

SYLLABUS
ENVIRONMENTAL LAW
SUMMER 2011
Russell Hildreth, J.D.

Room 103, Thursdays 6-8 p.m.

Text: Doremus, et al., *Environmental Policy Law* (Foundation Press, 5th Ed., 2008)

Grading: 25% class participation, 25% paper, 50% final exam

Reading assignments are tentative and subject to change via announcements. All reading assignments, unless otherwise noted, are from the course text, *Environmental Policy Law*, 5th Edition.

Week 1, May 5, 2011

INTRODUCTION TO ENVIRONMENTAL LAW; COMMON LAW THEORIES & TOXIC TORTS

Intro, Syllabus, Paper, Grading, Text, Contacts, Etc.

Read: Text pages 2-16; 22-28; 38-55; 62-68; 74-79

Read: *CEED et al., v. California Coastal Zone Conservation Commission* (1974) 43 Cal. App. 3d 306

Read: *Leslie Salt Co. v. San Francisco Bay Conserv. & Development Comm.* (1984) 153 Cal.App.3d 605

Case study: Westley Tire Fire

Week 2, May 12, 2011

ADMINISTRATIVE LAW; ROLE OF FEDERAL AGENCIES; SUITS AGAINST AGENCIES

Read: 84-85 (top); 95-98; 107-115; 127-137; 142-146

Read: *Sierra Club v. Morton* (1972) 405 U.S. 727

Week 3, May 19, 2011

ENVIRONMENTAL FEDERALISM; FEDERAL PREEMPTION

Read: Chapter 4, pp. 148-169 (through end of note 2); 212-225

Read: pp. 12-16 and US Constitution, Supremacy Clause

Week 4, May 26, 2011

NATIONAL ENVIRONMENTAL POLICY ACT; CALIFORNIA ENVIRONMENTAL QUALITY ACT

Read: Chapter 5, pp. 228-238; 252-53; 262-264 (top); 270-276; 285-87.

Read: *Laurel Heights Improvement Assoc. v. Regents of UC* (1988) 47 Cal.3d 376

Week 5, June 2, 2011

CALIFORNIA WATER LAW: HISTORY AND BASIC PRINCIPLES; PUBLIC TRUST DOCTRINE; FEDERAL RECLAMATION LAW

1. Read: "The Water Rights Process" on State Water Resources Control Board's web site:

http://www.waterboards.ca.gov/waterrights/board_info/water_rights_process.shtml

2. Read: California Fish and Game Code section 5937 (www.leginfo.ca.gov/calaw); California Wild and Scenic Rivers statute (Public Resources Code section 5093.50, also through leginfo.)

4. Read: *Joslin v. Marin Municipal Water Dist.* (1967) 67 Cal.2d 132.

5. Read: *California Trout, Inc. v. State Water Resources Control Bd.* (1979) 90 Cal.App.3d 816

6. Read: *National Audubon Society v. Superior Court of Alpine County*, 33 Cal. 3d 419 (1983) (on course web site.)

7. Read: *People v. Shirokow* (1980) 26 Cal.3d 301.

8. Read: *NRDC v. Patterson*, pp. 1-10 and 38 to end. (via email dist.)

Week 6, June 9, 2011

ENDANGERED SPECIES ACT

Read: 171-185; 297-316 (top); 327-342

***** PAPER TOPICS DUE**

Week 7, June 16, 2011

LAND USE AND TAKINGS

Read: *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992)

Read: *Palazzolo v. Rhode Island*, 533 U.S. 606 (2001)

Read: *Tahoe-Sierra Preservation Council v. Tahoe Reg'l Planning Agency*, 535 U.S. 302 (2002)

Week 8, June 23, 2011

CLEAN WATER ACT--FEDERAL

Read: 183-184, notes 5 and 6; 355-366; 734-757; 763 (middle) -768 (n.5); 787-788, 790(middle)-792 (top); 793-801, 806 (ns. 4&5)

San Joaquin River Exchange Contractors Water Authority v. State Water Resources Control Board (2010) 183 Cal.App.4th 1110

Week 9, June 30, 2011

CLEAN WATER –STATE LAW

Skim: California Water Code, §§ 13000, 13001, 13100, 13140, 13142, 13160, 13170, 13200, 13201, 13225, 13240-241, 13260, subd. (a), 13263, 13360, subd. (a), http://www.swrcb.ca.gov/water_laws/docs/portercologne.pdf

Read: Robie, *Water Pollution: An Affirmative Response by the California Legislature*, 1 Pac. L.J. 2 (1970) pp. 2-7, 12-24 (emailed to course listserv)

Read: *Tahoe-Sierra Preservation Council v. State Water Resources Control Board*, 210 Cal.App.3d 1421 (1989)

Read: Petition of Spitzer (WQ 89-8) On SWRCB Web Site.
http://www.swrcb.ca.gov/board_decisions/adopted_orders/water_quality/1989/wq1989_08.pdf

Skim: Jamestown Mine complaint (emailed to course listserv)

Case Study: Jamestown Mine

Week 10, July 7, 2011

AIR QUALITY

Skim: CARB's FAQ at <http://www.arb.ca.gov/adam/aqfaq/index.html>

Read: 606--611, 612--614, 619--634; 216--224.

Read: Introduction/Summary of Clean Air Act only (Part I)
in: *American Farm Bureau Federation et al. v. Environmental Protection Agency et al.* (D.C. Cir. 2009) 559 F.3d 512.

***** PAPERS DUE**

Week 11, July 14, 2011

GLOBAL WARMING

(A) Climatic Impact of Greenhouse Gases (GHGs)

1. Review: pp. 686-695
2. Skim: The IPCC Fourth Assessment Report, Summary for Policymakers, at:
http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr_spm.pdf

Skim: The Working Group II Report "Impacts, Adaptation and Vulnerability" for North America, at:
<http://www.ipcc.ch/pdf/assessment-report/ar4/wg2/ar4-wg2-chapter14.pdf>

(B) California's Program for Reducing GHG Emissions Under AB 32

1. Skim: AB 32 Scoping Plan at <http://www.arb.ca.gov/cc/scopingplan/scopingplan.htm>
2. Surf: AB 32 GHG Sector Portal at <http://www.arb.ca.gov/cc/ghgsectors/ghgsectors.htm>
3. Skim Health & Safety Code 38501, 38510, 38530, 38550 & 38551, beginning at <http://www.arb.ca.gov/bluebook/bb07/HEA/HEA-38500.htm> [go to "Health & Safety Code (Misc. Provisions)"/Division 25.5, Parts 1, 2, and 3]

(C) Regulation of (and litigation regarding) motor vehicle emissions:

1. Skim: Multi State Amicus Brief (email)
2. 42 U.S.C. § 7543(b) (link on course web site)
3. 42 U.S.C. § 7507 (link on course web site)

Week 12, July 21, 2011

ENVIRONMENTAL ENFORCEMENT; CORPORATE OFFICER LIABILITY

The Water Quality Example

Read: pp. 812-813, 815-822(top), 829 (n. 4), 863-866, 869-875

Skim: California Water Code, §§ 13261-62, 13267-68, 13300-301, 13304-305, 13308, 13323, 13327, 13330, 13350, subd. (a), 13360, subd (a), 13361, subd. (c), link on course web site from

http://www.swrcb.ca.gov/water_laws/docs/portercologne.pdf

United States v. Park; People v. Roscoe

Machado v. SWRCB

Skim *Klamath Riverkeeper v. Broddrick (Iron Gate Hatchery)*
CWA citizens' complaint, answer, settlement

Week 13, July 28, 2011

WASTES, RECYCLING AND RESOURCE CONSERVATION, SUPERFUND (RCRA and CERCLA)

Read: 452-456; 457-459 (top); 460--481; 517--548, 556-561

Read: *Burlington Northern & Santa Fe Railway Co. v. United States*, U.S. Supreme Court No. 07-1601 (2009) 129 S.Ct. 1870

Week 14, August 4, 2011

PESTICIDE REGULATION; COURSE REVIEW

Read: Chapter 7, pp. 436-439; Chapter 4, pp. 224 (n. 1, first two paragraphs and n. 2, p. 226, n. 6.

Read: *Bates v. Dow Agrosiences LLC*, 544 U.S. 431 (2005)

Read: *Patterson Flying Service v. California Department of Pesticide Regulation*, 161 Cal.App.4th 411 (2009)

Read: *National Cotton Council v. EPA*, 553 F.3d 927 (6th Cir. 2009)

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