

Climate Change Law & Policy
University of San Diego School of Law
School of International Relations & Pacific Studies, UC San Diego
Spring/ Winter Quarter 2009

Professor Lesley McAllister

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Office Hours: Mon. and Wed. 2-4 pm
and by appointment

Class Time:

Wednesday, 6–8:50 pm

Class Dates: (1/7), 1/14, 1/21, 1/28

2/4, 2/11, 2/18, 2/25, 3/4 plus a 2-
hour session on Friday 2/21.

Class Location: University of San Diego School of Law, Classroom to be determined.

COURSE DESCRIPTION

This course explores the most significant law and policy issues related to climate change. Students will gain familiarity with the science of climate change, climate change laws and policies at the international, national and state levels, and climate change litigation. Climate change law is a rapidly expanding legal practice area, and this course will prepare students to engage with it.

REQUIRED READING

- 1) Gerrard, M. B., ed. (2007). Global Climate Change and U.S. Law, American Bar Association (hereinafter ABA).
- 2) Course Reader
- 3) Subscription to the Course TWEN site (see attached instructions).

GRADING

USD law students and UCSD graduate students will be graded separately. For both, course grades will be based on a research paper of 25 to 30 pages (double spaced, 12-point Times New Roman, 1-inch margins). Please include a table of contents at the beginning of the paper. Footnotes should be single-spaced, 10-point Times New Roman.

For USD: papers are due Friday 3/20 at 5 pm (80% of grade); rewrite of papers due on the last day of classes, Wednesday 4/29 (20% of grade).

For UCSD: papers are due Monday 3/16 at 5 pm.

Participation: Excellent class participation may increase your grade by a half-grade (e.g. moving your grade from a B to a B+). Deficient class participation may decrease your grade by a half-grade.

Reading Assignments

Session 0 (Wednesday 1/7) (just for UCSD students): Introduction to Law and Legal Institutions

Session 1 (Wednesday 1/14): The Science of Climate Change and Potential Impacts

- 1) ABA: 1-17
- 2) Synthesis Report of the IPCC 4th Assessment Report, Summary for Policymakers (2007) 23 pp.
- 3) Our Changing Climate: Assessing the Risks to California (2006). Sacramento: California Energy Commission, 16 pp.

Session 2 (Wednesday 1/21): Greenhouse Gas Reduction Strategies

- 1) Pacala & Socolow, "Stabilization Wedges: Solving the Climate Problem for the next 50 Years with Current Technologies," Science, August 13, 2004, 5 pp.
- 2) Hoffert, et al (2002) Advanced Technology Paths to Global Climate Stability: Energy for a Greenhouse Planet. Science 298: 981-987, 7 pp.
- 3) Vandenberg, "The Carbon-Neutral Individual" 82 New York University Law Review 1673 (2007)

Session 3 (Wednesday 1/28): International Law - United Nations Framework Convention on Climate Change, Kyoto, and post-Kyoto

- 1) ABA: 31-56
- 2) The United Nations Framework Convention on Climate Change, 25 pp., at <http://unfccc.int/resource/docs/convkp/conveng.pdf>
- 3) The Kyoto Protocol to the United Nations Framework Convention on Climate Change, 21 pp. at <http://unfccc.int/resource/docs/convkp/kpeng.pdf>
- 4) "Of Montreal and Kyoto: A Tale of Two Protocols," 31 Harvard Environmental Law Review 1 (2007).
- 5) Easterbrook, Who Loses -- and Who Wins? The Atlantic, April 2007, online at <http://www.theatlantic.com/doc/200704/global-warming>
- 6) Treaty Reading Exercise, "Analyzing and Understanding Treaties in the Area of International Environmental Law"

Session 4 (Wednesday 2/4): National Law: Europe and the US & the Role of Emissions Trading

- 1) ABA, 61-90, 651-657
- 2) The Hare and the Tortoise Revisited: The New Politics of Consumer and Environmental Regulation in Europe," British Journal of Political Science, Vol. 33, pp. 557-580 (October 2003).
- 3) Kruger and Pizer, Greenhouse Gas Trading in Europe: the New Grand Policy Experiment, Environment, vol 46, no. 8, pp. 8-23.
- 4) Bell, Ruth Greenspan. "Market Failure," The Environmental Forum, March/April 2006, pp. 28-33, at http://www.weathervane.rff.org/solutions_and_actions/International/Market-Failure_Environmental-Forum.pdf#search=%22ruth%20bell%20market%20failure%22

Session 5 (Wednesday 2/11): State and Local Action, with a focus on California

- 1) ABA 371-442 (skim)
- 2) AB 32 (Assembly Bill 32), The Global Warming Solutions Act (September 27, 2006), 13 pp.

- 3) California Air Resources Board, Timeline, California Global Warming Solutions Act, September 25, 2006
- 4) AB1493 (The Pavley Bill), 8 pp.
- 5) Engel, State and Local Climate Change Initiatives: What Is Motivating State and Local Governments to Address a Global Problem and What Does This Say About Federalism and Environmental Law? 38 Urban Lawyer 1015 (2006)

Session 6 (Wednesday 2/18): Climate Change and the Clean Air Act

- 1) ABA 133-145
- 2) Massachusetts v. Environmental Protection Agency (EPA) (edited), 127 S.Ct. 1438 (Apr. 2, 2007), 13 pp.
- 3) US EPA's Notice of Denial of ICTA's Petition for Rulemaking, 68 Federal Register 52922
- 4) CRS Report for Congress, California's Waiver Request to Control Greenhouse Gases Under the Clean Air Act, March 2008, 20 pp.
- 5) US EPA's Denial of Waiver, 73 Federal Register 12169, 12 pp.

Session 7 (Friday 2/20): Symposium: Federal Preemption or State Prerogative: California in the Face of National Climate Policy -- Attend the session of your choice (or the whole symposium!)

Session 8 (Wednesday 2/25): Climate Change and Environmental Impact Statements

- 1) Kevin T. Haroff And Katherine Kirwan Moore, Global Climate Change and the National Environmental Policy Act, 42 U.S.F. L. Rev. 155 (2007)
- 2) Dave Owen, Climate Change and Environmental Assessment Law, 33 Colum. J. Env'tl. L. 57, 2008
- 3) Center For Biological Diversity (CBD) v. National Highway Traffic Safety Administration (NHTSA) (edited) (9th Cir. 2007)
- 4) The People of the State of California v. the County of San Bernardino, Petition for Writ of Mandate, 15 pp., April 13, 2007, and Order Regarding Settlement, 11 pp., August 26, 2007

Session 9 (Wednesday 3/4): Climate Change and Human Rights

- 1) American Declaration on the Rights and Duties of Man, 1948 (doc posted to TWEN)
- 2) Summary, Petition to the Inter-American Commission on Human Rights Seeking Relief from Violations Resulting from Global Warming Caused by Acts and Omissions of the United States, December 7, 2005, available at http://www.earthjustice.org/library/legal_docs/summary-of-inuit-petition-to-inter-american-council-on-human-rights.pdf (pdf posted to TWEN)
- 3) Eric Posner, "Climate Change and International Human Rights Litigation: A Critical Appraisal," 155 University of Pennsylvania Law Review 1925 (2007).