

CSUS 465
Environmental and Natural Resources Law

Online
Fall Semester 2020

OVERVIEW

This course presents students with opportunities for learning about a broad array of natural resources and environmental law and policy and politics. It will provide students with an overview of federal, state, and local environmental law and acquaint each student with basic legal principles and procedures as well as current environmental issues.

INSTRUCTOR

Bob Wilson, J.D., M.B.A.

Former Executive Director of Michigan Trails

**Former Senior Counsel to Senate Natural Resources and Environmental Affairs,
Outdoor Recreation Committees**

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TARGET AUDIENCE

This course is structured for junior and senior undergraduate students and graduate and professional students interested in an overview of environmental and natural resources law. The course will be taught as a survey of federal and state environmental law.

MATERIALS

Required Text

Zygmunt Plater, Robert Abrams, William Goldfarb, Robert Graham, Lisa Heinzerling, David Wirth, and Noah Hall. 2010. Environmental law and policy: nature, law, and society, 4th edition. Textbook readings for each chapter have been made available in a PDF and are all available on D2L website for each module. Some students who wish to have the full casebook (which includes significant other material) have purchased either the 4th edition or newer versions in the past. That is entirely up to you.

Supplementary Materials

Materials (e.g., mainly newspaper articles), when possible, will be available to students enrolled in the course on the MSU D2L website for the course.

OFFICE HOURS

Professor Wilson will generally be available to meet with students online at appropriate times.

DESCRIPTION

The course will expose students to, as well as further their understanding of, the application of the U.S. legal and political systems to complex social conflicts with environmental and human health implications.

To enrich students' experience, this course is taught in some ways as it would be taught to law students and in other ways as a collaborative learning experience. Students are expected to have read the week's materials and be able to intelligently engage in online discussions.

Since the depth and the breadth of the materials provided in the text is significant, the instructor will endeavor to provide a comprehensive survey of most of the critical elements found in the text and will supplement it with key examples of relevant Michigan environmental law. Students will be provided with weekly detailed powerpoint presentations which will be a summary of the key points in the readings. The slides will contain a set of assessment questions that can be checked against answers to those questions provided on the course website.

Modules of Content

The course will be taught in specific modules with a specific set of goals and desired outcomes and key discussion questions identified in the week's module. The instructor will use two exams, weekly online class discussions to formulate grades and gauge student performance.

Weekly Discussion Questions and Group Participation

Each week the instructor will release the week's question or questions that are focused on key points of the week's module. The class will be automatically divided into groups of five and will work collectively as a group throughout the course of the semester to provide feedback to the weekly discussion questions.

Each group will have a rotating group leader appointed each week by the group whose responsibility it is to gather input from the group members to produce a weekly response to the discussion questions. Over the course of the week, the group leader will act to encourage participation and thoughts on the questions and then assemble a response that will be posted on behalf of the group for that particular weekly question. Participation points will be given directly to each group leader. Thus, each student will have several opportunities to act as a group leader. The group leader must act to coordinate and compile individual group member responses, report to me on the degree of equitable involvement of all group members and to post the group's response to the weekly discussion questions on the D2L website. This group response is due at noon on Saturdays.

This course uses a standard "national" text and is designed to provide students with a fundamental foundation of the theories of significant U.S. environmental and natural resources law. All textbook readings are posted as PDF's on each weekly module on D2L thus there is no need to purchase a textbook.

The course will cover basic rules of law applicable to natural resource law and management policy. Since a significant emphasis will be on the legal relationships of parties and their legal obligations, court cases will be a focus of class discussions. We will also discuss the role of the and the Executive Branches and the role of interest groups and citizens in the development of environmental law.

Course Goals and Learning Outcomes

The course is meant to provide all students with a fundamental working knowledge of U.S. and Michigan environmental law. Students should come away from this class with a solid grasp of the roles that common and statutory law play in the development of environmental law, an understanding of the impacts of politics, citizen interest groups and other external forces on the shaping of environmental law, and key current environmental issues. The course is fashioned around 13 central themes of environmental law that will expose the students to learning about the various contributions of the three sources of environmental law. The instructor uses the principles of conservation and sustainability of natural resources throughout the course to stress the importance of developing a body of environmental law that allows for a fuller appreciation of the value of natural resources. Each of the 13 modules includes a more specific detailing of the learning goals and outcomes for that module.

COURSE OUTLINE & READING ASSIGNMENTS (Please note -- Instructor may fine tune reading assignments the week prior to each assignment.)

DATE	MODULE
Sept 2.	Module One -- Introduction to CSUS 465 <i>Readings—Review class syllabus and Course Procedures</i>
Sept 7.	Module Two -- Themes in Federal and State Environmental Law <i>Readings -- Chapters 1 and 2 -- Themes and Cross-Cutting Themes and Module Two Powerpoint</i> <u><i>Cases: Hardin’s Tragedy of the Commons, Road Salt Paradigm and Kepone Case Study</i></u>
Sept 14	Module Three -- Role of the Common Law in Environmental Law (Part 1) <i>Readings-- Chapter 3 -- The Common Law in Environmental Law and Module Three Powerpoint.</i>

Cases: *Borland v Sanders, Boomer v Atlantic Cement, Roth v Cabot Oil, NY v Schenectady, Comer v Murphy*

Sept 21 **Module Four – The Role of the Common Law in Environmental Law (Part 2)**

Readings-- Chapter 3 Continued and Module Four Powerpoint

Cases: *Velsicol Chemical v Rowe, Pruitt v Allied Chemical, Boomer v Atlantic Cement, Village of Wilsonville v SCA, Branch v Western Petroleum*

Sept 28 **Module Five -- History/Overview of Evolution of Statutory Law -- US and Michigan**

Readings -- Chapter 5 -- Overview of US Environmental Statutes and Chapter 7 -- Sovereignty/Federalism/Role of the States, Module Five Powerpoint

Cases: *Utilex Case File, City of Philadelphia v NJ, Missouri v Holland*

Oct 5. **Module Six -- Role of Federal and State Agencies**

Readings -- Chapter 6 -- Administrative Law, Module Six Powerpoint and Exam One Review Powerpoint.

Cases: *Rybachek v EPA, Hiram Hill v TVA, Citizens to Preserve Overton Park v Volpe, Scenic Hudson v FPC, Vermont Yankee v NRDC, Chevron USA v NRDC*

Oct 12 Exam One -- Covers Modules 1-6 This exam must be taken some time during the week of October 12-17 and is a timed 2 hour exam! This exam opens 10/12 at 7:00 am and closes on 10/17 at 5:00 pm

Oct 19 **Module Seven -- Disclosure Strategies and the Philosophy of “Stop & Think” Approach to Regulatory Statutes, Stark Prohibition Statutes -- Endangered Species Act**

Readings -- Chapter 8 -- Disclosure Statutes and Chapter 10 -- Roadblock Statutes, Module Seven Powerpoint

Cases: *Mid States Coalition v STB, Center for Biological Diversity v NHTSA, TVA v Hill, Babbitt v Sweet Home, National Assoc of Homebuilders v Defenders of Wildlife*

Oct 26 **Module Eight -- Regulatory Standards -- Harm-Based and Technology-Based Clean Air and Clean Water Acts**

Readings Chapter 11 and Chapter 12 -- Harm-Based to Tech-Based Standards and Module Eight Powerpoint.

Cases: *Whitman v American Trucking, Michigan v EPA, In Re Northern Michigan, Mass v EPA*

Nov 2. **Module Nine -- Remedial Liability Regulatory Strategies: CERCLA**

Readings -- Chapter 16 – CERCLA and Module Nine Powerpoint

Cases: *Burlington v US, US v Wade (II), US v NEPACCO, US v Best Foods, US v Atlantic Research*

Nov 9. **Module Ten -- Life Cycle Waste Control -- RCRA**

Readings -- Chapter 17 – RCRA

Cases: *Hazardous Waste Treatment v EPA and Meghriq v KFC Western*

Nov 16 **Module Eleven -- Land Use Planning**

Readings -- Chapter 9 -- Land Use and Module Eleven Powerpoint

Cases: *Bersani v EPA, Norton v Southern Utah, Kleppe v New Mexico*

Nov 23 THANKSGIVING BREAK — NO CLASS

Nov 30. **Module Twelve -- Public Trust Doctrine, Other Rights & Duties**

Readings -- Chapter 20 -- Public Trust and Other Rights and Duties and Module Twelve Powerpoint and Exam Two Review Powerpoint

Cases: *Marks v Whitney, Paepke v Building Commission, National Audubon v Sup ct of Alpine County (Mono Lake case), Defenders of Florissant v Park Land*

Dec 7 Future of Environmental Law and Exam Two Review Review

Dec 14 Exam Two -- Covers Modules 7-12 This exam must be between December 14 and December 18 It is a timed two hour exam. This exam opens at 7:00 am on 12/14 and closes on 12/18 at 5:00 pm.

RESERVATION

The instructor reserves the right to make minor modifications to this syllabus.

CLASS ROOM LOGISTICS

The class will be taught entirely online.

INSTRUCTION AND GRADING COMPONENTS

A. Participation (20% or 100 points)

There is an expectation that each student will be fully prepared and will be able to participate in this online class.

Group Participation

Students will be automatically divided into groups of five and will work collectively as a group throughout the course of the semester to provide feedback to the weekly discussion questions. Each group will have a rotating group leader appointed by the group whose responsibility it is to gather input from the group members to produce a weekly response. The group leader will act to encourage participation and thoughts on the questions and then assemble a response that will be posted on behalf of the group for that particular weekly question. Participation points will be given directly to each group leader.

B. Exams (80% or 400 total points)

There will be two exams during the semester, each exam will be worth a total of 200 points for a grand total of 400 points. Exam One will cover the first half of the course and Exam Two will cover the second half of the course. Students will be asked to answer exam questions in a short essay format. Each exam will contain 4 essay-based questions. Each question will be worth 50 points for a total for each exam of 200 points. Students are responsible for emailing the professor their completed exams no later than the designated due date and time. Unexcused absences from exams will result in the grade of zero (0) for the missed exam. Cheating, copying, collaborating on exams and other misconduct will result in students involved receiving a 0.0 for the course. **The exam will be opened for two hours during the specified date and time. You must take the exam during that time. The drop box will automatically close at the end**

of the two-hour period on that specific date. If you have not submitted your completed exam by that time, you will receive a zero for the exam.

Preparing for each exam is facilitated and made easier by reviewing each week's lecture slides, the exam review slides, the model responses to each week's assessment questions and the responses to the weekly discussion questions. You may also find it helpful to read the instructor's case summaries. All these sources of sage information will be posted on the course website!

C. Final Grades

Students' final grades will be initially based on the results of their two exams (80%), and the online discussion/participation (20%). The instructor intends to use the following scale for grading purposes with 500 total points possible for the course:

450-500 pts	90-100%	4.0	A
430-449 pts	85-89%	3.5	A-/B+
400-429 pts	80-84%	3.0	B
375-399 pts	75-79%	2.5	B-/C+
350-374 pts	70-74%	2.0	C
325-349 pts	65-69%	1.5	C-/D+
250-324 pts	50-64%	1.0	D
0-249 pts	0-49%	0.0	F

INCOMPLETE WORK AND DEFERRED GRADES

Unexpected circumstances may cause a student to request a final grade of Incomplete (I) or Deferred (DF). Requests must be made in writing before the date of the final exam stating the reason(s) for the request and a plan for removal of the I or DF grade. University policy requires that work to remove an I be completed by the 5th week of the next semester in attendance or the grade automatically becomes an F. A DF grade (available only to graduate students) must be removed within two calendar years.

INDEPENDENT WORK REQUIRED AND POLICY ON ACADEMIC INTEGRITY

“The principles of truth and honesty are recognized as fundamental to a community of teachers and scholars. The University expects that both faculty and students will honor these principles and in so doing protect the validity of University grades. (Excerpted from *A University Policy on Integrity of Scholarship and Grades*).

As the MSU Ombudsman points out (<https://www.msu.edu/unit/ombud/dishonestystud.html>), the following conduct violates the fundamental principles of truth, honesty, and integrity:

* Supplying or using work or answers that are not one's own;

- * Providing or accepting assistance with completing assignments or examinations;
- * Interfering through any means with another's academic work;
- * Faking data or results.

Therefore, don't:

- * Turn in an exam, paper, or project that is not wholly your own work;
- * Copy answers from another student's exam or test;
- * Get questions and/or answers from students who have already taken an exam or quiz you are scheduled to take;
- * Have another person take a test for you;
- * Submit the same paper for two or more classes;
- * Use other authors' ideas, words, or phrases without proper attribution; and
- * Collaborate with other students on projects or assignments without your instructor's permission.

The instructor reserves the right to issue a final grade of F (failure) or to lower the course grade for any student who violates the MSU Policy on Academic Integrity, who submits other persons' work as their own, or who submits their own work for a grade in this class that has been or will be submitted to another class for credit of any kind.

Once again, as the MSU Ombudsman

(<https://www.msu.edu/unit/ombud/dishonestystud.html>) notes:

If your instructor believes you have committed an act of academic misconduct, s/he may give you a penalty grade, which is defined as any grade based on a charge of academic misconduct. A penalty grade may include, but is not limited to, a failing grade on an assignment or in the course. When this occurs, the Integrity of Scholarship and Grades policy (ISG) requires your instructor to report the academic misconduct to your dean through an electronic Academic Dishonesty Report, which will end up in your student folder, and asks if your instructor wants to request an academic disciplinary hearing to impose sanctions in addition to the penalty grade. Additional sanctions include probation and/or suspension from your program or the University for a designated time.