

# Environmental Law: ENV 422H/ 1701H

Fall Term 2021

Asynchronous Lectures/Live seminar/webinar, Tuesday 6:30 – 9:30 pm

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

Your primary contact for assignment work should be **Serra Buchanan**, our course TA  
([serrawillow.buchanan@mail.utoronto.ca](mailto:serrawillow.buchanan@mail.utoronto.ca))

Office hours will be held by prior appointment in person or 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.**
- **Any online 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 your ability to prepare, present and defend environmental evidence

## Assessment

### 1) 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 21. 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 October 5. (Max 200 words excluding bibliography)

Part 2: A GROUP presentation worth **15%** will be scheduled for the ninth or tenth weeks (November 16 or 23). 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 7th (Max 1500 words exclusive of bibliography).

### 2) Quizzes(50%)

There will be a series of four short quizzes worth a total of 50%:

- Quiz 1 (Sep 28), 10%
- Quiz 2 (Oct 12), 15%
- Quiz 3 (Nov 2), 15%
- Quiz 4 (Nov 30), 10%

**Quizzes will be available on Quercus, during the seminar/webinar or for a specified period (eg to the end of the day).** Questions will be short essay 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).

### 3) Participation (10%)

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.

### 4) Final Exam

There will be no final exam.

## Graduate Students

Graduate students will be asked to **participate in discussion** of certain current issues in environmental law as specified in the schedule below (or as you may request). Graduate students will be expected to take a role in the management of assignment group presentations and will be assigned as **group leaders** in those groups where possible.

## Learning Activities

### Asynchronous Lecture Modules

(online – at your own pace, **but before the weekly seminar/webinar**)

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

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 modules may be accompanied by discussions, surveys, etc, within each module. These should also be completed **before** the lecture/webinar as they provide feedback and will be considered in the participation mark. Module material will be reviewed and discussed in the weekly synchronous webinar.

### Synchronous “LIVE” Webinars

During the first two weeks of class (and possibly thereafter), live webinars will be held using Zoom during the assigned Tuesday evening class time slot. These Zoom calls will start at 7 p.m. and will run until 9 p.m. EST (at the latest), depending on scheduled activities.

Starting week 3 (September 28) the current University plan provides for live lectures which will be held in ESB149 starting at 6:30 and running to 8:30.

“Live” webinar/lecture times have been reduced to reflect the time required to review the asynchronous content in advance.

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

**Note that the webinar times may be extended if required for webinars 9 and 10 (Nov 16 and 23) to accommodate student presentations.**

## Weekly Synchronous “Live” Webinar Schedule

Date	Title of webinar	Overview of webinar	Readings and due dates
September 14	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) Grad student discussion (if time permits). Environmental principles? What principles?	Doodle poll for assignment topic selection – complete after webinar  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 21	Webinar 2 - Sources of law from Hammurabi to Judge Judy	Module 2: brief review and discussion. ALL ASSIGNMENT GROUPS WILL BE FINALIZED TODAY Tips for quiz prep Grad student discussion. The GGPPA (Who’s got the power?)	Review module 2 video on Quercus Read - DeMarco paper Optional - read text ch. 1-4 Optional - reading on jurisdiction to regulate GHGs (or do a bit of research) <a href="https://irpp.org/research-studies/constitutional-law-and-the-politics-of-carbon-pricing-in-canada/">https://irpp.org/research-studies/constitutional-law-and-the-politics-of-carbon-pricing-in-canada/</a> <a href="https://www.nortonrosefulbright.com/en-ca/knowledge/publications/7b195ef7/climate-change-and-canadian-federalism">https://www.nortonrosefulbright.com/en-ca/knowledge/publications/7b195ef7/climate-change-and-canadian-federalism</a>
September 28	Webinar 3 - Environmental Rights - In search of the Holy Grail!	Module 3: brief review and discussion Paul Muldoon Lecture - Environmental Rights in Ontario – Do we have them? Are they endangered?!? Assignment update: discussion groups, WIKIs, etc	QUIZ 1 (10%). Accessible on Quercus after class for 24 hours, one hour to complete quiz once you start.  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>
October 5	Webinar 4 – Legislation. Why is the law like hot dogs?	Module 4: brief review and discussion Exercise – Legal Research overview Quiz 1 review Grad student discussion on “Greta’s case” or litigation funding or changes to the CPA?	Assignment Part 1 (5%) - Due on Quercus by midnight  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-">https://www.siskinds.com/citizen-suits-against-the-</a>

			<a href="https://www.bennettjones.com/Blogs-Section/Charter-Challenge-for-Stable-Climate-System">government-for-ghg-emissions/ 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 12	Webinar 5 - Courts and Tribunals. Here comes the Judge!	Module 5: brief review and discussion Paul Muldoon Lecture – An Insider’s View of Tribunals Exercise – Legal Research overview	<p><b>QUIZ 2 (15%). Accessible on Quercus after class for 24 hours, one hour to complete quiz once you start.</b></p> <p>Review module 5 video on Quercus Optional - read text ch. 1-4</p>
October 19	Webinar 6 - Evidence, Science and Expertise. Show me the goods.	Workshop on procedure, evidence and the “expert” witness Writing reports and giving testimony Quiz 2 review, Quiz 3 prep <b>Grad student discussion – Do we have a realistic approach to risk and risk management? How much risk is OK?</b>	<p><b>Assignment update - Finalize schedule for presentations (Webinars 9 and 10)</b></p> <p>Review module 6 video on Quercus Optional - reading on expert witnesses 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> </p>
October 26	Webinar 7 - Command and Control: Command. In a good way...Setting Standards	Module 7: brief review and discussion Paul Muldoon Lecture – What happens to standard setting in the year of the plague!	<p>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> </p>
November 2	Webinar 8 - Command and Control: Control. In a serious way.	Module 8: brief review and discussion Review tips for writing reports <b>Grad-student discussion of the elements of due diligence. Are</b>	<p><b>QUIZ 3 (15%) Accessible on Quercus after class for 24 hours, one hour to complete quiz once you start.</b></p> <p>Review module 8 video on Quercus</p>

	Compliance and Enforcement	Environmental Management Systems a good idea? What is ISO 14001?	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 9	No Webinar	Reading week	<b>Don't forget to read that DeMarco paper!</b>
November 16	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 15.</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-Accommodation-Best-Practices-FINAL-Feb2019.pdf">http://www.newrelationshiptrust.ca/wp-content/uploads/2019/05/Consultation-and-Accommodation-Best-Practices-FINAL-Feb2019.pdf</a> Optional text ch. 8 Optional - reading on the principle of subsidiarity: <a href="https://www.lerners.ca/lernx/climate-cases/">https://www.lerners.ca/lernx/climate-cases/</a> <a href="https://commentary.canlii.org/w/canlii/2019CanLIIDocs2719#!fragment//BOCwhgzBcwMYgK4DsDWszIQewE4BUBTADwBdoByCgSgBplTCIBFRQ3AT0tokLC4EbDtyp8BQkAGU8pAELcASgFEAMioBqAQOByAYRW1SYAEbRS2ONWpA">https://commentary.canlii.org/w/canlii/2019CanLIIDocs2719#!fragment//BOCwhgzBcwMYgK4DsDWszIQewE4BUBTADwBdoByCgSgBplTCIBFRQ3AT0tokLC4EbDtyp8BQkAGU8pAELcASgFEAMioBqAQOByAYRW1SYAEbRS2ONWpA</a>
November 23	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 22</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 30	Webinar 11 - Environmental Assessment –	Module 11: brief review and discussion Grad discussion Is EA a dead	<b>QUIZ 4 (10%) Accessible on Quercus after class for 24 hours, one hour to complete quiz once you start.</b>

	A Modest Proposal?	<p>duck? Is sustainability measurable? Can we ever expect cumulative impacts or ecosystem integrity to be properly protected?</p>	<p>Review module 11 video on Quercus                      Optional - text ch. 7                      Optional - reading on environmental assessment:  <a href="https://sites-gowlingwlg.vuturvevx.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.vuturvevx.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></p>
December 7	Webinar 12 - International Environmental Law - Bringing it all together?	<p>Module 12: brief review and discussion                      Paul Muldoon Lecture -What are the emerging issues in environmental law? Have we got a hope?                      Course review</p> <p>Grad discussion – What is ESG and can it help? Is it different from greenwashing?</p>	<p><b>Assignment Part 3 (20%) – Due on Quercus by midnight</b></p> <p>Review module 12 video on Quercus                      Optional - text ch.4                      Optional - reading on international environmental law:  <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>

## 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 Module on Quercus

### I recommend, but you are not responsible for:

Muldoon et al *An Introduction to Environmental Law and Policy in Canada (Third Edition)*. Toronto: Emond Montgomery, 2020. It is available at the bookstore in ebook or hard copy form.

## The fine print (important stuff)

### Late penalties:

Work that is late without prior extensions being granted (email TA for extension requests) will be subject to a penalty of 3% of the value of the assignment per day late.

### Absences:

All illness leading to an absence or delay must be reported on the ACORN system using the absence declaration form provided. Within three days of an absence, you must provide me with a screen shot of the absence declaration form in question.

### 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 Ouriginal or Turnitin

Normally, students will be required to submit their course essays to the University's plagiarism detection tool 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 tool's reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of this tool are described on the Centre for Teaching Support & Innovation web site (<https://teaching.utoronto.ca/ed-tech/teaching-technology/pdt/>)

## 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.**