

**LOYOLA LAW SCHOOL
LAW OF GLOBAL WARMING**

**SYLLABUS AND READING ASSIGNMENTS
Prof. Benson, 3-units, Spring 2010
Mon/Wed, 1:10 to 2:40 pm, Room Founders 236**

This course was added to Loyola's curriculum in 2006 as one of the first in the nation to deal solely with climate change law. Now, every law school has such a course. A world-wide consensus of scientists warns that human-made climate change is real and that it threatens unprecedented catastrophes around the globe, including California. A Pentagon report finds plausible that climate change may bring security risks worse than terrorism, with mega-droughts, widespread famine, rioting, and wars fought over survival rather than ideology or religion.

The course examines the science and economics of climate change, assesses the risks and the skeptics, and analyzes the complex legal framework of international, federal, state and local law and litigation that is being constructed to address the threat. The nations of the world are negotiating at Copenhagen a successor to the Kyoto Protocol; California--the world's 8th largest economy--surges ahead on its own with path-breaking climate change regulation; the U.S. Congress is struggling to produce significant legislation; and the Obama EPA has declared it is ready to regulate under the Clean Air Act. Yet science indicates that law and policy are falling far short of what is necessary to avert disaster.

Attendance, Recording: There are 28 classes. You may miss up to 3 without penalty. Any class may be recorded by Instructional Media Dept. without notice to me. You must request the Dept. directly yourself to do the recording.

Readings: Most readings are found on the Internet, since this field is moving faster than print. The seminar helps develop your Internet skills in this field by leading you to key websites. Other readings will be handed out in class. The one book for purchase is Robert Benson, *The Interpretation Game: How Judges and Lawyers Make the Law* (Carolina Academic Press 2008), important for understanding and predicting how the legal system deals with law in this (or any other) field.

I The Science

Class #1: • Film: "Six Degrees Could Change the World," National Geographic video. No reading assignment.

Class #2: • Finish film from last class. • Go to this website for the recent US government report on Climate Change:

<http://www.globalchange.gov/publications/reports/scientific-assessments/us-impacts/download-the-report>. Download and read just two chapters of the report: “Global Climate Change” and “National Climate Change.”

Class #3: • Finish discussion of US government report from last class. • Go to website of the Intergovernmental Panel on Climate Change (www.ipcc.ch/). Click on “About IPCC” in the left column. Read the new page that opens. Click on “How the IPCC is Organized,” in the left column and read that page. Now, return to the “About IPCC” page and open the “10th Anniversary brochure” at the foot of that page. Read the brochure’s Foreword and pp. 1-3. Now, return to the Homepage and click on “IPCC Reports” in the left column and read the page that opens. Be able to answer: what is the IPCC, how was it created, what is its relationship to the governments of the world, how does it prepare its reports?

Class #4: • Go to the website of the IPCC again (www.ipcc.ch/) and download and read the 18 page Summary for Policymakers of Working Group I (“The Physical Science Basis”) of the IPCC’s Fourth Assessment Report (2007).

- Read MIT’s updated projections of warming at this blog site:
<http://climateprogress.org/2009/05/20/mit-doubles-global-warming-projections-2/>

- Read updated estimate of sea-level rise by 2100 at this blog site:
<http://climateprogress.org/2009/12/09/sea-level-rise-six-feet-three-times-faster-than-the-ipcc-estimate/>

II The Consequences

Class #5: Again go to the website of the IPCC (<http://www.ipcc.ch/>) and from the homepage download and read the 22 page Summary for Policymakers Working Group II Report, “Impacts, Adaptation and Vulnerability.”

Class #6: • **Handouts:** “Warming debate shifts to ‘tipping point,’ “ Washington Post, Jan 28, 2006; Jeremy Rifkin, “The Crisis Under the Ice,” L.A. Times, August 9, 2007.

- Go to <http://www.enn.com/ecosystems/commentary/22810> to read “Tipping points in earth system not always smooth,” by Professor Tim Lenton.

Class #7: • Go to the website of the Global Business Network and

download the PDF file of a report, "Abrupt Climate Change," by two of its consultants for the Pentagon (<http://www.gbn.com/ArticleDisplayServlet.srv?aid=26231>). Read the entire 22 page document.

Class #8: California impacts:

No reading assignment. Illustrated lecture in class.

III The Skeptics

Class #9: • Go to the website of the Competitive Enterprise Institute (<http://www.cei.org/gencon/030,05331.cfm>) and download the pdf file "Global Warming FAQ--What Every Citizen Needs to Know About Global Warming" by Ian Murray. Compare what it says with the materials we have read so far.

- YouTube Video clips in class from Fox News (<http://foxattacks.com>)

• **Handouts:** i) SourceWatch, "Climate Change Controversy"; ii) Environmental Defense, "Global Warming Skeptics: A Primer"; iii) "Scientist to CEI: You Used My Research to Confuse and Mislead," www.factcheck.org/article395.html; iv) Naomi Oreskes, "Beyond The Ivory Tower: The Scientific Consensus on Climate Change," *Science*, Dec. 3, 2004; v) Peter Norvig Blog, "The Global Climate Change Consensus: My Experiment"; vi) Naomi Oreskes, "Global Warming--Signed Sealed and Delivered," L.A. Times, July 24, 2006, B11; vii) Joel Achenbach, "The Tempest," Washington Post, May 28, 2006. Michael Shnayerson, "A Convenient Untruth," Vanity Fair, May 2007, p. 142.

Class #10: The Hacked Emails:

- Read the blog by James Delingpole published by the Telegraph newspaper in Britain at <http://blogs.telegraph.co.uk/news/jamesdelingpole/100017393/climategate-the-final-nail-in-the-coffin-of-anthropogenic-global-warming/>

- Read the analysis of the hacked emails by the Union of Concerned Scientists at http://www.ucsusa.org/global_warming/science_and_impacts/global_warming_contrarians/debunking-misinformation-stolen-emails-climategate.html

IV Technical Solutions

Class #11: • Brief student oral reports to seminar on i) efficiency, ii)

solar, iii) wind, iv) geothermal, v) biofuels, vi) electric and hybrid cars, vii) fuel cells, viii) nuclear, ix) carbon sequestration, x) geoengineering. You will choose a topic and I will be working with you individually to supply many of the resources you will need to get a handle on it.

Class #12: Same as last class.

V Economics

Class #13 **Handouts:** • Paul Krugman, "Earth in the Balance Sheet," *Slate Magazine*, April 1997. • Freeman Dyson, "The Question of Global Warming," Book Review of Nordhaus's *A Question of Balance*, 55 *New York Review of Books*, Number 10 (June 12, 2008) • John Broome, "The Ethics of Climate Change: Pay Now or Pay More Later?" *Scientific American Magazine*, May 2008.

Class #14: Read "An Introduction to Global Warming Economics" at this blog site: <http://climateprogress.org/2009/03/30/global-warming-economics-low-cost-high-benefit/>

VI Legal Solutions

International

Class #15: • **Handout:** Hunter et al. *International Law & Policy* (2d ed. 2002), excerpts on environmental cliffs, scale of human impacts, physical limits of the biosystem, decision-making in the face of scientific uncertainty, precautionary principle.

Class #16: • **Handouts:** Hunter et al. *International Law & Policy* (3d ed. 2007), pages 662-667, on global politics of climate change. • Kyle Danish, "An Overview of the International Regime Addressing Climate Change," *Sustainable Development Law & Policy*, Winter 2007 (American University).

Class #17: Who is meeting their Kyoto targets? Read this: <http://www.pbl.nl/en/dossiers/COP13Bali/moreinfo/Industrialised-countries-will-collectively-meet-2010-Kyoto-target.html>

Class #18: What happened at Copenhagen?: • Go to the website of the Pew Center on Global Climate Change, the page on Copenhagen at <http://www.pewclimate.org/copenhagen/cop15>. Download and read the links there that will be announced in class.

Class #19: Same as last class.

Federal

Class # 21: Benson, *The Interpretation Game: How Judges and Lawyers Make the Law* (Carolina Academic Press 2008), Preface, Chapters 1 and 2.

Class # 22: Same book, Chapters 3 and 4, and Chapter 8's P.S. for Law Students.

Class # 23: *Massachusetts v. EPA*, 549 U.S. 497 (2007) (EPA has authority to regulate GHG under Clean Air Act). Download case from any available source and read majority and dissenting opinions.

Class # 24: *Connecticut et al. v. American Electric Power et al.* (decided September 21, 2009 (common law nuisance suits may be brought against GHG emitters) , available on website of U.S. Court of Appeals for 2d Circuit, <http://www.ca2.uscourts.gov/>). Case too long; read only pp 1-14.

Class # 25: Read about the House bill , Waxman-Markey, at <http://www.pewclimate.org/docUploads/Waxman-Markey-short-summary-revised-June26.pdf>. Read about pending Senate action here: <http://climateprogress.org/2009/12/10/graham-kerry-lieberman-embrace-bipartisan-climate-clean-energy-bill-market-based-system-obama-copenhagen-pledge/>

State and Local Government

Class # 26 : Go to the California Air Resources Board website at <http://www.arb.ca.gov/cc/ab32/ab32.htm>. Read that page's overview of A.B. 32. Then click on the following links on the left side of the page under Program Links: Cap-and-Trade Program, Clean Car Standard (Pavley), Economic Sectors, Implementation, Renewable Electricity Standard. Read each of those items.

Class # 27: On the same web page as last time, look on the left side of the page for Related Links, and click on California Adaption Strategy. When the link opens, click on Executive Summary and read that only.

Class # 28: • Study the information about the U.S. Mayors' Climate Protection Agreement found on the website of Seattle Mayor Greg Nickels (<http://www.seattle.gov/mayor/climate>). Click on Resources for Local Governments in the right column of the home page, and then click on Climate Action Handbook published by ICLEI, and browse through it.

**end of syllabus
updated 12/15/09**

