THE LAW OF CLIMATE CHANGE:
DOMESTIC & TRANSNATIONAL
FALL 2014

Monday & Wednesday
7:15–8:35 p.m.
Earth Sciences Room 147
RPOS 399–0002
Class # 7092

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Office hours Wednesday 6:00-7:00 p.m., Campus Center, on request

SYLLABUS

COURSE OBJECTIVES:
This course is a general introduction to the U.S. and global law about 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. The focus of this course is the impact of climate
change on human rights, both internationally and at home.

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 in
Lima, Peru. 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, and McKibben’s Rolling Stone magazine article, Global
Warming’s Terrifying New Math. A few weeks later we will have a guest lecturer,
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 Lima conference.

The next module of the course will follow up on international law principles to discuss
climate change and human rights in both global and U.S. law. 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.

Turning to our legal system, we will begin by examining federal (national) law: the roles of the legislative, executive, and judicial branches of government. We will read President Obama’s Climate Action Plan, recent Supreme 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 Hurricane Katrina and Superstorm Sandy and to protect against future climate catastrophes.

**THE WORK OF THE COURSE:**

Computer use and Internet access is required for this course. Most of the class meetings will be in person, but several will be on-line. The course will be posted on Blackboard, and all assignments will be given and handed in electronically as well as on paper.

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

- Class meetings and on-line work
- Negotiation of next steps toward a climate treaty (preparation in a group, one negotiation session, and handing in negotiation notes)
- Case briefs for state case concerning climate justice
- A final open-book, take-home examination. Students may choose to do a final paper or final presentation instead of the examination.

Your final grade will be on a scale of A – F. The grade will be based upon the following factors:

- Class participation – 10%
- Final paper/presentation/examination – 60%
- All other projects combined – 30%

Attendance will be taken at each class and the SUNYA attendance policy is in effect for this class. Because this is a discussion class, attendance is critical in keeping up with the work of the course. The University's Medical Excuse Policy can be found at: [http://www.albany.edu/health_center/medicalexcuse.shtml](http://www.albany.edu/health_center/medicalexcuse.shtml).

Students are expected to complete the readings before class, and will be called on to discuss the reading in class discussions. Students will also be assigned to report on specific readings, and that work will be reflected in your class participation grade.

In addition, the University standards of academic integrity are in effect in this class, particularly important as the final examination is a take-home. This policy is found at: [http://www.albany.edu/undergraduate_bulletin/regulations.html](http://www.albany.edu/undergraduate_bulletin/regulations.html).
**Required Materials:**
Bill McKibben, *EAARTH: 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](http://www.law.columbia.edu/centers/climatechange); James Hansen’s website, [http://www.columbia.edu/~mhs119/](http://www.columbia.edu/~mhs119/); the climate tracker site (calculating the effect of various government pledges or programs on emissions) [http://climateactiontracker.org/countries/usa.html](http://climateactiontracker.org/countries/usa.html), [www.350.org](http://www.350.org), [www.nrdc.org](http://www.nrdc.org), [www.nature.org](http://www.nature.org); the United Nations site about the global negotiations, at [www.unfccc.org](http://www.unfccc.org). Please add to this list based on other sites or blogs you find useful and reliable.

**INTRODUCTION TO THE COURSE and to CLIMATE CHANGE SCIENCE**
**Weeks One and Two**- Monday August 25 – Wednesday August 27
Monday September 1 - NO CLASS – LABOR DAY
Wednesday, September 3

**Reading:** McKibben, *EAARTH*, chapters 1 and 2.

Introduction to the course
Overview of climate science and law, and human rights and climate justice

**Module I:**
**International Law of Climate Change:**
**Weeks Three through Six** – September 8-10; 15-17, 22-24, and September 29-October 1, October 3
**Reading:** [in the materials packet]
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)
In this course module you will be introduced to international law, and you will read and we will discuss the major climate change international agreements, or treaties. You will be assigned in groups to represent a country or group of countries (the U.S., China, Europe, Bolivia, South Africa, and the Small Island States). In that role, you will participate in our own climate negotiation, on October 1. This assignment will be graded on both your participation in the negotiation itself, and your preparation materials. Two of these classes will be on-line only, on September 15-17.

Wednesday, September 24: NO CLASS-ROSH HASHANAH

FIRST ASSIGNMENT:
Treaty negotiation -
- Team meetings to plan treaty negotiation
- Preparation for the negotiation
- Negotiation session in class
- October 1 - Treaty Negotiation session.
- October 3 - Hand in individual product: your negotiation preparation outline.

MODULE II
CLIMATE CHANGE AND HUMAN RIGHTS
Weeks Seven – Nine, October 6-8, 13-15
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)

The class on Monday October 6 will on-line only.

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)

The atmospheric trust litigation -

SECOND ASSIGNMENT – BRIEF OF ATMOSPHERIC TRUST CASES
Due October 15

MODULE III: U.S. FEDERAL LAW OF CLIMATE
The Clean Air Act
Weeks Ten – Thirteen, October 20-22, 27-29, November 3-5
Overview of federal climate law
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)

The public nuisance litigation
Reading: American Electric Power v. Connecticut (in packet); Reading (or listen to virtual lecture at): http://www2.law.mercer.edu/elaw/stein.html; Global Warming: Public Nuisance or Political Question?

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
Reading: The Keystone XL pipeline – in this very current controversy, articles for and against will be distributed; discussion of oil and climate justice in Albany

MODULE IV: REGIONAL, STATE AND LOCAL INITIATIVES: adaptation
Weeks Fourteen-end, November 10-12, November 17-19, November 24
THANKSGIVING BREAK – NO CLASS November 26
December 1-3, December 8 (last day of class)
Reading:
The Regional Greenhouse Gas Initiative Memorandum of Understanding (Packet)
the Carbon Trading Game (to be distributed)
California Law AB 32 (packet)
Materials on hydrofracking and climate change –Thrun v. Cuomo (materials)
Reading: Town of Dryden; the hydrofracking controversy; and A Stronger, More
The challenges of adaptation – New York City Report: A Stronger, More Resilient New York, excerpts; New York State Public Service Commission, Con Edison Rate Case Opinion, excerpts, to be provided.

FINAL PRESENTATIONS WILL BE HELD ON DECEMBER 1-3 AND DECEMBER 8.
FINAL PAPERS WILL BE DUE ON LINE AND ON PAPER ON DECEMBER 8, THE LAST DAY OF CLASS.
THE TAKE-HOME, OPEN-BOOK FINAL EXAMINATION WILL BE POSTED ON BLACKBOARD ON MONDAY DECEMBER 8 AT 9:00 A.M. AND WILL BE DUE ON BLACKBOARD ON WEDNESDAY DECEMBER 10 AT 11:00 P.M.