

# Environmental Law I

## **Fall Term 2009**

Environmental Law I / Law 2104.03  
Mon. 11:00 – 12:30, Wed. 1:00 – 2:30  
Classroom 207 – Weldon Law Bldg.

**Professor: Meinhard Doelle**

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## **Objective:**

The course provides an overview of environmental law, policy approaches and challenges at the national and provincial levels. While sampling the numerous categories of law relevant to environmental issues, including international law, common law, constitutional law, legislative and regulatory regimes, and administrative law, the course seeks to highlight the ethical, political and social context of environmental law development and implementation.

## **Evaluation:**

Evaluation will be 60% final examination, 15% based on an in-class moot or law reform advocacy exercise, 10% based on a reaction paper to selected readings, and 15% by way of an in course assignment. Students are required to sign up for one of the advocacy exercises early in the course. Spots will be allocated on a first come first served basis. Students are free to choose any of the reaction paper topics outlined in the course outline below. The word limit for the reaction paper is 1000 words. The assignment will be made available early in the course on BLS with a due date in October or November depending on the topic. The assignment has a word limit of 1500 words.

Please note that the final exam will be a take home exam. The exam will be made available at 2:00 pm on Tuesday, December 8<sup>th</sup>, and will be due on Thursday, December 10<sup>st</sup> at 2:00 pm.

## **Required Texts**

M. Doelle & C. Tollefson, *Environmental Law: Cases and Materials* (Toronto: Thomson/Carswell, 2009)

## **Other Reading Material**

- David R. Boyd, *Unnatural Law, Rethinking Canadian Environmental Law and Policy*, (UBC University Press, 2003)
- E. L. Hughes, A. R. Lucas and W. A. Tillman (eds.), *Environmental Law and Policy*, 3<sup>rd</sup> ed. (Toronto: Edmond Montgomery, 2003)
- Jamie Benidickson, *Environmental Law*, 3<sup>rd</sup> ed. (Irvin Law, 2008)

## **Special Needs**

Professor Pothier is the faculty advisor to students with disabilities. Students wishing to discuss in-class accommodation or in-class study assistance needs should see Professor Pothier.

Students seeking special accommodation with regard to any aspect of course evaluation (including exam deferrals and extensions to deadlines) must make an application to the Studies Committee. Academic regulations require such requests to be made as soon possible and, in any event, no later than the date on which the exam is to be written or the paper or other assignment is to be submitted. Students should contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes for more information about requests for accommodation and about the Studies Committee process.

## **Pandemic H1N1 Influenza Advisory**

In the event of an escalation of the pandemic H1N1 influenza virus, the University may need to authorize Academic Units to change elements of class schedules and/or evaluation plans as outlined in course syllabi. Any change is intended to support the primary goal of reducing the risk of spreading a pandemic influenza among students, faculty and staff.

Although it is difficult to predict the severity of the pandemic, the University is committed to minimizing the impact on student's academic progress. Therefore, every effort will be made to provide students with options for continued learning and for continued fair evaluations.

Changes may include but are not limited to:

- Adjustments to course assignments;
- Changes to the dates of exams;
- Arrangements for alternative evaluations for students affected by H1N1 influenza virus;
- Adjustments to work terms;
- Modification of marks awarded for participation;
- Adjustments to attendance policies.

Any alternative plan made in individual courses may be superseded by University-wide or Government measures to reduce the spread of the pandemic H1N1 influenza virus.

### **Plagiarism:**

All students in this course must read

- the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the plagiarism.dal.ca website, and
- the Law School policy on plagiarism, as set out in
  - the law school regulations (available in hard copy from the Associate Dean's office and online at [http://law.dal.ca/law\\_3104.html](http://law.dal.ca/law_3104.html)) or
  - the Orientation Handbook (provided to all first year students and available online at [http://law.dal.ca/law\\_6945.html](http://law.dal.ca/law_6945.html)).

Any paper or assignment submitted by a student at Dalhousie Law School may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above.

Ignorance of the policies on plagiarism will not excuse any violation of those policies.

### **Course Outline**

<b>Topic 1</b>	<b>Introduction to Course</b>
<b>Topic 2</b>	<b>Influence of International Law on Domestic Environmental Law</b> Readings: Chapter 1 Reaction paper topic: C. Tollefson & J. Thornback article Other:
<b>Topic 3</b>	<b>Common Law Review</b> Readings: Chapter 2 Reaction paper topic: L. Collins article Other: Herbicide Trials Film Cambridge Moot Exercise (Limited to 4 students)
<b>Topic 4</b>	<b>Constitutional Law Overview/Refresher</b> Readings: Chapter 3 Reaction paper topic: William R. MacKay article Other:
<b>Topic 5</b>	<b>Environmental Regulation: Traditional Approaches &amp; Alternatives</b>

Readings: Chapter 4  
Reaction paper topic: Emond & M'Gonigle articles  
Other: Guest Speaker: Peter Tyedmers, Economic Instruments  
In-Class Law Reform Exercise (Regulating the Pulp & Paper Industry)

**Topic 6 Implementation, Enforcement, Inspection and Investigations**

Readings: Chapter 5  
Reaction paper topic: Zinn article  
Other: Guest Speaker: York Friesen, Enforcement Division, Environment Canada

**Topic 7 Judicial Review**

Readings: Chapter 6  
Reaction paper topic: Tollefson article  
Other: In Class Law Reform Exercise (Standard of Review)

**Topic 8 Environmental Assessment Law in Canada**

Readings: Chapter 7  
Reaction paper topic: Gibson & Fonseca articles  
Other: Moot Exercise on Red Chris (Limited to 4 Students)  
Possible Guest Lecture

**Topic 9 Biodiversity**

Readings: Chapters 8, 9  
Reaction paper topic: Dearden article on the role of Aboriginal Peoples  
Other: Law Reform Exercise (Federal Species at Risk Act)

**Topic 10 Review**