ENVIRONMENTAL LAW I: Fall 2015
Professor Mank
Mondays & Wednesdays 3:05-4:30
James B. Helmer, Jr. Professor of Law
Room 302


There is no assignment for the first class, Monday, August 24th; we will watch the video Silent Spring about the life of ecologist and author Rachel Carson. We might possibly start some class discussion after the movie ends. The assignment for the second class, Wednesday, August 26th is pp. 1-38 (Chapter 1) and pp. 295-299 (Administrative Law), it is a long assignment to make up for no reading for the first class so you might want to begin early. Weekly assignments will be given in class.*

Roughly one-third of your initial grade (before I modify the grade for class attendance, preparation or performance) in this course will be based on a short ten to fifteen page (double-spaced, 10-12 point fonts, including footnotes) paper on an environmental topic approved by Professor Mank. The Paper may be on a topic addressed in class or one not covered in class as long as I approve the topic. Please note that your grade for the paper is not anonymous so I can help you with selecting an appropriate topic. You must hand in a short one page description of your topic by Monday, November 7th. I will review your proposal, may modify it, and will return a revised proposal by Monday, November 17th. You must hand in your paper on the day of the final examination, before you take your examination, ____. December __th, 2015 (schedule set by the Dean); you must hand in your paper to the registrar or e-mail it to me on the morning of the regularly scheduled day of the examination even if you are deferring the examination. Please hand the paper to the registrar before you take your examination; even if you are deferring your examination, you must hand in the paper on the morning of December __th. At my discretion, I reserve the right to fail or reduce the grade of any student who hands in the paper late. Any extension of the paper deadline must be approved by me in advance or I may give you a failing grade.

I may give one or more pass-fail short midterm examinations during class or as an out of class assignment either on TWEN or as a handout. The purpose of these exams is to identify possible areas of weakness or misunderstanding before you take my examination. If you do not make an appropriate effort on these midterms, I may reduce your grade.

An anonymous (examination-number system) final examination will constitute roughly two-thirds of your initial grade (before I adjust the grade for class attendance, preparation or performance). The exam will be based on my class presentations, my class handouts and my discussion of the readings in class. You may not rely on outside sources to “overrule” the materials presented in class. My interpretation of environmental law is controlling for purposes of examination grading. I have broad discretion to consider the quality of your writing, the organization of your examination, the persuasiveness and the clarity of your writing and not just whether you spotted the appropriate issues on the examination in deciding how to weigh your writing quality in my grade. It will be a limited open book examination in which you may use a personally handwritten (in pen ink or pencil, no typewritten or computer-modified materials), one page (both sides of a standard 8.1/2 inch by 11 inch piece of paper) “help sheet” that is your own work in your own handwriting, using a pencil or pen; I will give details before the end of the semester. You will hand in the help sheet with your examination number on it along with your exam; and if you do not use a help sheet you must hand in a signed statement pursuant to the Honor Code that you did not use a help sheet.

DO NOT PUT YOUR NAME ON YOUR HELP SHEET TO PRESERVE EXAM ANOYNOMITY (IF YOU DO PUT YOUR NAME ON THE EXAM OR HELP SHEET THAT IS A SERIOUS HONOR CODE VIOLATION. ALSO, PLEASE DO NOT TELL ME WHETHER YOU ARE DEFERRING YOUR EXAM; OR WHETHER YOU ARE USING A COMPUTER OR HAND WRITING YOUR EXAM TO PRESERVE EXAM ANOYNOMITY. ANY POSSIBLE EXAM CONCERNS SHOULD BE ADDRESSED TO REGISTRAR CHARLENE CHARPENTER OR ASSOCIATE DEAN OLIVER. You may not use any other materials during the exam. If you use any other materials or communicate in any way during the examination, I may fail you in my sole discretion. In grading your examination, I have broad discretion to consider the quality of your writing, the organization of your examination, the persuasiveness and the clarity of your writing and not just whether you spotted the appropriate issues on the examination.
I reserve the right to take class attendance, preparation or performance into account in assigning a final grade. I may increase your grade for good class participation, up to one full letter grade, or reduce it to a failing grade for lack of class attendance, preparation or performance. I reserve the right to fail any student who has any unexcused absences that are not approved by me in advance, unless there is a medical emergency. I excuse illness, good professional reasons such as going out of town for moot court, or serious family issues, such as caring for a sick family member. If the personal reason is more convenience than necessity, I would classify it as unexcused. You may not record or tape my class without my permission.

**Laptop and Electronic Device Policy:** You may use your laptop only for classwork. However, I think that you would be better prepared for the examination and class participation if you do not use your laptop for note taking and instead use a paper notebook. You may not use your laptop, cell phone or any other electronic device during class to text, e-mail, chat, read, check the internet or play games during class. You may use your laptop during our review session(s) at the end of the semester.

My office hours are immediately after class on Mondays and Wednesdays at 4:30; if this time is not convenient, I will try, within reason, to find a time that works for both of us. My Office is in Room 425.

I. Introduction to Environmental Issues pp. 1-38
II. Judicial Review
   Administrative Law pp. 295-299
   Standing pp. 299-333
   Citizen Suits pp. 334-339
   Challenging Agency Action pp. 339-358
III. Environmental Protection & the Constitution pp. 203-216, 217-218, 708-714, 219-243 & following p.243 add *Rocky Mountain Farmers Union v. Corey*, *Supplement pp. 1-10*, 244-253 (preemption), 253-265 (International Trade); 265-281 (Takings); 281-94 (Public Trust Doctrine)
IV. Risk, Economics, Equity & Torts pp. 39-68 (Risk), 68-90 (Economics), 91-109 (Equity), 110-124 (Torts)
V. NEPA pp. 358-398
VI. Wetlands pp. 702-727 n.2; Replace Note 3 on Pages 727-28 with the proposed rule in the *Supplement pp. 32-33: 728 n.4-734*
VII. Endangered Species Act pp. 125-201
IX. Water Pollution Control pp. 743-798
X. Hazardous Waste & Toxic Substances pp. 799-894
   RCRA & State Siting pp. 895-898
   CERCLA & Brownfields pp. 919-936
   FIFRA (Pesticides) pp. 950-963
   TSCA Information Disclosure Laws
*Note: The information contained in this syllabus is subject to change, and you are responsible for all revisions announced in class. The course outline is tentative and I may change it.*

For a justification for limiting laptop use in class and instead using a paper notebook, please see the article below
Students who used longhand remembered more and had a deeper understanding of the material.

“More is better.” From the number of gigs in a cellular data plan to the horsepower in a pickup truck, this mantra is ubiquitous in American culture. When it comes to college students, the belief that more is better may underlie their widely-held view that laptops in the classroom enhance their academic performance. Laptops do in fact allow students to do more, like engage in online activities and demonstrations, collaborate more easily on papers and projects, access information from the internet, and take more notes. Indeed, because students can type significantly faster than they can write, those who use laptops in the classroom tend to take more notes than those who write out their notes by hand. Moreover, when students take notes using laptops they tend to take notes verbatim, writing down every last word uttered by their professor.

Obviously it is advantageous to draft more complete notes that precisely capture the course content and allow for a verbatim review of the material at a later date. Only it isn’t. New research by Pam Mueller [Princeton] and Daniel Oppenheimer [UCLA] demonstrates that students who write out their notes on paper actually learn more [The Pen Is Mightier Than the Keyboard: Advantages of Longhand Over Laptop Note Taking].

Across three experiments, Mueller and Oppenheimer had students take notes in a classroom setting and then tested students on their memory for factual detail, their conceptual understanding of the material, and their ability to synthesize and generalize the information. Half of the students were instructed to take notes with a laptop, and the other half were instructed to write the notes out by hand. As in other studies, students who used laptops took more notes. In each study, however, those who wrote out their notes by hand had a stronger conceptual understanding and were more successful in applying and integrating the material than those who used took notes with their laptops. ...

Technology offers innovative tools that are shaping educational experiences for students, often in positive and dynamic ways. The research by Mueller and Oppenheimer serves as a reminder, however, that even when technology allows us to do more in less time, it does not always foster learning. Learning involves more than the receipt and the regurgitation of information. If we want students to synthesize material, draw inferences, see new connections, evaluate evidence, and apply concepts in novel situations, we need to encourage the deep, effortful cognitive processes that underlie these abilities. When it comes to taking notes, students need fewer gigs, more brain power. Abstract:

Taking notes on laptops rather than in longhand is increasingly common. Many researchers have suggested that laptop note taking is less effective than longhand note taking for learning. Prior studies have primarily focused on students’ capacity for multitasking and distraction when using laptops. The present research suggests that even when laptops are used solely to take notes, they may still be impairing learning because their use results in shallower processing. In three studies, we found that students who took notes on laptops performed worse on conceptual questions than students who took notes longhand. We show that whereas taking more notes can be beneficial, laptop note takers’ tendency to transcribe lectures verbatim rather than processing information and reframing it in their own words is detrimental to learning. [See Chart on next page, BM]
Fig. 1. Mean z-scored performance on factual-recall and conceptual-application questions as a function of note-taking condition (Study 1). The asterisk indicates a significant difference between conditions ($p < .05$). Error bars indicate standard errors of the mean.