

CSUS 465
Environmental and Natural Resources Law

Spring 2017
Thursdays, 4:10 p.m. – 7:00 p.m.
019 Natural Resources Building

Instructor: Christopher Grobbel, PhD
Office Location: 311A Natural Resources
Telephone: 231-499-7165
E-Mail: grobbelc@msu.edu

Office Hours: Thursdays, 2:00 p.m. – 4:00 p.m.
or by appointment

Course Description: Legal principles and process related to the environment and natural resources. Common law, constitutional law, statutory and administrative law.

3 credits, Lecture/Recitation/Discussion 3 hours.

Course Outcomes: Students who complete this course will be able to:

1. Identify the essential components and principles of environmental and natural resources law.
2. Identify and apply an understanding of legal processes and a multifaceted approach to understanding private property rights, environmental and natural resources policy and regulation.
3. Develop and apply critical thinking and analysis skills to evaluate the credibility of sustainability policy positions and scientific arguments.
4. Use information technologies in their formal and informal learning.
5. Consider the importance of the legal and regulatory framework in undertaking environmental planning and successfully implementing environmental management projects/programs.
6. Apply legal systems thinking approaches in environmental and natural resources disputes, policy, use and management.

These course outcomes support the Department of Community Sustainability undergraduate program competencies of critical thinking, systems thinking, and ethics. Successful completion of this course provides students with the background needed to frame complex problems and address them systemically in order to successfully complete additional courses in the major. Students can learn more about the Department of Community Sustainability undergraduate program competencies at http://www.csus.msu.edu/undergraduate/sustainability_core. In addition, this course supports Michigan State University's Undergraduate Learning Goals of analytical thinking and integrated reasoning. More information about MSU's Undergraduate Learning Goals is available at <http://learninggoals.undergrad.msu.edu/>.

Course Overview: This course will introduce students to and deeply explore key concepts of environmental and natural resources law, policy, regulation and agency administrative procedures. The course is intended for any student considering future employment in government, industry, non-governmental, advocacy or legal sectors. Course draws heavily from recent cases and controversies to illuminate course concepts, especially some of those within in which Dr. Grobbel has served as an expert witness over the past 25 years.

The course is also informed by and built upon foundational concepts of sustainability. Sustainability is generally understood to require integration of theory and methods from a number of different scientific and social science disciplines. Our approach is to suggest numerous fundamental paradigms that guide sustainability and policy/law in natural resource, community and environmental issues today. One is grounded in the debate over limits to economic growth and the indefinite expansion of resource utilization implied by economic development and increasing human population. Another in both social and environmental scientists' growing understanding of the fragility and vulnerability of the socio-technical and ecological systems on which human beings depend. A third charts the long term changes in environmental policy and law, reflecting shifting society values regarding natural resource, human health and environmental protection practices. These paradigms are not unrelated.

Course Methods: We will rely upon lecture and class discussion of materials that articulate and analyze the key theoretical concepts and perspectives noted above. We will also rely heavily on and use case studies as ways to both elucidate, exemplify and operationalize course concepts. Student performance will be evaluated in accordance with the activities discussed below under Grading.

Required Text: No required course text. Course syllabus, lectures and supporting materials will be posted weekly on the CSUS 465 Desire to Learn (D2L) site (<https://d2l.msu.edu>).

Grading: Grading for this course will be based on the following point system:

Total possible points:	250 points
Exam #1	100 points
Final exam/Exam #2	100 points
Class attendance/participation	50 points

Grading Scale:	Grade	Points
	4.0	250 - 225
	3.5	224 - 200
	3.0	199 - 175
	2.5	174 - 150
	2.0	149 - 125
	1.5	124 - 100
	1.0	99 - 75
	0.0	under 75

Week 1 – Introduction

1. **January 12, 2017** - *Introduction*: Course structure, grading policy, and introductions. Legal foundations of environmental & natural resource law. The public trust doctrine, governmental authority, common and civil law (torts), private property rights and the takings issue, Michigan environmental code.

Week 2 – Legal foundations of Environmental & Natural Resources Regulation

2. **January 19, 2017** – Legal foundations of environmental & natural resource law. The public trust doctrine, governmental authority, common and civil law (torts), private property rights and the takings issue, Michigan environmental code. *Reading assignment: on D2L Summary of Property Takings Case Law, MSU Extension Land Use Series, Christopher Grobbel, Ph.D., December 16, 2002 and What is a Taking?: Exploring the Boundary Between the Public Interest and Private Property, Ellen Kohler, Esq. and Christopher Grobbel, Ph.D., pp. 1-26.*

Week 3 – Legal foundations of Environmental & Natural Resources Regulation (continued)

3. **January 26, 2017** – Legal foundations of environmental & natural resource law. The public trust doctrine, governmental authority, common and civil law (torts), private property rights and the takings issue, Michigan environmental code. *Reading assignment: on D2L Summary of Property Takings Case Law, MSU Extension Land Use Series, Christopher Grobbel, Ph.D., December 16, 2002 Case study: Miller Brothers v. Michigan Department of Natural Resources (513 NW 2nd Edition 217, 203 Mich. App. 674 (1994), i.e., the Nordhouse Dunes case).*

Week 4 – Law of Inland Waters

4. **February 2, 2017** – Michigan's Part 301: Inland Lake and Streams Act, groundwater law and the common law of riparianism. *Reading Assignment: on D2L Public Rights on Michigan Waters, Michigan Department of Natural Resources, Law Enforcement Division, April 1997, pp. iv–24.*

Week 5 – Great Lakes Water Law

5. **February 9, 2017** – Michigan's Part 325: Submerged Lands Act, Great Lakes Compact and water diversion, and the common law of riparianism on the Gt. Lakes. *Reading Assignment: on D2L Public Rights on Michigan Waters, Michigan Department of Natural Resources, Law Enforcement Division, April 1997, pp. 25-41.*

Week 6 – Western Water Law

6. **February 16, 2017** – Concepts and principles of the prior appropriation and beneficial use doctrines. Reserved water rights, *Sporhase v. Nebraska, ex rel. Douglas* 458 U.S. 941 (1982) case and water as an article of commerce.

Week 7 – Soil Erosion and Sedimentation Control Act

7. **February 23, 2017** – Michigan's Part 91: Soil Erosion and Sedimentation Control. *Case study: The Village at Grand Traverse, Acme Township, Grand Traverse County, Michigan.*

Week 8 — Mid-term Exam (#1)

8. **March 2, 2017** - Exam #1 (100 Points Possible).

Week 9 – Spring Break

9. **March 9, 2017** – Spring Break (no class)

Week 10 – Toxic Substance Control Act (TSCA) and Administrative Procedures Act (APA)

10. **March 16, 2017** – Federal Toxic Substance Control Act (TSCA) and 2016 amendments for toxic substances in the market place. Administrative procedures and the powers and limitations in agency implementation of environmental and natural resources regulations.

Week 11 – Contamination Site Investigation, Remediation and Redevelopment

11. **March 23, 2017** – Part 1: Michigan's Part 201: Environmental Response Act/Part 213 Leaking Underground Storage Tank Act. Components and principles of Phase I and II environmental assessment and brownfield redevelopment. *Case studies Berlin Farrow, Genesee County, MI and Love Canal, Buffalo, New York.*

Week 12 – Contamination Investigation Remediation and Redevelopment (continued)

12. **March 30, 2017** – Part 2: Michigan's Part 201: Environmental Response Act/Part 213 Leaking Underground Storage Tank Act. Components and principles of Phase I and II environmental assessment and brownfield redevelopment. *Case studies former Dura Automotive, Mancelona, Antrim County, Michigan, and former Hooker Chemical, Whitehall/Montague, Muskegon County, Michigan.*

Week 13 – Critical Dunes and High Risk Erosion Areas

13. **April 6, 2017** – Michigan's Part 353: Sand Dunes Protection and Management Act and Part 323: Shorelands Protection and Management/Environmental Areas. *Case studies residential property, Leland Township, Leelanau County, Michigan, 2015, and residential property, Crystal Downs, Frankfort, and Arcadia Dunes, Benzie County, Michigan.*

Week 14 – Septic Systems and Septage Hauling and Disposal

14. **April 13, 2017** – The law of septic disposal and treatment and Michigan's Part 117: Septage Waste Servicers and federal Standards for the Use and Disposal of Sewage Sludge (Part 503), Title 40 Code of Federal Regulations. *Case study, Drier farms, Levering, Emmet County, Michigan.*

Week 15 – Part 17: Michigan Environmental Protection Act

15. **April 20, 2017** – Part 17 Michigan Environmental Protection Act- An overview of MEPA and its use history. *Case studies: Flint Incinerator case, Genesee County; and Anglers of the AuSable v. Merit Energy, Otsego County, MI.*

Week 16 – National Environmental Protection Act (NEPA)

16. **April 27, 2017** – Federal National Environmental Protection Act - An overview of the NEPA Environmental Impact Assessment (EIA), Environmental Impact Statement (EIS) and Finding of NO Significant Impact (FONSI) processes. *Case study: Grand Traverse Band of Ottawa and Chippewa Indians, Lautner/M-72 Highway corridor study, Acme Township Grand Traverse County, Michigan.*

Week 17 - Final Exam

17. **Thursday, May 4, 2017, 5:45 p.m. – 7:45 p.m. - Final exam - Exam #2 (100 Points Possible).**

Exams: No make-up exams will be scheduled in the event of an unexcused absence from class during an examination period. A written statement from a doctor will be required if medical reasons exist for absence from an examination period. In the event that absence during an examination exists, alternative means of grading student progress may be utilized.

Class Participation: Class participation will be graded on the basis of student knowledge, willingness to participate, courtesy, engagement, scholarship, professionalism and the students' demonstration of ability to integrate course concepts in questions asked of speakers and/or the course instructor.

Participation and interaction with other students is a required component of this class. It is impossible to fulfill this requirement if you are not present for class meetings. Attendance will be taken each class day. Students who have three absences or fewer have an opportunity to earn all 50 possible class participation points. 5 points will be deducted for each absence in excess of three. *NOTE: The three missed class day grace period is expected to cover university excused absences including illness, family emergencies and university sanctioned activities such as student clubs, organizations or activities associated with other classes.* It is also expected to cover absences that occur because of late enrollment in the class, and other exigencies that students experience throughout the semester. There will not be exceptions to this policy except in extremely unusual circumstances. If you anticipate problems complying with this requirement, *notify the instructor as soon as you become aware of the problem!* It is not necessary to notify instructors or present excuses for specific absences.

ALSO NOTE: Michigan State University is committed to ensuring that the bereavement process of a student who loses a family member during a semester does not put the student at an academic disadvantage in their classes. If you require a grief absence, you should complete the "Grief Absence Request" web form (found at <https://www.reg.msu.edu/sitemap.aspx?Group=7>) no later than one week after knowledge of the circumstance. I will work with you to make appropriate accommodations so that you are not penalized due to a verified grief absence.

Reading Assignments: No text is required for CSUS 465 *Students are expected to come to class having read materials posted for each session on D2L in advance of each session.* Please see the instructor if alternative or additional accommodations are needed for access to course materials.

Important Dates:

Monday, 1/16/17 - University closed/classes cancelled– Martin Luther King Day

Monday 3/6/17 – Friday 3/10/17 - University open/classes cancelled – Spring Break

Monday, 5/1/17 thru Friday, 5/5/17 - Final exams week

Technology Use: While in class, students should turn off and put away their cell phones or other devices. Sending and receiving texts or email messages by computer, tablet or smart phone during class are distracting to students and instructors is prohibited. The instructor will call out students who are using such devices for such purposes during class and ask them to stop or leave the class.

Accommodations for Students with Disabilities: Michigan State University is committed to providing equal opportunity for participation in all programs, services and activities. Requests for accommodations by persons with disabilities may be made by contacting the Resource Center for Persons with Disabilities at 517-884-RCPD or on the web at rcpd.msu.edu. Once your eligibility for an accommodation has been determined, you will be issued a Verified Individual Services Accommodation ("VISA") form. Please present this form to an instructor during the second week of class and/or two weeks prior to the accommodation date (i.e., test, project, etc.). Requests received after this date may not be honored.

Academic Integrity: [Article 2.III.B.2](#) of the Academic Freedom Report states: "The student shares with the faculty the responsibility for maintaining the integrity of scholarship, grades, and professional standards." In addition, the Department of Sustainability adheres to the policies on academic honesty specified in General Student Regulation 1.0, [Protection of Scholarship and Grades](#); the all-University Policy on [Integrity of Scholarship and Grades](#); and [Ordinance 17.00](#), Examinations. Therefore, unless authorized by your instructor, you are expected to complete all course assignments, including homework, tests and exams, without assistance from any source. You are expected to develop original work for this course; therefore, you may not submit course work you completed for another course to satisfy the requirements for this course. Also, you are not authorized to use the www.allmsu.com Web site to complete any course work in this course. Students who violate MSU regulations on Protection of Scholarship and Grades will receive a failing grade in the course or on the assignment.

Instances of plagiarism constitute academic dishonesty and will result in a grade of zero for the assignment in which plagiarism occurs. See <https://www.msu.edu/unit/ombud/academic-integrity/plagiarism-policy.html> for a definition and discussion of plagiarism.

Faculty are required to report all instances in which a penalty grade is given for academic dishonesty. Students reported for academic dishonesty are required to take an online course about the integrity of scholarship and grades. A hold will be placed on the student's account until such time as the student completes the course. This course is overseen by the Associate Provost for Undergraduate Education.

Citations and references: The APA format should be used for any in-text citations and reference lists when you rely on information from other sources for writing homework assignments. A good reference site for APA style can be found at <https://owl.english.purdue.edu/owl/resource/560/01/>.