

**SYLLABUS**  
**Environmental Law**  
**Sociology 312 PM**  
**Fall Semester, 2007**

Instructor: Charles W. Elliott, Esquire  
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Office hours: to be announced, posted on office door or by appointment  
Class Hours: Tuesdays, 6:30- 9:30 pm

**Course Goals**

Students will be able to demonstrate an understanding of the overall purposes, structure and main provisions of the most significant United States federal environmental statutes: the Clean Water Act (“CWA”), the Clean Air Act (“CAA”), the Resource Conservation and Recovery Act (“RCRA”), the National Environmental Policy Act (“NEPA”), the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), and the Endangered Species Act (“ESA”). In addition, students will obtain a brief overview of how United States environmental law addresses global environmental issues such as ozone depletion, hazardous waste shipments, and climate change.

Students will also be able to demonstrate an understanding of the public policies which are the foundation of these laws, and a critical and realistic appreciation of the conflicts and varying interests which affect the development of these policies and the laws.

Students will be encouraged to think critically about these matters and to develop the ability to apply the basic provisions of these laws to case examples.

**Required Texts**

Environmental Law and Policy, (Concepts & Insights Series) (Concepts and Insights Series) by James Salzman and Barton H. Thompson, Jr. (Foundation Press, 2007)

Environmental Law Stories by John Applegate, William Buzbee, Holly D. Doremus, and Richard J. Lazarus (Foundation Press, 2005).

*On Reserve:* Selected Environmental Law Statutes, 2006-2007 Educational Edition (Thompson/West, 2006).

(Note: required texts will be significantly supplemented by excerpts from applicable statutes, case materials, and other secondary materials)

## **Attendance Policy**

Because this course meets only once each week, attendance is vital. I consider missing one class for personal reasons, preferably with notice to me in advance as a courtesy, to be acceptable. Otherwise, attendance at all classes is expected and is considered mandatory, with the exception of documented medical or other emergency. The attendance of each class member will be noted, and thus your absence from class will affect your class participation grade. If you miss a class, you are responsible for any material covered, notes given, handouts, announcements, etc. If you are absent, please see one of your classmates regarding that day's assignments. The students are advised that class attendance will be necessary to obtain information and material upon which students will be tested and evaluated; some important material will not be in the textbooks. Good preparation, including reading the required materials in advance of the class, will be critical. In addition, *active class participation* is vital to a full understanding of the material. This means substantive contribution to discussions, volunteering answers, asking meaningful questions, and appropriate responses to questions from the instructor or from peers. Class participation should reflect critical reflection on course readings. Poor class participation will adversely affect course grades.

A missed exam will be recorded as a zero (0) grade. Make-up exams will be given at my discretion, and valid evidence for the absence will be required (e.g., emergency, documented medical excuse).

## **Academic Honesty Policy**

Strict adherence to the Moravian College Academic Honesty Policy as set forth in the Student Handbook is absolutely mandatory. Incidents of academic dishonesty will not be tolerated. In addition, in submitting written essays or papers, bibliographic citation to all sources consulted and used is mandatory. In addition, if Internet sources are utilized, copies of the materials consulted should be submitted with the paper if practicable, except for statutory or regulatory materials. If it is not practicable to provide a copy of the Internet source materials used, a clear and accurate citation to the uniform resource locator (URL) must be provided with the date of the viewing of the page.

## **Classroom Expectations**

College students are adults and will be presumptively treated that way. I expect good decorum in the classroom and respectful attention to the views of others. We are colleagues in the learning process and it is my hope to learn as well as we go through the material. Cell phones are to be turned off prior to entering the classroom and I reserve the right to dismiss from the classroom students whose failure to remember to do this is disruptive. Non-alcoholic drinks are permitted in the classroom; food is not. The class is long – 3 hours – and I expect to schedule reasonable breaks at my discretion.

## **Grade Determination**

There will be three examinations and a final paper. The first examination (about one-quarter of the way into the course) will constitute 10% of the final course grade. The second examination grade will constitute 25% of the final course grade. The final examination grade will constitute 25% of the final course grade. All examinations will be open-book and open-note and will consist of short-answer and essay questions.

A final paper grade will constitute 20% of the final course grade. The paper will be based on a relevant environmental law topic of the student's choice, *subject to approval of the instructor*. My expectation is that the paper will be 10-15 pages in length, double-spaced, with font size not to exceed 12 point. Appropriate bibliographic and case citations are required.

Class participation will constitute 20% of the final course grade.

The grade will be determined in part on the qualitative judgment of the instructor with respect to the written work, including performance on examinations, and the extent and quality of active class participation.

### Disabilities

Any student who wishes to disclose a disability and request accommodations under the Americans with Disabilities Act (ADA) for this course first MUST meet with either Mrs. Laurie Roth or other appropriate official in the Office of Learning Services (for learning disabilities and/or ADD/ADHD) or Dr. Ronald Kline in the Counseling Center (for all other disabilities).

**Please note that this syllabus, reading schedules and assignments are subject to change at the discretion of the instructor, with advance notice.**

**The expected class schedule and assignments are set forth on the pages which follow.**

**I look forward to meeting you.**

Class Session Date	Topics	Required Reading and Other Assignments (supplemental materials will be assigned or distributed as needed)
August 28, 2007	<p><b>Introductions and exchange of contact information; course background and overview; historical context of the development of U.S. environmental law; public policy considerations; introduction to federal environmental statutes and the hierarchy of laws in the environmental field; the “Players”</b></p>	<p><b>Salzman, et al., <u>Environmental Law and Policy</u>, pp. 1-12 (hereafter, “EL&amp;P”)</b></p> <p><b>Lazarus, et al., Ed., <u>Environmental Law Stories</u>, (hereafter, “ELS”) pp. 1-6 (Introduction)</b></p> <p><b>Students should come to this class prepared with three questions concerning environmental issues, environmental law, or environmental policy and three expectations for the course.</b></p>
September 4, 2007	<p><b>Basic themes and analytical frameworks; common law protections and the limitations of the common law as applied to environmental problems; emergence of modern statute-based environmental law; the problem of scientific uncertainty; the failure of markets to secure environmental protection</b></p>	<p><b>EL&amp;P, Chapter 2 (“Perspectives on Environmental Law and Policy”), pp. 13-42.</b></p> <p><b>ELS, Chapter 1 (“The Story of Boomer: Pollution and the Common Law”), pp. 7-42; Chapter 2 (“The Story of Reserve Mining: Managing Scientific Uncertainty in Environmental Regulation”), pp. 43-76.</b></p>

Class Session Date	Topics	Required Reading and Other Assignments (supplemental materials will be assigned or distributed as needed)
September 11, 2007	<p><b>Instruments of environmental protection and limitations on those instruments: regulatory prescription, permits, penalties, effect of markets and “trading”; rulemaking and administrative law; Constitutional issues for environmental laws; influence of citizen groups</b></p>	<p><b>EL&amp;P, Chapter 3 (“The Practice of Environmental Protection”), pp. 43-86.</b></p> <p><b>ELS, Chapter 7, “The Story of Laidlaw: Standing and Citizen Enforcement”), pp. 201-236.</b></p>
September 18, 2007	<p><b>Chemical exposure and contamination, human health concerns arising from past waste management practices; Comprehensive Emergency Response, Compensation and Liability Act (“CERCLA”); Risk Assessment as regulatory tool</b></p> <p><b>Toxic Substances Control Act (“TSCA”) and regulation of chemical products</b></p> <p><b>First Examination (covering classwork from 8/28-9/11)</b></p>	<p><b>EL&amp;P, Chapter 6, Regulating Toxic Substances, pp. 165-187.</b></p> <p><b>EL&amp;P, Chapter 7 (portion) (“IV. The Comprehensive Emergency Response, Compensation and Liability Act”), pp. 215-232.</b></p> <p><b>ELS, Chapter 5 (“The Story of the Benzene Case: Judicially Imposed Reform through Risk Assessment”), pp. 141-169</b></p> <p><b>Selected readings concerning recent research relating to chemical exposure-induced endocrine disruption in humans and wildlife</b></p>

<b>Class Session Date</b>	<b>Topics</b>	<b>Required Reading and Other Assignments (supplemental materials will be assigned or distributed as needed)</b>
<b>September 25, 2007</b>	<p><b>Controls of waste disposal; Resource Conservation and Recovery Act (“RCRA”)</b></p> <p><b>Product lifecycle and disposal, reuse, recycling</b></p> <p><b>Preview and initial discussion of hypothetical case involving chemical exposures and waste management</b></p>	<b>EL&amp;P, portion of Chapter 7 (“Waste Management”), pp. 188-209.</b>
<b>October 2, 2007</b>	<b>RCRA and CERCLA - a hypothetical case. If time permits, initial discussion about final paper topics will be entertained.</b>	<b>Handouts to be distributed prior to this class; hypothetical case study for discussion and role-playing</b>
<b>October 9, 2007</b>	<b>No Class - Fall Recess</b>	
<b>October 16, 2007</b>	<b>Clean Water Act (“CWA”); water pollution and wetlands protection</b>	<b>EL&amp;P, Chapter 5, (“Water Pollution”), pp. 137-164.</b>

Class Session Date	Topics	Required Reading and Other Assignments (supplemental materials will be assigned or distributed as needed)
October 23, 2007	Clean Water Act, water pollution and wetlands protection, con't; CWA jurisdictional issues	<p>EL&amp;P, Chapter 9 (portion) (“Wetlands, Endangered Species and the Public Trust”), pp. 261-276.</p> <p>U.S. Supreme Court decision in <i>Rapanos v. United States and Carabell v. United States</i>, No. 04-1034, 126 S. Ct. 2208 (2006). The decision is available at: <a href="http://www.supremecourtus.gov/opinions/opinions.html">http://www.supremecourtus.gov/opinions/opinions.html</a> in the 2005 Term Opinions</p> <p><u>Suggested, but not required:</u></p> <p>“EPA/ACOE Guidance Regarding Clean Water Act Jurisdiction After Rapanos”, Federal Register, June 8, 2007, 72 Fed Reg 31824 (document to be distributed to students or World Wide Web link made available)</p>
October 30, 2007	Clean Air Act (“CAA”)	<p>EL&amp;P, portion of Chapter 4 (“Air Pollution”) pp. 87-110.</p> <p>ELS, Chapter 10 (“The Story of American Trucking: The Blockbuster Case that Misfired”), pp. 321-348.</p>

Class Session Date	Topics	Required Reading and Other Assignments (supplemental materials will be assigned or distributed as needed)
November 6, 2007	<p><b>Review and opportunity for questions;</b></p> <p><b>Second Examination (covering RCRA, CERCLA, Clean Air Act, Clean Water Act)</b></p>	<p><b>Students should come prepared to ask questions about, and review anything that feel they do not understand concerning, RCRA, CERCLA, the Clean Air Act, and the Clean Water Act)</b></p> <p><b>Approved Final Paper Topics Due</b></p>
November 13, 2007	<p><b>Endangered Species Act</b></p>	<p><b>EL&amp;P, Chapter 9 (portion), “IV. The Endangered Species Act”, pp. 277-297.</b></p> <p><b>ELS, Chapter 4 (“The Story of TVA v. Hill: A Narrow Escape for a Broad New Law”), pp. 110-140.</b></p>
November 20, 2007	<p><b>No Class - Thanksgiving Recess</b></p>	
November 27, 2007	<p><b>National Environmental Policy Act (“NEPA”); class preparation of a mini-Environmental Impact Statement</b></p>	<p><b>EL&amp;P, Chapter 11 (“The National Environmental Policy Act”), pp. 309-320.</b></p> <p><b>ELS, Chapter 3 (“The Story of Calvert Cliffs: A Court Construes the National Environmental Policy Act to Create a Powerful Cause of Action”), pp. 77-107.</b></p> <p><b>Handout on preparation of Environmental Impact Statement (“EIS”)</b></p>



Class Session Date	Topics	Required Reading and Other Assignments (supplemental materials will be assigned or distributed as needed)
December 4, 2007	<p>Transboundary and transnational issues: How U.S. environmental law addresses (or fails to address) global environmental issues: international transshipment of hazardous wastes, stratospheric ozone depletion, climate change</p> <p>Course evaluations</p>	<p>EL&amp;P, Chapter 4 (portion) II. Ozone Depletion, and III. Climate Change, pp. 111-136.</p> <p>EL&amp;P, Chapter 7 (portion) III. The Basel Convention, pp. 209-215.</p> <p>Case: <i>Massachusetts, et al. v. EPA, et al.</i>, No. 05-1120. The decision is available at: <a href="http://www.supremecourtus.gov/opinions/opinions.html">http://www.supremecourtus.gov/opinions/opinions.html</a> in the 2006 Term Opinions</p> <p><u>Suggested (not required):</u> EL&amp;P, Chapter 8, (“Trade and Environment”) pp. 233-259.</p> <p>Deadline for submission of Final Paper in instructor’s office by hard copy or delivered via email as a PDF, Word Perfect, or Word file</p>
December 11, 2007	No Class - Reading Day	
December 18, 2007	Class Wrap-Up; Final Examination	