

## **Climate Change Law**

**Law 656**

**Spring 2008**

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### **Meeting Times and Places**

Tuesdays and Wednesdays: April 1, 2, 8, and 9: 5:00-7:00 p.m. in the Middle Classroom

Friday April 4: 2:30-4:30

### **Overview**

Climate Change has emerged as the most important environmental issue and one of the key issues regardless of subject matter national and globally. This course will explore the developments in climate change law and policy. We will begin with climate change science and equity, examining the UNFCCC and the compliance mechanisms established under Kyoto Protocol. The course will then consider “litigation” approaches at the international level (e.g., petitions to the World Heritage Committee). We also conclude by examining US initiatives at the federal and state levels and domestic litigation approaches (MASS v. EPA, and nuisance actions) after considering one potential long-term solution to climate change.

### **Readings**

The readings for the course can be accessed through

- Links provided
- <sup>1</sup>Through Science Direct if noted by a superscript “1”
- <sup>2</sup>Through Lexis or Westlaw if noted by a superscript “2”
- <sup>3</sup>Course reserves if noted by a superscript “3”

### **Evaluation**

**Final Examination—80%.** 24hr take home examination, to be taken no later than April 19.

**Class Participation/Reading before Class—20%.** Being a short, intensive course that considers both international and domestic law in a burgeoning area with a focus on policy in addition to law, much of the course will not be structured around the “case” method. While I will lead discussions and present material, the success of this endeavor will depend on your active participation, discussion and insights. I am a firm believer that reading the assigned material before each class benefits you and the community, which is comprised of the members of this class. Thus, you are required to have read the material—no free-riding permitted.

## **April 1: Climate Change Science and Ethics and the Global Institutional Response**

### **Examine**

- United Nations Framework Convention on Climate Change, [http://unfccc.int/essential\\_background/convention/background/items/2853.php](http://unfccc.int/essential_background/convention/background/items/2853.php)
- Kyoto Protocol, [http://unfccc.int/essential\\_background/kyoto\\_protocol/items/2830.php](http://unfccc.int/essential_background/kyoto_protocol/items/2830.php)
- Bali Action Plan, [http://unfccc.int/files/meetings/cop\\_13/application/pdf/cp\\_bali\\_action.pdf](http://unfccc.int/files/meetings/cop_13/application/pdf/cp_bali_action.pdf)

### **Read**

- Intergovernmental Panel on Climate Change, Summary for Policymakers (2007), [http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4\\_syr\\_spm.pdf](http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr_spm.pdf)
- Hadjilambrinos C., For Richer or for Poorer? The Role of Science, Politics, and Ethics in the Global, Climate Change Policy Debate, Bulletin of Science, Technology & Society, 19(6): 521-531 (1999), [http://ceep.udel.edu/publications/energy/publications/1999\\_es\\_for\\_richer\\_for\\_poorer.pdf](http://ceep.udel.edu/publications/energy/publications/1999_es_for_richer_for_poorer.pdf)
- <sup>3</sup>Brett Simpson, Participation of Developing Countries in a Climate Change Convention Protocol, Asia Pacific Journal of Environmental Law, 7(1): 39-74 (2002)
- Ott, Herman E., Climate Policy Post-2012 – A Roadmap. The Global Governance of Climate Change, A discussion paper for the Tällberg Forum, [http://www.wupperinst.org/uploads/tx\\_wibeitrag/Ott\\_Taellberg\\_Post-2012.pdf](http://www.wupperinst.org/uploads/tx_wibeitrag/Ott_Taellberg_Post-2012.pdf)

## **April 2: Other International Responses to Climate Change**

### **Examine**

- World Heritage Convention, <http://whc.unesco.org/en/about/>
- Australia Blue Mountain Petition to the World Heritage Committee, <http://www.climatelaw.org/cases/country/intl/unescoozbmtns/>
- Inter-American Commission on Human Rights, <http://www.cidh.org/>
- 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, <http://www.inuitcircumpolar.com/files/uploads/icc-files/FINALPetitionICC.pdf>

### **Read**

- Thorson, E., The World Heritage Convention & Climate Change: The Case for Climate-Change Mitigation Strategy Beyond the Kyoto Protocol, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=981643#PaperDownload](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=981643#PaperDownload)
- Summary of Inuit Petition, <http://www.inuitcircumpolar.com/files/uploads/icc-files/FINALPetitionSummary.pdf>
- <sup>1</sup>EGENHOFER, The Making of the EU Emissions Trading Scheme: Status, Prospects and Implications for Business, European Management Journal, 25(6): 453-63 (2007) (available through Science Direct)

**April 4: One Long-term Response to Climate Change (2:30-4:30)**

Presentation and Panel Discussion on Wind Power and the Cape Wind Offshore Wind Power Project

**April 8: National Measures: US Federal and State Responses to Climate Change**

**Examine**

- Bush Administration Climate Change Fact Sheet, <http://www.whitehouse.gov/news/releases/2005/05/20050518-4.html>
- Asia-Pacific Partnership on Clean Development and Climate, <http://www.asiapacificpartnership.org/About.htm>
- RGGI, [www.rggi.org](http://www.rggi.org)

**Read**

- <sup>3</sup>Van Vuuren, Detlef, et al., An evaluation of the level of ambition and implications of the Bush Climate Change Initiative, *Climate Policy*, 2: 293-301 (2002)
- <sup>1</sup>Byrne, J., et al., American policy conflict in the greenhouse: Divergent trends in federal, regional, state, and local green energy and climate change policy, *Energy Policy*, 35: 4555-4573 (2007) (available via Science Direct)
- Potential Emissions Leakage and the Regional Greenhouse Gas Initiative (RGGI): Evaluating Market Dynamics, Monitoring Options, and Possible Mitigation Mechanisms, Report, [http://www.rggi.org/docs/il\\_report\\_final\\_3\\_14\\_07.pdf](http://www.rggi.org/docs/il_report_final_3_14_07.pdf) (read executive summary)

**April 9: When National Measures fall Short: Statutory vs. Common Law Approaches**

**Examine**

- Fish and Wildlife Polar Bear Issues and Proposed Rule to List Polar Bears under the Endangered Species Act as a Threatened Species, [http://alaska.fws.gov/fisheries/mmm/polarbear/pdf/Polarbear\\_proposed\\_rule.pdf](http://alaska.fws.gov/fisheries/mmm/polarbear/pdf/Polarbear_proposed_rule.pdf)
- Buck, Eugene, Polar Bears: Proposed Listing Under the Endangered Species Act, CRS Report to Congress (2007), <http://www.ncseonline.org/NLE/CRSreports/07Oct/RL33941.pdf>

**Read**

- *MASS v. EPA*, 127 S.C. 1438 (2007), <http://supremecourtus.gov/opinions/06pdf/05-1120.pdf>
- Doremus, Holly, Polar Bear Politics, [http://www.slate.com/id/2182307/pagenum/all/#page\\_start](http://www.slate.com/id/2182307/pagenum/all/#page_start)
- <sup>2</sup>*Connecticut v. AEP*, 406 F.Supp 2nd. 265 (S.D. NY 2005) (available Lexis and Westlaw)
- <sup>2</sup>*California v. General Motors Corporation*, (N.Dist. Cal. 2007) (available via Lexis and Westlaw)
- <sup>3</sup>*Comer v. Murphy Oil* (S.D. Miss 2007) (transcript on motion to dismiss)