

## Environmental Law and Policy Seminar

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Wednesdays 10:20 - 12

August 19 - November 18, 2009 (14 weeks)

### Environmental Law and Policy Seminar (2 credits)

The environment is an exciting and timely topic for lawyers, as efforts to address problems like global warming, species extinctions and water pollution are elevated to the top of the national agenda. This seminar brings in faculty and guests to lead discussions on ground-breaking environmental and natural resource topics, such as new case law, emerging trends, new theories, and lessons from activity in courts, government and politics. Guest speakers have been selected with practical, real-world environmental leadership experience to provide in-depth insights on their areas of expertise. The seminar will cover a range of topics, and showcase five attorneys who chose a career protecting the environment - including those involved in private practice, conservation groups, government agencies, and lobbyist roles. The topics include global warming, Everglades restoration, endangered species, Earth Jurisprudence, oceans and fisheries, and animal welfare. The seminar is designed to be interesting and relevant, so topics may be added or changed if there are exciting new developments, such as a new landmark court decision or pioneering legislative proposal.

Seminar sessions without guest speakers will feature choices or re discussions, and in some cases video presentations

As part of the seminar, each student will prepare a paper on an environment or natural resource topic of interest to the student.

The course instructor is also Legal Director of the Center for Earth Jurisprudence, so we will include a class devoted to this innovative new area of law, and throughout the course we will highlight ways each topic might be viewed from the EJ perspective.



## Grading Criteria for Paper

- Originality
- Writing style: grammar, spelling, footnotes (use, proper format, etc)
- Whether it adheres to format: double spaced, 12-pt Times Roman font, one inch margins on bottom, top, right and left
- Research quality: Does it reflect thorough legal research techniques or has the information been obtained from poorly documented websites? Does it include a range of sources, such as legal journals, cases, statutes, regulations, reports from respected sources such as government agencies, respected organizations and institutions, scholarly books, (as opposed to popular nonfiction), interviews with experts etc. Instructor will work with students to find sources of latest and best information.
- Class presentation

Class Schedule (Reading assignments for classes will be provided in advance, handed out in class and posted on LexisNexis Blackboard. The 1st and 2nd week's readings are listed, and posted in Blackboard.)

### Class Details

1

August 19      Course Introduction and Overview of Environmental Law & Policy

The first class will consist of a PowerPoint presentation and general discussion about the field of environmental law and the evolution of environmental policy in the U.S. The goal is provide context and background to set the stage for the rest of the course, when we focus on selected topics. Professor Munson will also share general insights gained from 19 years in as an activist, lobbyist and lawyer working the environmental movement. Reading Assignment:

- Robert V. Percival, Environmental Law in the Twenty-First Century, 25 Va. Env'tl. L.J. 1 (2007) 14 pages
- Steven Burns, Environmental Policy and Politics: Trends in Public Debate, 23 Nat'l Resources and the Environment 8, (2008) (American Bar Association). 7 pages

2

Aug. 26      Earth Jurisprudence: Taking an Earth Centered Approach

This class will provide an overview of EJ, the innovative program launched at St. Thomas and Barry Universities. Folks on the CEJ team will join the discussion. Reading assignments:

- "About CEJ": <http://earthjuris.org/> (1 page)

▪ Sister Patricia Siemen, Earth Jurisprudence: Toward Law in Nature's Balance, 11 Barry L. Rev. 1 (2008) pp. 2 - 3 (2 pages)

▪ Patrick Tolan, Ecocentric Perspectives on Global Warming: Toward an Earth Jurisprudence, Global Studies Journal, Vol. 1, Issue 4 pp. 39-50 (2008) (11 pages)

▪ Stephen Frank, Changing America's Environmental Laws: Abstract from a talk by Andrew Kimbrell at the Gaia Foundation, Gaia Earth Ethics Series, 2006 (2 pages) Additional sources:

Cormac Cullinan, Do Humans Have Standing to Deny Trees Rights? 11 Barry L. Rev. 11 (2008)

Judith E. Koons, Earth Jurisprudence: The Moral Value of Nature, 25 Pace International Envtl. L. Rev. 263 (2008)

Begonia Figuera and Ian Mason, Wild Law: Is There any Evidence of Earth Jurisprudence in Existing Law and Practice? Report Publ. by UKELA and Gaia Found. (March 2009) Jan 15 Introduction to

Earth Jurisprudence: Principles & Possibilities The universe and ecology as the source of rights and law

- Review syllabus and class requirements;- Introduce Earth Jurisprudence as emerging field of law; consider the dynamic order of the universe and Earth as the foundation for a new jurisprudence that reflects the source of law and governance

Thomas Berry and Brian Swimme, The Universe Story, pages 7-15, 51-54, 60-61, 70-78 (Lexis-Nexis course reserves) 22 pages Cormac Cullinan, Wild Law, Preface and Chapter 1 (pages 17 - 34 (17 pages

Thomas Berry, Evening Thoughts, Twelve Principles for Understanding the Universe, pages 145-47 (Lexis-Nexis course reserves) 2 pages Judith E. Koons, Earth Jurisprudence: The Future of Law and the Planet (Lexis-Nexis course reserves) 1 page

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Sept. 2

Clean Water Act, Congress and Making Things Happen

Guest Lecture: Kathy Aterno, National Managing Director, Clean Water Action

Ms. Aterno has over 30 years of experience working on water and environmental quality issues. She currently is a senior manager at CWA and oversees the program and political work of many offices around the country. She has worked for two Congressmen, served as a politically appointee in the EPA under President Clinton and helped draft the nation's first Environmental Justice Executive Order. One of the most respected leaders of the environmental movement, she will share her insights into how things actually get done in Congress, and shed light on how environmental laws - in her case the Clean Water Act - is affected by the changing winds of political power and judicial interpretation.

4

Sept. 9

Standing up for Animals and Nature: Lessons from a Private Public Interest Lawyer

Guest Lecture: Marcy LaHart, Marcy I. LaHart PA

Ms. LaHart is well known nationally as a leading animal rights advocate, winning case after case against animal cruelty and mistreatment. She also litigates on a variety of South Florida environmental controversies, often related to the Everglades and wetlands. Her current case is fighting a large and powerful corporation, International Paper, which is polluting the waters Perdido Bay.

5

Sept. 16

Endangered Species Act and Implementing Agency Perspective

Guest lecturer: Keith Rizzardi, Managing Attorney,

South Florida Water Management District.

Mr. Rizzardi is a senior lawyer in the region's most powerful natural resource regulatory agency in the region. He is an expert in ESA implementation, with experience in the U.S. Attorney's Office, and is now publishing a popular law blog on the subject. He will share how the law is achieving - and not achieving - species protection on the ground, and discuss the current controversies and challenges arising from the Nation's strongest wildlife protection law.

6

Sept. 23

Religion and the Environment

Guest Lecturer: Dr. Mark Kraus, Vice President and Chief Operating Officer of the Everglades Foundation.

Dr. Kraus holds a Ph.D. in Ecology from Rutgers University and has worked on wetland issues for 30 years. He has taught at the high school and college levels, and has been teaching religious education in primary school for 13 years, working with 3rd, 4th and 8th graders. Dr. Kraus is the co-author of two books on wetlands, and has published extensively in peer reviewed journals and in the popular press. This presentation will feature the Catholic perspective on the environment, and contrast it with other views, as well as how this influences the laws and policies finally adopted. The ensuing discussion will compare and contrast approaches, with students sharing general concepts they have identified from pre-assigned readings on a particular religion.

7

Sept. 30

#### Climate Change and Energy Policy: Going Green to Reverse Global Warming

This will discuss the major approaches being taken to combat Climate Change, discussing the pros and cons of policies being adopted and/or considered. Students will each be assigned to read a short report excerpt, each on a different legal/policy option being considered, and asked to explain and lead discussion on this approach during class. We will also cover some of the interesting provisions from the American Clean Energy and Security Act of 2009, also known as the ACES or the "Energy Bill".

8

Oct. 7

#### Everglades Restoration

Guest Lecturer: Sarah Fain, National Parks Conservation Association, Chairperson, Everglades Coalition

Ms. Fain was elected last year to chair the Everglades Coalition, an umbrella group of over 50 organizations dedicated to protecting and restoring the Florida Everglades. She earned her J.D. from the University of Miami, and immediately stepped into leadership of a program to protect Biscayne National Park, expanding her portfolio to now include one of the most high profile and pressing environmental issues in Florida. Ms. Fain will update the class on the current hot button issues regarding Everglades restoration and how lawyers have shaped and are shaping this issue.

9

Oct. 14

#### Native Americans and the Environment

American Native American tribes must comply with U.S. environmental laws, but do those laws respect the traditions and approaches of the tribes themselves? There has been a history of conflicts between tribes and the U.S. Government about natural resources, particularly revolving around rights of traditional use, and protection of sacred sites. This class will cover some of the recent conflicts, identify the legal and philosophical sources of these problems.

10

Oct. 21

#### The Ocean: Community Governance and the Ecosystem Approach

This class will discuss readings about innovative new tactics being used to protect oceans. Overfishing, ocean dumping, and other human activities have devastated many areas of the ocean. This class will focus on the trend towards “community ocean governance” and adoption of “ecosystem approaches” that acknowledge that interrelationships between all the different types of human effects on marine areas. We will feature speakers that can describe how these approaches are being used in Florida Bay.

11

Oct. 28

Standing: Tales from the Trenches and Attempts to Empower Trees

Increasingly, courts have used the doctrine of standing to prevent environmental groups from bringing lawsuits to protect nature and wildlife. This class will cover the current test for standing laid down by the Supreme Court, the origin and philosophy of that restrictive approach, and the reason politics and Judicial Appointments matter so much. The discussion will also include the argument for going in the opposite direction, and allowing heretofore prohibited parties to seek relief for harm, such as wildlife, forests, and other natural areas and objects. We will discuss cases where this was attempted.

12

Nov. 4

Student Presentations and discussions

(If time: Discussion of Public Lands: National Forests, National Parks, National Wildlife Refuges, and Bureau of Land Management Grazing Lands)

13

Nov. 11

Student Presentations and discussions

(Note: students may be asked to attend a special event this week, discussing the ocean laws and policies in Florida Bay, in lieu of the Oct 21 class)

14

Nov. 18

Student Presentations and discussions

NOTE: Classes subject to change, if additional guest speakers are available or the class identifies a new topic it would like to cover