

Introduction to Climate Law & Policy
One Unit – Professor Kath Rogers, Spring Intersession 2017
Schedule: Monday, May 15 – Friday, May 19, 1:00pm – 4:00pm

Contact/Office Hours:

Feel free to reach out anytime with questions and/or discussion. Office hours are by appointment, preferably before or after class. I am available by cell at 619-886-9259 or by email at krogers@tjisl.edu.

Course Goals:

By the end of the course, students will have a basic, macro-level understanding of the following:

- The science underpinning climate policy
- Major climate change mitigation and adaptation strategies
- Climate laws and policies at the local, state, national and international levels
- Seminal cases in climate litigation
- Environmental justice, the “balance bias,” how public opinion shapes policy, etc.

Learning Outcomes:

By the end of this course, students should have been introduced to, and practiced:

1. Reading, briefing and understanding cases: identifying the procedural posture, legally significant facts, issues, rules, holding, reasoning, disposition, and relevance.
2. Carefully reading and analyzing statutes: breaking down statutes into component elements, and determining how statutes apply to facts.
3. Civic understanding: tracking and commenting on bills, understanding how legislation is introduced and proceeds through committees to a vote, understanding various fora for democratic engagement, understanding the interaction of local, state, federal and international laws.
4. Professionalism: engaging in civil discussion/dialogue using clear, precise, and respectful language.
5. Oral and Written Communication: public speaking, and writing legal briefs and memos.

Attendance:

On time attendance is mandatory. No absences are allowed during intersession, per ABA rules.

Grading:

Grades will be pass/fail (Honors, Credit, Low Pass, No Credit). Students will be evaluated based on participation and in-class activities. There will be several in-class assignment and a short out-of-class writing assignment after the last class meeting.

Reading Assignments:

Below are tentative reading assignments that may change, depending on our progress.

Day 1: Climate Change 101

Readings (before first class):

Climate Science Background:

IPCC report: Read pages 2-6 and 10-16. You do *not* need to know any scientific details, but be prepared to discuss the following questions in class: What are some changes in the Earth's climate system? What are the causes of these changes? What are the impacts of climate change? What are future risks/impacts of climate change, and are they irreversible?

http://www.ipcc.ch/pdf/assessment-report/ar5/syr/AR5_SYR_FINAL_SPM.pdf

NASA – Scientific Consensus on Climate Change: Skim this article on NASA's website, and be prepared to discuss the following questions: What percentage of scientists are in agreement on the causes of climate change? Did any of the agency statements about climate change surprise you (and why)?

<https://climate.nasa.gov/scientific-consensus/>

NASA – Global Temperature “Time Machine”: scroll across NASA's climate “time machine” until you reach the present year. What did global temperature look like in 1900, 1970, and today?

<https://climate.nasa.gov/interactives/climate-time-machine>

Strategies & Policies:

Climate Adaptation & Mitigation: Read the first part of this article (not the chart of strategies at the bottom), and be prepared to discuss: What is the difference between climate change mitigation and adaptation? What are some examples of mitigation and adaptation strategies?

<https://scied.ucar.edu/longcontent/climate-mitigation-and-adaptation>

Types of Policies: Read pages 4-10. Be prepared to discuss the difference between the following types of climate policies: cap-and-trade, emissions tax, and direct regulations.

<http://www.lop.parl.gc.ca/content/lop/researchpublications/prb0819-e.pdf>

Public Opinion & Politics:

“Is Journalism Failing on Climate?”: Read pages 2-4. Be prepared to discuss the “balance bias” in the popular press, and why this may pose challenges to public understanding of climate science.

<http://iopscience.iop.org/article/10.1088/1748-9326/7/4/041003/pdf>

President Trump's Executive Order on Climate Change: Skim the Executive Order to look for the major policy goals, as well as any climate policies that were revoked or rescinded.

<https://www.whitehouse.gov/the-press-office/2017/03/28/presidential-executive-order-promoting-energy-independence-and-economy-1>

Day 2: Climate on the International Stage

Readings:

Global Contributors to Climate Change:

Comparison of Global GHG Emitters: Explore the interactive chart and corresponding information. What are the three top global emitters? What is the largest emitting sector? What are trends among top emitters? Did any countries/trends surprise you?

<http://www.wri.org/blog/2017/04/interactive-chart-explains-worlds-top-10-emitters-and-how-theyve-changed>

United Nations Framework Convention on Climate Change (UNFCCC):

Read this short summary of the UNFCCC. How many countries ratified the convention? What is its goal? What delicate balance does it aim to strike?

http://unfccc.int/essential_background/convention/items/6036.php

UNFCCC: Read pgs. 10-15 (Article 4). What have the parties committed to?

http://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/convention.pdf

Kyoto Protocol:

Read this summary. What is the protocol's goal? Are all members agreeing to the same target(s)? Why and how does the agreement build in flexibility?

http://unfccc.int/kyoto_protocol/background/items/2879.php

Skim this chart. What, if anything, did the US commit to?

http://unfccc.int/kyoto_protocol/items/3145.php

US Senate Resolution 98, July 25, 1997: Read the Senate Resolution, and be prepared to discuss: What reasons are cited in the Senate's recommendation against the Kyoto Protocol? Do you agree?

<https://www.congress.gov/bill/105th-congress/senate-resolution/98/text>

Paris Climate Agreement:

Read this summary. What is the agreement's aim? What is a Nationally Determined Contribution (NDC)? How many countries have ratified the agreement?

http://unfccc.int/paris_agreement/items/9485.php

Paris Agreement: Skim Articles 4, 7, 9, 10, 11 & 13. Be prepared to discuss: What are the parties' major commitments under the agreement?

http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf

Nationally Determined Contributions (NDC's): Read the NDC for the United States. What has the US committed to? Read any other nation's NDC. How does it compare it to the US NDC?

<http://www4.unfccc.int/ndcregistry/Pages/All.aspx>

Day 3: Major Federal Climate Policies

Readings:

Clean Air Act (CAA):

Skim this overview, and consider the major aims of the CAA.

<https://www.epa.gov/clean-air-act-overview/clean-air-act-requirements-and-history>

Take note of the major impacts of the CAA.

<https://www.epa.gov/clean-air-act-overview/progress-cleaning-air-and-improving-peoples-health>

Massachusetts v. EPA:

This is the first time the Supreme Court considered the problem of climate change. Identify facts, issues, and rules. How does the court address standing, injury, and causation? What is the EPA required to do after this case?

<https://www.law.cornell.edu/supct/pdf/05-1120P.ZO>

American Electric Power v. Connecticut:

Identify facts, issues, and rules. At issue is whether federal courts will hear GHG regulation suits on a case-by-case basis or defer to the EPA. What are advantages and disadvantages of the court's approach?

<https://www.supremecourt.gov/opinions/10pdf/10-174.pdf>

Juliana v. US (AKA "Kids v. Climate Change"):

This is a constitutional case brought by young people against the US government for damaging the climate for future generations. Identify facts, issues, and rules.

<https://static1.squarespace.com/static/571d109b04426270152febe0/t/5824e85e6a49638292ddd1c9/1478813795912/Order+MTD.Aiken.pdf>

National Geographic Summary: How might the new administration impact this case?

<http://news.nationalgeographic.com/2017/03/kids-sue-us-government-climate-change/>

Clean Power Plan:

The CPP is President Obama's signature policy to tackle climate change. What is its aim?

<https://www.nytimes.com/2014/06/02/us/politics/epa-to-seek-30-percent-cut-in-carbon-emissions.html>

What impact might President Trump's EO on climate (Day 1 readings) have on the CPP?

Day 4: Major State Climate Policies

Readings:

Major State Policies:

AB 32: Read pgs. 1-3. What are the law's major objectives? What is the legislative purpose?
http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf

SB 97: Read pgs. 1-2. What are the law's major objectives?
https://www.opr.ca.gov/docs/SB_97_bill_20070824_chaptered.pdf

SB 350: Read the legislative counsel's digest. What are the law's major goals?
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB350

EO-B-30-15: Read Governor Brown's press release on EO-B-30-15, including the EO text. How does the Governor describe the EO's goals, and the international response to the EO?
<https://www.gov.ca.gov/news.php?id=18938>

CEQA (overview): Who must comply with CEQA, and what are its basic requirements?
<http://resources.ca.gov/ceqa/more/faq.html>

Cases:

CA v. San Bernardino (Settlement Agreement): Identify facts, and issues.
http://ag.ca.gov/cms_pdfs/press/2007-08-21_San_Bernardino_settlement_agreement.pdf

CREED v. City of Chula Vista: Identify facts, issues, and rules.
[https://scholar.google.com/scholar_case?case=7265330887771911915&q=Citizens+for+Responsible+Equitable+Environmental+Development+v.+City+of+Chula+Vista+\(2011\)+197+Cal.App.4th+327&hl=en&as_sdt=2006&as_vis=1](https://scholar.google.com/scholar_case?case=7265330887771911915&q=Citizens+for+Responsible+Equitable+Environmental+Development+v.+City+of+Chula+Vista+(2011)+197+Cal.App.4th+327&hl=en&as_sdt=2006&as_vis=1)

Center for Biological Diversity v. CA Dept. of Fish and Wildlife: Identify facts, issues, and rules.
<http://caselaw.findlaw.com/ca-supreme-court/1719578.html>

Pending California Bills:

SB 49: Skim the legislative counsel's digest. What are the bill's major goals?
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB49

SB 100: Skim the legislative counsel's digest. What are the bill's major goals?
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB100

Day 5: Climate at the Local Level

Readings:

San Diego Climate Action Plan (CAP):

What are five major strategies identified in San Diego's CAP (see page 5)? What are the citywide "co-benefits" of addressing climate change (see page 12)? How does the CAP interact with the City's General Plan, and CEQA (page 14-15)? What is the biggest emissions sector in San Diego (page 19)? What are the City's targets for clean energy and transportation, and what are some strategies the City plans to employ (pages 35-39)?

https://www.sandiego.gov/sites/default/files/final_july_2016_cap.pdf

San Diego City Attorney Memorandum MS 59:

Is San Diego's CAP legally binding? How does the CAP interact with state laws?

https://cdn.sandiegouniontrib.com/news/documents/2016/05/18/Climate_change_legal_analysis.pdf

"Report Card" on San Diego Region Climate Action Plans (CAPs):

How many legally binding climate plans are there in San Diego County? How do you think the structural elements and policy goals were chosen for this report card? Do you agree with these criteria?

<https://www.climateactioncampaign.org/wp-content/uploads/2016/12/CAP-Report-Card-12-8-16.pdf>

Sierra Club v. County of San Diego:

Identify facts, issues, and rules. What is the County required to do following this case?

<http://www.courts.ca.gov/opinions/nonpub/D064243.PDF>

Cleveland National Forest Foundation v. San Diego Association of Governments (SANDAG):

Identify facts, issues, and rules. What is SANDAG required to do following this case?

<https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/ct-app-slip-op-cleveland-nat-forest-foundation-v-sandag-d063288-11-24-2014.pdf>

Skim the Register of Actions: What is the status of this case? Take note of the various amicus briefs filed.

http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=2096944&doc_no=S223603