THE LAW OF CLIMATE CHANGE: DOMESTIC & TRANSNATIONAL
FALL 2013

Monday & Wednesday
7:15–8:35 p.m.
Earth Sciences Room 147
RPOS 399–0002
Class # 7532

Judge Eleanor Stein
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Office hours on request

SYLLABUS

COURSE OBJECTIVES:
This course is a general introduction to the body of domestic and global law that concerns issues raised by the crisis of catastrophic anthropogenic (human-caused) climate change. Our understanding of the impact of climate disruption on our world is expanding dramatically, and the law of climate change is changing fast as well.

In addition to the required readings, we will be watching ongoing developments in court cases, in decisions of the U.S. Environmental Protection Agency, and in the news. For example, the next global conference on climate change, looking for a replacement for the Kyoto Protocol which expired at the end 2012, will be held at the end of our semester. We will be keeping track of developments going into those negotiations: and we will be staging negotiations of our own in preparation.

The course will begin with a general overview of the science of climate change. During the first week of class we will be discussing the first two chapters of Bill McKibben’s recent book, EAARTH. We will then have a talk on Wednesday August 28, at our second class, by Professor Matthias Vuille, of the SUNYA Department of Atmospheric and Environmental studies, to explain current scientific thinking on climate change.

Next we will have an introduction to international environmental law, including the history of climate treaty law, up through discussion and some negotiation games focused on the forthcoming Qatar conference.

Turning to American law, we will begin by examining federal (national) law: the roles of the legislative, executive, and judicial branches of government. We will read recent court cases and the decisions of the federal Environmental Protection Agency concerning environmental standards for automobiles and power plants.
We will then turn our attention to what actions states and cities have taken to reduce fossil fuel use. We will look at the controversy in New York about hydrofracking for natural gas, and we will look at what our cities are doing to recover from Superstorm Sandy and to protect against future climate catastrophes.

Finally, we will explore the international human right to a clean environment, the right of nations to survive as land masses and cultures, and the attempts to locate and enforce those rights in international and U.S. law. Collectively, this is known as Climate Justice.

**THE WORK OF THE COURSE:**
The course will be posted on Blackboard, and all assignments will be given and handed in electronically.

The work of this course will be carried out in several forms:

- Class meetings
- Negotiation of next steps toward a climate treaty (handing in negotiation notes)
- Litigation of a state case concerning a power company
- A final examination. Students may choose to do a final paper or final presentation instead of the examination.

Your final grade will be based upon the following factors:
- Class participation – 10%
- Final paper/presentation/examination – 60%
- Other projects combined – 30%

The course and the syllabus are divided into an Introduction and four modules:

Introduction to climate science

Module I-international law of climate change

Module II- Federal law concerning climate

Module III - Regional, state and local sources of climate law

Module IV - Human rights and climate justice

**Required Materials:**
Bill McKibben, EARTH: MAKING A LIFE ON A TOUGH NEW PLANET (St. Martins, Griffin 2010)
Materials packet – available at the SUNYA bookstore

**Supplemental Materials:**
Web links and recent materials to be provided. News articles and blogs, on a weekly basis, such as the Columbia Law School Climate Change Center, http://www.law.columbia.edu/centers/climatechange; James Hansen’s website,

**INTRODUCTION TO THE COURSE AND TO CLIMATE CHANGE SCIENCE**

**Week One**
Reading: McKibben, EARTH, chapters 1 and 2.
Introduction to the course
Overview of climate science and law issues
Current developments in climate change science: Professor Matthias Vuille, Department of Environmental and Atmospheric Science, SUNY Albany

**Week Two**
Reading:
Bill McKibben in Rolling Stone Magazine: Global Warming’s Terrifying New Math

Introduction to Mitigation and Adaptation

**MODULE I:**
**INTERNATIONAL LAW OF CLIMATE CHANGE:**
**Weeks Three through Five**
Reading:
United Nations Framework Convention on Climate Change (1992)
United Nations, Copenhagen Accord (December 18, 2009)
United Nations, Cancun Agreements (December 2010)
United Nations, selections from the Durban conference (December 2011)
FIRST ASSIGNMENT:
Treaty negotiation -
  Team meetings to plan treaty negotiation
  Preparation for the negotiation
  Negotiation session in class
  Treaty Negotiation session.
  **Hand in individual product: your negotiation preparation outline.**

MODULE II: U.S. FEDERAL LAW OF CLIMATE
The Clean Air Act
Weeks Six and Seven
Overview of federal climate law issues
**US greenhouse gas emissions and Clean Air Act regulation**
**Reading:** Massachusetts v. EPA, 549 U.S. 497 (2007) (in packet)
EPA *Denial of the Petitions to Reconsider the Endangerment ...Findings*, (August 13, 2010), excerpts (in packet)
*Coalition for Responsible Regulation v. EPA* (D.C. Circuit June 2012), in packet

The public nuisance litigation
Week Eight
**Reading:** American Electric Power v. Connecticut, ___ U.S. ___ (in packet)

Week Nine
**Congressional action**
**Reading:** Ryan Lizza, “As the World Burns: How the Senate and the White House missed their best chance to deal with climate change,” on line at
http://www.newyorker.com/reporting/2010/10/11/101011fa_fact_lizza

MODULE III: REGIONAL, STATE AND LOCAL INITIATIVES
Weeks Ten through Twelve
**Reading:**
New York State Climate Action Council Executive Summary (packet)
California Law AB 32 (packet)
Materials on hydrofracking and climate change – to be distributed
State law assignment – to be distributed
MODULE IV:  
CLIMATE CHANGE AND HUMAN RIGHTS

Readings: Sheila Watt-Cloutier, 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, Summary (December 7, 2005)(packet)

Association of Irritated Residents v. California Air Resources Board, Excerpts (in packet)

New York State Department of Environmental Conservation, 6 NYCRR Part 487 Analyzing Environmental Justice Issues in Siting of Major Electric Generating Facilities (in packet)

Supreme Court decision on human rights and environment- Koebel v. Royal Dutch Petroleum