

NATURAL RESOURCES LAW

LAW 552:B1

Fall 2011

COURSE OUTLINE

Professor E.L. HUGHES
445 Law Centre

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Office Hours: Students are encouraged to make appointments to see me, but may also consult me after class or during my posted office hours.

I. GENERAL DESCRIPTION AND OBJECTIVES

The first half of the course is designed to examine issues related to the management and sustainable development of Crown-owned natural resources. It includes a survey of: fundamental policy issues surrounding public resource ownership; constitutional and proprietary jurisdiction over resources; resource management planning; methods of rights acquisition and disposition; and project-specific regulation.

The second half of the course is designed to explore additional topics in natural resource management as determined by student interests and current events, in areas such as forestry, water law, mining, fisheries, agriculture, energy and wildlife management.

Skills you will practice and develop include: library and internet research; critical analysis and legal writing; and oral presentation.

II. LEARNING RESOURCES

Recommended:

Natural Resources Law E-Reserve Page
<http://www.library.ualberta.ca/permalink/opac/4389327>

E. Hughes, *Cases and Materials on Natural Resources Law* (2011) - available at the law school.

Additional References:

M. Howlett & K. Brownsey, *Canada's Resource Economy in Transition* (Toronto: Emond Montgomery, 2008)

M. Hessing, M. Howlett, and T. Summerville, *Canadian Natural Resource and Environmental Policy*, 2nd (Vancouver: UBC Press, 2005)

D.R. Boyd, *Unnatural Law*, (UBC Press, 2003)

B. Mitchell, ed., *Resource and Environmental Management in Canada*, 4th (Oxford: Oxford U. Press, 2010)

K. Hanna and D.S. Slocombe, *Integrated Resource and Environmental Management* (Don Mills: Oxford U Press, 2007).

N. Bankes & J.O. Saunders, eds. *Public Disposition of Natural Resources* (1984)

A. Greenbaum et al., eds. *Canadian Issues in Environmental Law and Policy* (Captus Press, 2009)

Additional Sources:

The Canadian Institute of Resources Law has a number of excellent publications on natural resources law, available in the law library. The CIRL website is at <http://www.cirl.ca>

The Environmental Law Centre also has a number of excellent resource and environmental publications, available at the law library. The Environmental Law Centre also has a library that is open to the public. They are at #800, 10025 - 106 Street, telephone: (780) 424-5099. Their website is at <https://www.elc.ab.ca/home/index.cfm>.

Additional websites include:***Government***

Natural Resources Canada

<http://www.nrcan-rncan.gc.ca/com>

Commissioner of the Environment and Sustainable Development

http://www.oag-bvg.gc.ca/internet/English/cesd_fs_e_921.html

Alberta Sustainable Resource Development

<http://www.srd.gov.ab.ca/>

Alberta Land Use Framework

<http://landuse.alberta.ca>

Alberta Energy

<http://www.energy.gov.ab.ca/>

Energy Resources Conservation Board

<http://www.ercb.ca>

Natural Resources Conservation Board

<http://www.nrcb.gov.ab.ca/home/default.aspx>

Alberta Utilities Commission

<http://www.auc.ab.ca>

Other NGOs

The Pembina Institute

<http://www.pembina.org/>

Canadian Institute of Environmental Law & Policy

<http://www.cielap.org/>

Ecojustice

<http://www.ecojustice.ca>

Resources and Assistance for Students:

Students who require accommodations in this course due to a disability affecting mobility, vision, hearing, learning or mental or physical health are advised to discuss their needs with Specialized Support and Disability Services, 2-800 SUB, 492-3381 (phone) or 492-7269 (TTY), <http://www.ualberta.ca/ssds/>.

Information about the grading system is available at <http://www.registrar.ualberta.ca/ro.cfm?id=183>.

III. COURSE EVALUATION

There are three components to your evaluation

- (a) participation
 - worth 15% of the final grade
 - two areas on which participation will be evaluated:
 - (1) oral seminar presentation
 - (2) classroom participation and background work
- (b) paper proposal
 - worth 10% of final grade
- (c) research and writing
 - paper - worth 75% of final grade

(a) Participation

Worth 15% of the final grade. There are two components to the participation grade upon which you will be evaluated:

- (1) an oral seminar presentation – (15%)
- (2) classroom participation (P/F)

Details of these criteria are as follows:

(1) Student Seminars

Worth 15% of the final grade. Each student will be required to facilitate a seminar on a specific natural resources law topic. Student facilitators may choose to lead a seminar either on the same topic they will be exploring in their research papers (see below), or on any other topic approved in advance by the instructor. Each formal presentation will be approximately 20 minutes in length, followed by a question and answer period. Students who are not leading the seminar should be prepared to discuss issues raised by the relevant casebook readings, if any, assigned by the seminar facilitator.

Seminar dates will be assigned on a first come, first served basis. A sign up sheet for dates and times will be posted outside Room 445 in mid-September, 2011.

Seminar facilitation will be evaluated on: clarity; organization; pace; encouragement of class participation and discussion; usefulness of handouts and illustrations; current and accurate content; identification of key issues; strength of critique or analysis; informative nature of presentation; ability to answer questions effectively; originality; depth; and, consideration of alternatives and counter arguments to your central proposition(s).

The specific topic for your seminar should be approved in principle by the instructor no later than **October 6, 2011**.

(2) Classroom Participation and Background Work

Marked on a Pass/Fail basis. Any student who does not obtain a grade of “pass” will be required to complete a written assignment and receive a passing grade on that assignment in order to receive a passing grade in the course. Students are expected to contribute regularly to classroom discussions and to participate in in-class exercises. Effective, thoughtful and constructive participation is

grounded in regular attendance, preparation by completion of background readings, self-motivation and respect for fellow participants. Class participation is an opportunity to share insights and information with each other, and to further mutual learning and thinking. Remember to focus on the course content and the educational purposes of discussions and activities.

To assist the instructor in the evaluation of your participation, you are entitled to submit a short record of your participation. In it you could highlight activities such as the extent of background preparation for each class that you completed (including assigned readings), or any other activities in which you have engaged that contribute to an improved classroom learning environment, or made up for missed attendance. The idea is to inform the instructor of preparation and participation about which she might otherwise be unaware. (Include only activities other than your work on your research paper). If you choose to submit a participation record, it is due by 4:00 p.m. on December 6, 2011.

(b) Paper Proposal

Students are required to submit a research **paper proposal**, which will be worth 10% of the final grade.

You should begin your research early in the term and see the instructor promptly if you have difficulty selecting a topic. The proposal for your research paper must contain:

- (a) a one or two sentence statement of your **thesis**;
- (b) a breakdown of the structure of your paper, using headings and subheadings (approximately 2-3 pages) and including the major primary law sources (cases, statutes) to be addressed, and
- (c) a **bibliography** containing a **list** of monographs and periodical literature read to date (one or more pages).

Proposals must be typewritten and double-spaced. Use footnotes as appropriate. Proposals must be submitted by 4:00 p.m. on **November 3, 2011**.

Proposals will be evaluated on (and you will be given feedback about): the depth and currency of your research; your writing and citations; the clarity and development of your thesis; the structure, organization, length and coverage of the paper; and the topic's originality.

(c) Research and Writing

Each student is required to submit a research paper, which will be worth 75% of the final grade. It is expected that the paper will be 6000-6250 words in length and in any event *may not exceed* 7000 words maximum length. Research papers must be typewritten and double-spaced. A bibliography must be attached. Footnotes or endnotes are *included in the word limit*; the Bibliography is in addition. Gender neutral or gender inclusive language is preferred. Papers which exceed the maximum length will have marks deducted. Your research paper must be on the topic set out in your paper proposal, unless written approval for an alternative topic is received from the instructor.

Research papers will be evaluated on: the depth and currency of your research; your demonstrated, accurate understanding of the subject area; organization, clarity and writing skills (including proper English usage); consideration of alternatives and counter arguments; and, the originality and depth of your critical analysis. Students are expected to state a proposition or thesis and develop that thesis in the paper. Papers which are purely descriptive are discouraged and will be penalized.

Proper footnotes are essential. **Quote** all sources of ideas, words, phrases and statistics, including the source of your idea for a thesis, when these are drawn from another person. Re-wording other authors' work is bad writing, still requires you to use footnotes and still requires quotation of *all* words you did not rephrase or replace. Failure to do so is plagiarism and will result in proceedings being taken against you. For further details about the University plagiarism rules, consult the Code of Student Behaviour. If you are uncertain about how to quote a source, speak to the instructor **before** your assignment is handed in.

Any research involving human participants must be approved **in advance** by the SLREB (University ethics Board). **This includes oral interviews** by telephone or in person, whether of professors or other experts, if their replies will be relied upon as an expert opinion/information source in your paper. (General background consultations are not included). Failure to obtain advance permission will result in the removal of the data from your paper. For more information see the Associate Dean Graduate Studies and Research and the Law Faculty web page.

Paper must be submitted by 4:00 p.m. on **December 6, 2011**. **Papers which are late will be penalized by a grade deduction of 5% per day**, except under those circumstances that would permit a deferral of a final examination in accordance with the Law Faculty Policy.

IV. COURSE TOPICS AND READINGS

Casebook readings are arranged under the following broad topic headings so that you can read along as the course progresses. A more detailed schedule will be developed once class size (and hence the time, and topics reserved for student seminars) is finalized in mid-September.

Additional readings may be distributed in advance of the student seminars.

- Fundamental Concepts and Policy
 - History of Resource Management
 - Sustainable Development
 - Globalization
- Crown Ownership: Sources and Significance
- Jurisdiction Over Resources
 - Domestic
 - Aboriginal
 - International
- Public Land Management
 - Planning
 - Land Stewardship Initiative
 - Takings and Valuation
- Resource Allocation and Rights Dispositions
 - Contracts
 - Statutory Interests
 - Private Ownership
- Project-Specific Regulation
 - Regulatory Agencies
 - Project Review and EIA
 - Ongoing Regulation: options and models

- Sectoral Overviews
- Student Presentations (Topics TBA)

V. IMPORTANT DATES AND DEADLINES

September 8	Classes begin
Mid-September	Sign up for seminar dates
October 6	Deadline for approval of topics
November 3	Deadline for submission of paper proposal
November 10 & 11	Fall Term Break and Remembrance Day
December 6	Deadline for submission of both the participation record (if any) and the research paper; classes end