR Policy that discrimination, harassment and violence will not be tolerated on any campus of the University of Alaska. If you believe you are experiencing discrimination or any form of harassment including sexual harassment/misconduct/assault, you are encouraged to report that behavior. If you report to a faculty member or any university employee, they must notify the UAF Title IX Coordinator about the basic facts of the incident.

Your choices for reporting include:

- You may access confidential counseling by contacting the UAF Health & Counseling Center at 907-474-7043;
- You may access support and file a Title IX report by contacting the UAF Title IX Coordinator at 907-474-6600;

- You may file a criminal complaint by contacting the University Police Department at 907-474-7721. <https://uaf.edu/oeo/civil-rights/aa-eo/>

Any UAF employee or volunteer who reasonably suspects or observes minor abuse or maltreatment is required to report the incident. Reporting procedures are available on the UAF Protection of Minors. Violation of this policy by employees shall be reported as well.

Student Support Services

Go to the Student Handbook (www.uaf.edu/handbook) for things like academic advising, tutoring, library and academic support, disability services, computing and technology, veteran and military support, academic complaint and appeals, late withdrawals, “classroom” behavior expectations, and more.

UAF Help Desk

Go to <http://www.alaska.edu/oit/> to see about current network outages and technology news. For technical questions, contact the Help Desk at:

- E-mail at helpdesk@alaska.edu
- Phone: 907-450-8300 (in the Fairbanks area) or 1-800-478-8226 (outside of Fairbanks)

Effective Communication

Students who have difficulties with oral presentations and/or writing are strongly encouraged to get help from:

- [UAF Department of Communication’s Speaking Center](#) (907-474-5470, speak@uaf.edu)
- [UAF English’s Department’s Writing Center](#) (907-474-5314, Gruening 8th floor)
- [CTC’s Learning Center](#) (604 Barnette St, 907-455-2860)

Notice of Nondiscrimination

UA is an AA/EO employer and educational institution and prohibits illegal discrimination against any individual: www.alaska.edu/titleIXcompliance/nondiscrimination.

Note: I, as the instructor, reserve the right to make changes in the syllabus and class schedule. All changes will be announced in-class and it is the student’s responsibility to learn of these changes.

If anybody has any questions or concerns about the syllabus, please bring them to my attention as soon as possible.

I am excited to teach this course and am looking forward to having an engaging and productive semester with you!