

## **Environmental Law: EESD13H3**

Fall Term 2021

Pre-recorded Lectures/Live seminar/webinar, Thursday 7:00 – 9:00

Course Instructor: Graham Rempe  
[graham.rempe@utoronto.ca](mailto:graham.rempe@utoronto.ca)

Your primary contact for assignment work should be Eden Hataley, our course TA  
[Eden.hataley@mail.utoronto.ca](mailto:Eden.hataley@mail.utoronto.ca)

Office hours will be held by prior written appointment via Zoom meeting.

### **Course description**

Law, policy, and ethics are key in understanding how we respect, manage and utilize our environment. This course will introduce students to basic principles of environmental law. What is it? How did it evolve? Does it deal fairly with resource preservation, use and allocation? Can it deal with complex emerging problems such as climate change, species at risk, accumulation of toxics, and urban sprawl?

We will review the state of the environmental law, with an emphasis on topical issues in Toronto, Ontario, and Canada. Throughout the course, students will be asked to consider the ethical foundations for environmental laws, and their capability of addressing today's challenges.

We will also consider how to present information in a legal setting. Students will be required to research and prepare a presentation on a current issue in environmental law. This work will be done individually, and as a group, using the tools available on Quercus.

**All students will be expected to have a secure internet connection and a familiarity with Quercus and Zoom.**

**Webinars will be recorded and posted on Quercus.**

**Any course materials are not to be reproduced or distributed without my express written consent.**

## Learning Objectives

- 1. Develop a basic understanding of environmental law**
- 2. Learn to apply the ethical principles of environmental law to current problems**
- 3. Improve ability to prepare, present and defend environmental evidence**

## Assessment

### Environmental Assignment (40%)

This assignment builds over the semester (3 parts). Students will select a topic from the list offered (see quercus) or propose their own topic. **All topics must be approved in writing by me, and finalized by Sep 16. If you do not choose a topic, you will be randomly assigned to one on that date.**

Part 1: An individual Title/Overview/Bibliography worth **5%** must be filed on Quercus by September 30. (Max 200 words excluding bibliography)

Part 2: A GROUP presentation worth **15%** will be scheduled for the ninth or tenth weeks (November 11 or 18). All presentations **must** be scheduled by October 19. **In class time will be made available to discuss group assignment strategy and related issues.**

Part 3: An individual FINAL paper worth **20%** - must be filed on Quercus by December 2 (Max 1500 words exclusive of bibliography).

### Quizzes

There will be a series of four quick quizzes (all open book) worth a total of 50%:

- webinar 3 (Sep 23), 10
- webinar 5 (Oct 7), 15%
- webinar 8 (Nov 4), 15%
- webinar 11 (Nov 25), 10%

**Quizzes will be available on Quercus, during the webinar or for a specified period.**

Questions will be short answer, true/false, multiple choice, etc. Class time will be available for prep or review questions if any. Old quiz examples are available on Quercus. Students will be required to acknowledge their academic integrity obligations in writing for each quiz (e.g no chat rooms during testing).

### **Participation**

There will be a 10% mark, based on attendance and participation in both online and live seminar/webinar activities (polls, surveys, quizzes, discussions, etc) as well as in the group presentation. Legitimate COVID related or other issues will be accommodated through alternate means of assessment as required if necessary.

### **Final Exam**

There will be no final exam

## **Learning Activities**

### **Asynchronous Lecture Modules**

**Online – at your own pace, but before the weekly webinar**

Twelve basic lecture modules will be pre-recorded and loaded on Quercus through the term. Usually as a series of items.

Students will have access to these materials at least four days in advance of the seminar/webinar. These lecture modules will remain available all term.

Lectures may be accompanied by discussions, surveys, etc, within each module. These should also be completed before the webinar as they provide feedback and will be considered in the participation mark). Modules will be reviewed and discussed in the webinar.

### **Synchronous “LIVE” Webinars**

Twelve live webinars will be held using Zoom during the assigned Thursday evening class time slot. These will start at 7 p.m. and will run until 9 p.m. EST (at the latest), depending on scheduled activities. Usually, the webinar will be shorter to reflect time spent on asynchronous content in prep for the webinar

The details of the weekly webinar schedule are set out below. They may need to be modified a bit based on class size, or other contingencies.

**Note that the webinar times may be extended if required in webinars 9 and 10 (Nov 11 and 18) in order to accommodate student presentations.**

## Course Materials

You are responsible for:

- all of the online lecture contents, and materials posted on Quercus as well as any materials presented during the webinars by guest lecturers, other students in the course as part of their assignment etc.
- DeMarco, Jerry V. **Building a Strong Foundation for Action: A Review of Twelve Fundamental Principles of Environmental and Resource Management Legislation.** *Journal of Environmental Law and Practice* 19.1 (Oct 2008): 59-69. See link on [Quercus](#)

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Additional reference texts are:

- Benidickson – Essentials of Canadian Law – Environmental Law (3d. ed.) Irwin Law Inc. Toronto, 2009 – available at the library <http://go.utlib.ca/cat/6664646> (print) - <http://go.utlib.ca/cat/8283066> (online)
- Boyd, Unnatural Law. Rethinking Canadian Environmental Law and Policy. Vancouver: UBC Press, 2003 - <http://go.utlib.ca/cat/4999129> (print), <http://go.utlib.ca/cat/9091509> (ebook)
- Estrin et al, Environment on Trial (3d ed.). Toronto: Emond Montgomery, 1993- available at the library <http://go.utlib.ca/cat/3414114>

Some of these materials are available on reserve. See *Library Reading List* tab on Quercus. Some reserves may be restricted as a result of COVID.

## Weekly Synchronous “Live” Webinar/Lecture Schedule

Date	Title of webinar	Overview of webinar	Readings and due dates
September 9	Webinar 1- Who speaks for the triffula trees?	Module 1: brief review and discussion Discuss assessment (review, research, quiz tips) Discuss assignment. Identify issues for assignment/teams Exercise – How many cod can you catch? (And other Tragedies of the Commons)	Doodle poll for assignment topic selection – complete after <a href="#">webinar</a>  Review module 1 video on Quercus Read - DeMarco paper (linked on quercus and on reserve) Optional - read Muldoon et al (“text”) ch. 1-4
September	Webinar 2 -	Module 2: brief review and	Review module 2 video on Quercus

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16	Sources of law from Hammurabi to Judge Judy	discussion. ALL ASSIGNMENT GROUPS WILL BE FINALIZED TODAY Tips for quiz prep	Read - DeMarco paper Read -DeMarco paper Optional - read text ch. 1-4
September 23	Webinar 3 - Environmental Rights - In search of the Holy Grail!	Module 3: brief review and discussion Assignment update: discussion groups, WIKIs, etc	<b>QUIZ 1 (10%). Accessible on Quercus after class for 24 hours, one hour to complete quiz once you start.</b>  Review module 3 video on Quercus Optional - text ch 12 Optional - reading on environmental rights in Ontario <a href="https://www.ontario.ca/page/environmental-bill-rights">https://www.ontario.ca/page/environmental-bill-rights</a> <a href="https://ecojustice.ca/environmental-regulations-rollback-covid-19/">https://ecojustice.ca/environmental-regulations-rollback-covid-19/</a>
September 30	Webinar 4 – Legislation. Why is the law like hot dogs?	Module 4: brief review and discussion Exercise – Legal Research overview Quiz 1 review	<b>Assignment Part 1 (5%) - Due on Quercus by midnight</b>  Review module 4 video on Quercus Optional - read text ch.2, 10 Optional - reading on climate change litigation <a href="https://www.siskinds.com/citizen-suits-against-the-government-for-ghg-emissions/">https://www.siskinds.com/citizen-suits-against-the-government-for-ghg-emissions/</a> <a href="https://www.bennettjones.com/Blogs-Section/Charter-Challenge-for-Stable-Climate-System">https://www.bennettjones.com/Blogs-Section/Charter-Challenge-for-Stable-Climate-System</a> <a href="http://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2020/07/Global-trends-in-climate-change-litigation_2020-snapshot.pdf">http://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2020/07/Global-trends-in-climate-change-litigation_2020-snapshot.pdf</a> <a href="https://www.nature.com/articles/d41586-020-00175-5">https://www.nature.com/articles/d41586-020-00175-5</a> <a href="https://www.whitecase.com/sites/default/files/2019-11/thought-leadership-climate-change-litigation-new-class.pdf">https://www.whitecase.com/sites/default/files/2019-11/thought-leadership-climate-change-litigation-new-class.pdf</a>
October 7	Webinar 5 - Courts and Tribunals. Here comes the Judge!	Module 5: brief review and discussion	<b>QUIZ 2 (15%). Accessible on Quercus after class for 24 hours, one hour to complete quiz once you start.</b>  Review module 5 video on Quercus Optional - read text ch. 1-4
<b>October 14</b>	<b>No Webinar</b>	<b>Reading week</b>	<b>Don't forget to read that DeMarco paper!</b>
October 21	Webinar 6 - Evidence,	Workshop on procedure, evidence and the “expert” witness	Review module 6 video on Quercus Optional - reading on expert witnesses

	Science and Expertise. Show me the goods.	Writing reports and giving testimony Assignment update - Finalize schedule for presentations (Webinars 9 and 10) Quiz 2 review	in the courts <a href="https://www.canadianlawyermag.com/practice-areas/litigation/in-search-of-the-right-expert-witness/270469">https://www.canadianlawyermag.com/practice-areas/litigation/in-search-of-the-right-expert-witness/270469</a> <a href="https://www.beardwinter.com/content/uploads/1451925100ARoadMaptotheAdmissibilityofExpertEvidence.pdf">https://www.beardwinter.com/content/uploads/1451925100ARoadMaptotheAdmissibilityofExpertEvidence.pdf</a> <a href="https://www.cba.org/Sections/Insurance-Law/Articles/2018/Expert-or-advocate">https://www.cba.org/Sections/Insurance-Law/Articles/2018/Expert-or-advocate</a>
October 28	Webinar 7 - Command and Control: Command. In a good way...Setting Standards	Module 7: brief review and discussion Quiz 3 prep	Review module 7 video on Quercus <b>Optional</b> - text ch. 5,6,8 Optional - reading on effect of COVID on environmental regulation: <a href="https://gowlingwlg.com/en/insights-resources/articles/2020/update-changes-environmental-obligations-covid-19/">https://gowlingwlg.com/en/insights-resources/articles/2020/update-changes-environmental-obligations-covid-19/</a> <a href="https://www.fasken.com/en/knowledge/2020/04/8-covid-19-environmental-compliance">https://www.fasken.com/en/knowledge/2020/04/8-covid-19-environmental-compliance</a> <a href="https://sustainability.freshfields.com/post/102gaq8/does-a-sustainable-recovery-align-with-the-economic-imperative-a-look-at-recover">https://sustainability.freshfields.com/post/102gaq8/does-a-sustainable-recovery-align-with-the-economic-imperative-a-look-at-recover</a>
November 4	Webinar 8 - Command and Control: Control. In a serious way. Compliance and Enforcement	Module 8: brief review and discussion Review tips for writing reports	<b>QUIZ 3 (15%) Accessible on Quercus after class for 24 hours, one hour to complete quiz once you start.</b>  Review module 8 video on Quercus Optional - text ch. 5,6, 8 Optional - reading on the significance and proof of due diligence: <a href="https://www.airdberlis.com/insights/publications/publication/due-diligence-a-brief-refresher">https://www.airdberlis.com/insights/publications/publication/due-diligence-a-brief-refresher</a> <a href="https://www.mondaq.com/canada/environmental-law/569944/what-is-environmental-due-diligence">https://www.mondaq.com/canada/environmental-law/569944/what-is-environmental-due-diligence</a> <a href="https://www.willmsshier.com/docs/default-source/articles/directors-and-officers-environmental-liability.pdf?sfvrsn=db2055d5_2">https://www.willmsshier.com/docs/default-source/articles/directors-and-officers-environmental-liability.pdf?sfvrsn=db2055d5_2</a>
November 11	Webinar 9 - Indigenous consultation and accommodation. The Role of the Municipality	Module 9: brief review and discussion Review quiz 3  <b>STUDENT PRESENTATIONS (15%). SUMMARIES OF GROUP PRESENTATIONS MUST BE FILED ON QUERCUS BY END OF NOV 10.</b>	Review module 9 video on Quercus Optional - text ch. 3 Optional - reading on indigenous consultation and accommodation: <a href="https://www.cba.org/cba/cle/PDF/Constit09_Sterling_paper.pdf">https://www.cba.org/cba/cle/PDF/Constit09_Sterling_paper.pdf</a> <a href="https://westawaylaw.ca/consultation-and-accommodation/">https://westawaylaw.ca/consultation-and-accommodation/</a> <a href="https://www.oktlaw.com/scc-clarifies-role-national-energy-board-consultation-process/">https://www.oktlaw.com/scc-clarifies-role-national-energy-board-consultation-process/</a> <a href="https://www.stikeman.com/en-ca/kh/canadian-energy-law/Reconciling-the-Honour-of-the-Crown-and-the-Duty-to-Consult">https://www.stikeman.com/en-ca/kh/canadian-energy-law/Reconciling-the-Honour-of-the-Crown-and-the-Duty-to-Consult</a> <a href="http://www.newrelationshiptrust.ca/wp-content/uploads/2019/05/Consultation-and-">http://www.newrelationshiptrust.ca/wp-content/uploads/2019/05/Consultation-and-</a>

			<p><a href="#">Accommodation-Best-Practices-FINAL-Feb2019.pdf</a>                  Optional text ch. 8                  Optional - reading on the principle of subsidiarity:  <a href="https://www.lerners.ca/learn/climate-cases/">https://www.lerners.ca/learn/climate-cases/</a>  <a href="https://commentary.canlii.org/w/canlii/2019CanLIIDocs2719#!fragment//BOCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoByCgSgBplfTCIBFRQ3AT0otokLC4EbDtyp8BQkAGU8pAELcASgFEAMioBqAQQByAYRWISYAEbRS2ONWpA">https://commentary.canlii.org/w/canlii/2019CanLIIDocs2719#!fragment//BOCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoByCgSgBplfTCIBFRQ3AT0otokLC4EbDtyp8BQkAGU8pAELcASgFEAMioBqAQQByAYRWISYAEbRS2ONWpA</a></p>
November 18	Webinar 10 - Voluntary Measures – “Trust me...what could go wrong?”	Module 10 : brief review and discussion  <b>STUDENT PRESENTATIONS (15%). SUMMARIES OF GROUP PRESENTATIONS MUST BE POSTED ON QUERCUS BY END OF NOV 17</b>	Review module 10 video on Quercus <b>Optional</b> - text ch. 9 Optional reading on CSR, greenwashing: <a href="https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-strat-rse.aspx?lang=eng">https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-strat-rse.aspx?lang=eng</a> <a href="https://www.iisd.org/business/issues/sr.aspx">https://www.iisd.org/business/issues/sr.aspx</a>
November 25	Webinar 11 - Environmental Assessment – A Modest Proposal?	Module 11: brief review and discussion	<p><b>QUIZ 4 (10%) Accessible on Quercus after class for 24 hours, one hour to complete quiz once you start.</b></p> Review module 11 video on Quercus Optional - text ch. 7 Optional - reading on environmental assessment: <a href="https://sites-gowlingwlg.vturevx.com/50/4669/landing-pages/5-things-project-proponents-need-to-know-about-canada-s-new-impact-assessment-act.asp?sid=4852f849-87a1-4e29-8c88-2982453d5210">https://sites-gowlingwlg.vturevx.com/50/4669/landing-pages/5-things-project-proponents-need-to-know-about-canada-s-new-impact-assessment-act.asp?sid=4852f849-87a1-4e29-8c88-2982453d5210</a> <a href="https://cela.ca/wp-content/uploads/2020/07/Preliminary-Analysis-Schedule6-Bill-197-July-10-2020.pdf">https://cela.ca/wp-content/uploads/2020/07/Preliminary-Analysis-Schedule6-Bill-197-July-10-2020.pdf</a> <a href="https://gowlingwlg.com/en/insights-resources/articles/2020/modernized-ontario-environmental-assessment-act/">https://gowlingwlg.com/en/insights-resources/articles/2020/modernized-ontario-environmental-assessment-act/</a> <a href="https://www.fasken.com/en/knowledge/2019/08/the-new-federal-impact-assessment-act">https://www.fasken.com/en/knowledge/2019/08/the-new-federal-impact-assessment-act</a> <a href="https://www.mccarthy.ca/en/insights/blogs/canadian-era-perspectives/aiming-maximum-ghg-impacts-federal-government-releases-guidance-assessing-climate-change-impacts-major-projects#page=1">https://www.mccarthy.ca/en/insights/blogs/canadian-era-perspectives/aiming-maximum-ghg-impacts-federal-government-releases-guidance-assessing-climate-change-impacts-major-projects#page=1</a>
December 2	Webinar 12 - International Environmental Law - Bringing it all	Module 12: brief review and discussion	<p><b>Assignment Part 3 (20%) – Due on Quercus by midnight</b></p> Review module 12 video on Quercus <b>Optional</b> - text ch.4

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	together?		<p><b>Optional - reading on international environmental law:</b>  <a href="https://www.canada.ca/en/environment-climate-change/corporate/international-affairs/partnerships-organizations/participation-international-environmental-agreements.html">https://www.canada.ca/en/environment-climate-change/corporate/international-affairs/partnerships-organizations/participation-international-environmental-agreements.html</a>  <a href="https://ironline.american.edu/blog/beginners-guide-environmental-agreements/">https://ironline.american.edu/blog/beginners-guide-environmental-agreements/</a>  <a href="https://www.cleantechloops.com/environmental-agreements/">https://www.cleantechloops.com/environmental-agreements/</a>  <a href="https://www.whitecase.com/publications/alert/climate-change-disputes-take-center-stage-paris-arbitration-week-paw">https://www.whitecase.com/publications/alert/climate-change-disputes-take-center-stage-paris-arbitration-week-paw</a></p>

## The fine print (other important stuff)

### Late penalties

Work that is late without an acceptable excuse (see the fine print below) will be subject to a penalty of 3% of the value of the assignment per day late.

### Absences:

Update - COVID may influence these policies. Further direction from the administration is expected. At this time, VOI's are not being required in relation to flu-like symptoms; however, illness must be reported on the ACORN system. Stay tuned.

If you need to miss a term test for any legitimate reason, you must submit an original copy of any appropriate documentation within **three** business days of your absence. If the reason for your absence is medical, you must submit an official U of T Verification of Illness Form <http://www.illnessverification.utoronto.ca/index.php>. Note that conditions ranked as mild or negligible will not be considered a valid excuse.

### Missed term work:

If a legitimate reason prevents you from submitting a piece of term work by its posted deadline, you must submit an original copy of any appropriate documentation within **three** business days of your absence. If the reason is medical, you must submit an official U of T Verification of Illness Form <http://www.illnessverification.utoronto.ca/index.php>. Note that conditions ranked as mild or negligible will not be considered a valid excuse.

### Accessibility Needs:

Students with diverse learning styles and needs are welcome in this course. The University of Toronto is committed to accessibility: if you require accommodations for a disability, or have



any other accessibility concerns about the course, please contact [Accessibility Services](#) as soon as possible.

### Academic Integrity:

Academic integrity is fundamental to learning and scholarship at the University of Toronto. Participating honestly, respectfully, responsibly, and fairly in this academic community ensures that the U of T degree that you earn will be valued as a true indication of your individual academic achievement, and will continue to receive the respect and recognition it deserves. Please see:

<https://www.artsci.utoronto.ca/academic-advising-and-support/student-academic-integrity-osai>

Familiarize yourself with the University of Toronto's *Code of Behaviour on Academic Matters*

(<http://www.governingcouncil.utoronto.ca/Assets/Governing+Council+Digital+Assets/Policies/PDF/ppjun011995.pdf>). The *Code* is the rulebook for academic behaviour at the U of T, and you are expected to know the rules. Potential offences include, but are not limited to:

In papers and assignments:

- Using someone else's ideas or words without appropriate acknowledgement.
- Copying material word-for-word from a source (including class and study group notes) and not placing the words within quotation marks.
- Submitting your own work in more than one course without the permission of the instructor.
- Making up sources or facts.
- Including references to sources that you did not use.
- Obtaining or providing unauthorized assistance on any assignment including
  - working in groups on assignments that are supposed to be individual work,
  - having someone rewrite or add material to your work while "editing".
- Lending your work to a classmate who submits it as his/her own without your permission.

On tests and exams:

- Using or possessing any unauthorized aid, including a cell phone.
- Looking at someone else's answers
- Letting someone else look at your answers.
- Misrepresenting your identity.
- Submitting an altered test for re-grading.

Misrepresenting/altering documentation:

- Falsifying or altering any documentation required by the University, including doctor's notes.
- Falsifying institutional documents or grades.

**The University of Toronto treats cases of academic misconduct very seriously.** All suspected cases of academic dishonesty will be investigated following the procedures outlined in the *Code*. The consequences for academic misconduct can be severe, including a failure in the course and a permanent notation on your transcript. If you have any questions about what constitutes

appropriate academic behaviour, or appropriate research and citation methods, seek out additional information from our TA, or from other available campus resources like the College Writing Centres (<https://writing.utoronto.ca/writing-centres/arts-and-science/>), the Academic Success Centre, or the [U of T Writing Website](#).

### **Use of Turnitin**

Normally, students will be required to submit their written presentations to Turnitin.com for a review of textual similarity and detection of possible plagiarism. In doing so, students will allow their essays to be included as source documents in the Turnitin.com reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of the Turnitin.com service are described on the Turnitin.com web site

### **Additional Resources for Students**

The following are some important links to help you with academic and/or technical service and support

- General student services and resources at [Student Life](#)
- Full library service through [University of Toronto Libraries](#)
- Resources on conducting online research through [University Libraries Research](#)
- Resources on academic support from the [Academic Success Centre](#)
- Learner support at the [Writing Centre](#)
- Information for [Technical Support/Quercus Support](#)

**Students are encouraged to review the Calendar for information regarding all services available on campus.**