

**CSUS 465**  
**Environmental and Natural Resources Law**

Fall 2019  
Tuesdays 6-8:50 pm.  
152 Natural Resources Building

**OVERVIEW**

This course presents students with opportunities for learning about a broad array of natural resources and environmental law and policy and politics. It will provide students with an overview of federal, state, and local environmental law and acquaint each student with basic legal principles and procedures as well as current environmental issues.

**INSTRUCTOR**

**Bob Wilson, J.D., M.B.A.**

**Executive Director of Michigan Trails**

**Former Senior Counsel to Senate Natural Resources and Environmental Affairs,  
Outdoor Recreation Committees**

Cell Phone 517-896-9443

Office Hours: Available prior to class each Tuesday from 5:30-6:00, after class as time permits and for other pre-arranged meetings.

**E-mail: [mitrail1955@gmail.com](mailto:mitrail1955@gmail.com)**

**TARGET AUDIENCE**

This course is structured for junior and senior undergraduate students and graduate and professional students interested in an overview of environmental and natural resources law. The course will be taught as a survey of federal and state environmental law.

**MATERIALS**

**Required Text**

Zygmunt Plater, Robert Abrams, William Goldfarb, Robert Graham, Lisa Heinzerling, David Wirth, and Noah Hall. 2010. Environmental law and policy: nature, law, and society, 4<sup>th</sup> edition. We will discuss more in our opening class!

**Supplementary Materials**

Materials (e.g., articles, handouts, etc.), when possible, will be available to students enrolled in the course on the MSU D2L website for the course.

There will be one copy of the text placed in reserved reading in the MSU Main Library. Some students, in the past, have used previous versions of the text. If students do so, it is their sole responsibility to make sure they cover the material assigned in class (e.g., read the correct material, figure out the corresponding page numbers, etc.).

## **OFFICE HOURS**

Professor Wilson will generally be available to meet with students before class from 5:30 until 6 and after class as time permits. Professor Wilson is also available for pre-arranged meetings on a case-by-case basis.

## **DESCRIPTION**

The course will expose students to, as well as further their understanding of, the application of the U.S. legal and political systems to complex social conflicts with environmental and human health implications.

To enrich students' experience, this course is taught in some ways as it would be taught to law students and in other ways as a collaborative learning experience. Students are expected to have read the week's materials and be able to intelligently engage in class room discussions.

The course will be broken down into three 50-minute sessions with 5 to 10-minute breaks in between each session. The instructor will typically talk current policy issues before the Michigan legislature, quickly recap the previous week's session and then lecture on the topics for the current week during the first session. Lectures will be presented with weekly power point presentations, which will be posted in advance on the class website. Guest speakers will generally fill the second 50-minute session with student group presentations comprising the third session.

Since the depth and the breadth of the materials provided in the text is significant, the instructor will endeavor to provide a comprehensive survey of most of the critical elements found in the text and will supplement it with key examples of relevant Michigan environmental law.

The course will be taught in specific modules with a specific set of goals and desired outcomes and key discussion questions identified in the week's module. The instructor will use two exams, regular class discussions, weekly group presentations, and written reports to assess student performance.

This course uses a standard "national" text and is designed to provide students with a fundamental foundation of the theories of significant U.S. environmental and natural resources law. The course will cover basic rules of law applicable to natural resource law and management policy. Since a significant emphasis will be on the legal relationships of parties and their legal obligations, court cases will be a focus of class discussions. We will also discuss the role of the Legislature and the Executive Branches and the role of interest groups and citizens in the development of environmental law.

The course is meant to provide all students with a fundamental working knowledge of U.S. and Michigan environmental law. Students should come away from this class with a solid grasp of the roles that common and statutory law play in the development of environmental law, an understanding of the impacts of politics, citizen interest groups

and other external forces on the shaping of environmental law, and key current environmental issues.

**COURSE OUTLINE & READING ASSIGNMENTS (Please note -- Instructor may fine tune reading assignments the week prior to each assignment.)**

DATE	MODULE
Sept 3	<b>Module One -- Introduction to CSUS 465</b>  Class Introductions, Course Goals, Review Syllabus and Course Procedures, In-Class Assessment--Environmental Law, Life of a Case, Case briefing etc.
Sept 10	<b>Module Two -- Themes in Federal and State Environmental Law</b>  <i>Readings -- Chapters 1 and 2 -- Themes and Cross-Cutting Themes</i>  <b><u>Cases:</u></b> <i>Hardin's Tragedy of the Commons, Road Salt Paradigm and Kepone Case Study</i>  Guest Speaker – State Representative Gary Howell, Chairman of House Natural Resources Committee  Group Presentation – How to convince policymakers to consider/factor long term costs into decisions that impact natural resources?
Sept 17	<b>Module Three -- Role of the Common Law in Environmental Law (Part 1)</b>  <i>Readings Chapter 3 -- The Common Law in Environmental Law</i>  <b><u>Cases:</u></b> <i>Borland v Sanders, Boomer v Atlantic Cement, NY v Schenectady, Comer v Murphy</i>  Group Presentation – Should citizens be able to sue for protection of natural resources in the state? Pros and Cons.
Sept 24	<b>Module Four – The Role of the Common Law in Environmental Law (Part 2)</b>  <i>Readings Chapter 3 Continued</i>  <b><u>Cases:</u></b> <i>Branch v Western Petroleum, Velsicol Chemical v Rowe, Pruitt v Allied Chemical, Village of Wilsonville v SCA, Exxon Shipping Company</i>

P.C. Guest Speaker – Aaron Davis, Senior Associate, Fraser Davis and Trebilcock,

Group Presentation – The corporate conscience and has common law really helped to redirect corporate behavior and compliance with the law?

Oct 1 **Module Five -- History/Overview of Evolution of Statutory Law -- US and Michigan**

*Readings -- Chapter 5 -- Overview of US Environmental Statutes and Chapter 7 -- Sovereignty/Federalism/Role of the States*

**Cases:** *Utilex Case File, City of Philadelphia v NJ, Missouri v Holland*

Guest Speaker— Mike Sniegowski, Consumers Land

Group Presentation—How to regionalize natural resources management—getting states to work more in concert to protect natural resources that are not bound by politically drawn boundaries.

Oct 8 **Module Six -- Role of Federal and State Agencies**

*Readings -- Chapter 6 -- Administrative Law*

**Cases:** *Rybachek v EPA, Hiram Hill v TVA, Citizens to Preserve Overton Park v Volpe, Scenic Hudson v FPC, Vermont Yankee v NRDC, Chevron USA v NRDC*

Group Presentation – Are state and federal agencies really the fourth branch of government and how to reform agency behavior to make them more accountable to the public.

Review Session for Exam One conducted by Professor Wilson

Oct 15 **Exam One -- Covers Modules 1-6**

Oct 22 **Module Seven -- Disclosure Strategies and the Philosophy of “Stop & Think” Approach to Regulatory Statutes, Stark Prohibition Statutes -- Endangered Species Act**

*Readings -- Chapter 8 -- Disclosure Statutes and Chapter 10 -- Roadblock Statutes*

**Cases:** *NRDC v Grant*, *Mid States Coalition v STB*, *Center for Biological Diversity v NHTSA*, *TVA v Hill*, *Seattle Audubon v Evans (US Forest Service)*, *Babbitt v Sweet Home*, *National Assoc of Homebuilders v Defenders of Wildlife*

Group Presentation – Michigan’s prohibited species act—who should control the list of prohibited and restricted species-the agencies or the legislature?

Oct 29

**Module Eight -- Regulatory Standards -- Harm-Based and Technology-Based Clean Air and Clean Water Acts**

*Readings Chapter 11 and Chapter 12 -- Harm-Based to Tech-Based Standards*

**Cases:** *Whitman v American Trucking*, *In Re Northern Michigan*, *Mass v EPA*, *US EPA v California*, *Rybachek v US EPA*, *Atlantic States v Eastman Kodak*, *Pronsolio v Nastri*

Guest Speaker – Phil Argiroff, MEGLE Water Resources Division

Group Presentation – Should corporations and persons be responsible for the costs of pollution when there are no promulgated standards and no known technology to treat those forms of pollution?

Nov 5

**Module Nine -- Remedial Liability Regulatory Strategies: CERCLA**

*Readings -- Chapter 16 – CERCLA*

**Cases:** *Burlington v US*, *US v Wade (II)*, *US v NEPACCO*, *US v Best Foods*, *US v Atlantic Research*

Guest Speaker – Sue Leeming, MEGLE

Group Presentation – The history of funding orphan sites of contamination and how should we fund these kind of cleanups in the future.

Nov 12

**Module Ten -- Life Cycle Waste Control -- RCRA**

*Readings -- Chapter 17 – RCRA*

**Cases:** *Hazardous Waste Treatment v EPA* and *Meghrig v KFC Western*

Guest Speaker—Matt Flechter, MEGLE Recycling Coordinator

Group Presentation—Is recycling ethic really being developed in our nation's citizens and if not why not? What are the keys to a successful state recycling program?

Nov 19

### Module Eleven -- Land Use Planning

*Readings -- Chapter 9 -- Land Use*

**Cases:** *Bersani v EPA, Norton v Southern Utah, Kleppe v New Mexico*

Guest Speaker—Bob Wilson, Executive Director, Michigan Trails

Group Presentation – Why is it so hard for local units of government to work together for regionalized land use management plans and what reforms can we make to encourage more effective local partnerships?

Nov 26

### Module Twelve -- Public Trust Doctrine, Other Rights & Duties

*Readings -- Chapter 20 -- Public Trust and Other Rights and -- Chapter 21 -- Private Property and Public Rights*

**Cases:** *Marks v Whitney, Paepke v Building Commission, National Audubon v Sup ct of Alpine County (Mono Lake case), Defenders of Florissant v Park Land*

**Cases:** *Thornburg v Port of Portland, Penn Coal v Mahon, Palazzolo v Rhode Island.*

Group Presentation – Which branch of government should ideally be charged with protecting the public trust? Does protecting the public trust involve more than simply protecting natural resources?

Dec 3  
Wilson

### Module Thirteen -- Review Session for Exam Two conducted by Professor

Dec 10

### Exam Two -- Covers Modules 7-13

## RESERVATION

The instructor reserves the right to make minor modifications to this syllabus.

## CLASS ROOM LOGISTICS

The class will be located in Room 152 of the Natural Resources Building. Students will be asked to use name cards for the first few weeks until the instructor can become acquainted with the students' names.

## **INSTRUCTION AND GRADING COMPONENTS**

### **A. Attendance (Two or more unexcused absences will lower your final grade)**

Attendance is mandatory. Class meets once each week and the course content is considerable. Furthermore, participation in class is a shared responsibility and each student is expected to participate regularly. Attendance will be taken each class session and students must be in class for the full session to receive attendance credit. If a student has two or more unexcused classes, their final grade may be subject to being lowered (e.g., 3.5 reduced to 3.0).

### **B. Attendance/Participation (5% or 25 points)**

There is an expectation that each student will be fully prepared and will be able to participate in class.

Participation means:

- 1) Completing the assigned readings
- 2) Answering questions when called upon
- 3) Positive collaboration in class group exercise
- 4) Asking and answering appropriate questions during class

Students should **expect to be called upon** to answer questions in every class. If a student is called upon during class for a contribution pertaining to class and that student is unable to participate because he or she is unprepared, the instructor will record this and it will be factored into a student's course grade (i.e., may result in the students grade being lower than test scores, etc.). Students will also be expected to volunteer without being called upon. Poor participation as evidenced by poor preparation, evidence of not having read the material, not turning in on time and/or complete assignments etc. will be taken into consideration in a student's final grade. Significant poor or disruptive participation may result in student's final grade being lowered relative to his/her scores on exams, papers, etc. (e.g., 3.5 down to 3.0).

### **C. Exams (80% or 400 total points)**

There will be two exams during the semester, each exam will be worth a total of 200 points for a grand total of 400 points. There is no final exam that will cover the entire course. Exams will consist of short essay questions. Unexcused absences from exams will result in the grade of zero (0) for the missed exam. Cheating, copying, collaborating on exams and other misconduct will result in students involved receiving a 0.0 for the course.

### **D. Class Presentations (15% or 75 points)**

The class will be divided up into small groups of students for purposes of conducting group presentations on current environmental law issues as assigned by the instructor.

Students will be given the opportunity to create their own groups and volunteer for the weekly presentations. These presentations should: 1) identify the current environmental issue(s); 2) describe various legal arguments/positions/rationales that relate to the issue; 3) explain the status of the legal dispute or issue; and 4) provide citations to the research and other materials used in the presentation.

### **E. Final Grades**

Students' final grades will be initially based on the results of their two exams (80%), papers (15%), and participation (5%). Then penalties and bonuses will be applied (see below). The instructor intends to use the following scale for grading purposes with 500 total points possible for the course:

450-500 pts	90-100%	4.0	A
430-449 pts	85-89%	3.5	A-/B+
400-429 pts	80-84%	3.0	B
375-399 pts	75-79%	2.5	B-/C+
350-374 pts	70-74%	2.0	C
325-349 pts	65-69%	1.5	C-/D+
250-324 pts	50-64%	1.0	D
0-249 pts	0-49%	0.0	F

### **F. Bonuses and Penalties**

As discussed above under Attendance and Participation, a student's final grade for the course may be downgraded if they are excessively absent (two or more unexcused absences) and/or if they are frequently unprepared. The final grade penalties, if any, will be applied after computing the students' grades based on homework and exam results. Likewise, students who exhibit extra effort, contributions that bring added value to the course, etc. will be eligible for consideration for some bonus points in the final assignment of course grades.

### **POLICY ON EXCUSES**

Students are expected to attend each class, submit assignments on time, and take exams at the regularly scheduled time unless an acceptable reason as per MSU policy is offered. Acceptable reasons include illness, religious observances, family emergency, or conflicts with other final exams (if verified or validated). Students are expected to notify the instructor ahead of time whenever possible and in all cases as soon as possible, in writing (e.g., e-mail) or in person if they cannot attend class, submit written assignments, or take an exam. If legitimate reasons are presented in a timely and reasonable manner, arrangements can be made to acquire class notes, submit work, take exams, etc.

### **INCOMPLETE WORK AND DEFERRED GRADES**

Unexpected circumstances may cause a student to request a final grade of Incomplete (I) or Deferred (DF). Requests must be made in writing before the date of the final exam stating the reason(s) for the request and a plan for removal of the I or DF grade. University policy requires that work to remove an I be completed by the 5th week of the



next semester in attendance or the grade automatically becomes an F. A DF grade (available only to graduate students) must be removed within two calendar years.

### **POLICY ON PHONES/LAPTOPS/PERSONAL TECHNOLOGY IN CLASS**

Students will be permitted to use laptops and tablets during class but students are still expected to pay attention and participate in class. If this privilege is abused, the instructor reserves the right to alter this policy.

### **INDEPENDENT WORK REQUIRED AND POLICY ON ACADEMIC INTEGRITY**

“The principles of truth and honesty are recognized as fundamental to a community of teachers and scholars. The University expects that both faculty and students will honor these principles and in so doing protect the validity of University grades. (Excerpted from *A University Policy on Integrity of Scholarship and Grades*).

As the MSU Ombudsman points out (<https://www.msu.edu/unit/ombud/dishonestystud.html>), the following conduct violates the fundamental principles of truth, honesty, and integrity:

- \* Supplying or using work or answers that are not one's own;
- \* Providing or accepting assistance with completing assignments or examinations;
- \* Interfering through any means with another's academic work;
- \* Faking data or results.

Therefore, don't:

- \* Turn in an exam, paper, or project that is not wholly your own work;
- \* Copy answers from another student's exam or test;
- \* Get questions and/or answers from students who have already taken an exam or quiz you are scheduled to take;
- \* Have another person take a test for you;
- \* Submit the same paper for two or more classes;
- \* Use other authors' ideas, words, or phrases without proper attribution; and
- \* Collaborate with other students on projects or assignments without your instructor's permission.

The instructor reserves the right to issue a final grade of F (failure) or to lower the course grade for any student who violates the MSU Policy on Academic Integrity, who submits other persons' work as their own, or who submits their own work for a grade in this class that has been or will be submitted to another class for credit of any kind.

Once again, as the MSU Ombudsman (<https://www.msu.edu/unit/ombud/dishonestystud.html>) notes:

If your instructor believes you have committed an act of academic misconduct, s/he may give you a penalty grade, which is defined as any grade based on a charge of academic misconduct. A penalty grade may include, but is not limited to, a failing grade on an assignment or in the course. When this occurs, the Integrity of Scholarship and Grades

policy (ISG) requires your instructor to report the academic misconduct to your dean through an electronic Academic Dishonesty Report, which will end up in your student folder, and also asks if your instructor wants to request an academic disciplinary hearing to impose sanctions in addition to the penalty grade. Additional sanctions include probation and/or suspension from your program or the University for a designated time.