ENVIRONMENTAL LAW 461

Fall 2009

Thursday, 6:00 PM to 9:00 PM

364 Science and Engineering Bldg

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COURSE REQUIREMENTS

Welcome to Environmental Law and Policy 461. Our text book is Environmental Law, Kubasek and Silverman (K&S) 6th Ed. The course also requires readings from other sources. Most legal opinions and law review articles assigned can be accessed on either the Lexus-Nexus or Legal Information Institute legal data bases maintained by Kresge Library. Other assigned readings can be found where indicated on the syllabus or will be handed out.

All of the legal opinions in the assigned readings have a case summary (prepared by the publisher) and/or a case syllabus (prepared by the clerk of the court) at the beginning of the opinion. Please read either or both of those in addition to the pages of the opinion indicated below.

The course requirements and grading criteria are as follows:

- Mid term examination: 30%
- Final examination: 30%
- Paper: 30%
- Class attendance/participation: 10%

(REVISED) SYLLABUS*
*NOTE: Reading assignments from October 8 forward are subject to further revision.

Sept 10  Course Overview.  Review of US Governmental structure and legal system.

   No reading assignment.

Sept 17  Introduction to US Environmental Law and Policy

   K&S Ch 4, pp 129-137

   http://dieoff.org/page95.htm


Sept 24  Constitutional Limits on Government Power to Protect the Environment

   K & S Ch 1, pp 29-43


   Philadelphia v New Jersey, 437 US 617 (1978), all


   Pennsylvania Coal Co v Mahon, 260 US 393 (1922), all

   State of Maine v Johnson, 265 A2d 711 (handout)


   K&K Construction v MDNR, 456 Mich 570 (1998), all

Oct 1  The Law of Public Trust: Protecting the Environment Through Citizen Suits


   Paepke v Building Commission, 46 Ill 2d 330 (1970)
National Audubon Society v Superior Court of Alpine County, 33 Cal 3rd 419 (1983)


West Michigan Environmental Action Council v NRC, 405 Mich 741 (1979)

Ray v Mason County Drain Commissioner, 393 Mich 294 (1975)


Oct 8 Protecting the Environment under the Common Law

K&S Ch 7, 283-290

Boomer v Atlantic Cement Company, 257 NE2d 870 (1970)

Village of Wilsonville v SCA Services, Inc, 426 NE2d 824


Spur Industries Inc v Del Webb Development Company, 494 P2d 700 (1972)

Borland v Sanders Lead Company, 369 So2d 523 (1979)


Pruitt v Allied Chemical Corporation, 523 F Supp 975 (1981)


Esamilla v Asarco Inc (DC Denver Colorado No 91 CV 5716 (Apr 23, 1993)

Fisher v Johns-Manville Corporation, 512 A2d 466 (1986)


Oct 15 Protecting the Environment through Legislation (TERM PAPER TOPIC DUE)
K&S Ch 3


Oct 22  Protecting Air Quality: The Federal Clean Air Act

K&S Ch 5 pp 168-178; 187-200; 203-210

Natural Resources Defense Council v Train, 545 F2d 320

Massachusetts v EPA

Whitman v American Trucking Associations, 531 US 457 (2001)

Union Electric Company v USEPA, 427 US 246 (1976)

Cleveland Electric Illuminating Company v USEPA, 572 F2d 1150 (1978)

Citizens’ Against the Refinery’s Effects (CARE) v USEPA, 643 F2d 183 (1981)

Oct 29  Global Warming and Market-Based Environmental Protection Schemes

K&S Ch 5, pp 179-186; 200-203;


www.pewclimate.org
USEPA, Title IV Acid Deposition Program, Implementing the 1990 Clean Air Act: EPA Speaks

77 American Bar Association Journal, February 21, 1991 at 51-57

Nov 5   Protecting Water Quality: The Federal Clean Water Act

K&S Ch 6

USEPA, National Water Quality Inventory: 1994 Report to Congress, Executive Summary

7-1

Rybacheck v USEPA, 904 F2d 1276

Altantic States Legal Foundation Inc v Eastman Kodak Company, 12 F3rd 353 (1993)

Sierra Club v USEPA 296 F3rd 1021 (2003)

Nov 12 Clean Water Act Continued: Protecting Wetlands and the Great Lakes

K&S Ch 10 pp 395-408


K&S Ch 9, pp 408-409

Nov 19 Regulation of Toxic and Hazardous Substances

K&S Ch 7, pp 261-283; Ch 8 pp 314-332


42 USC 9607 (Sec 107)


20 Environmental Law Reporter 10222, 10228-10229, 10236-10241 (1990)


Dec 3 Natural resource protection and land use: The Endangered Species Act (TERM PAPER DUE)

Endangered Species Act Section 7 (16 USC sec 1536(a)(h)
Tennessee Valley Authority v Hiram Hill et al, 437 US 153