



## COASTAL AND OCEAN LAW – 297

<b>Spring 2007</b>	<b>Dr. Wil Burns</b>
<b>MW 9:00-10:15am</b>	<b>STM 105</b>
<b>Office Hours: MW 11-12 or by appt. (Loyola 101)</b>	
<b>Phone: x6139 or 650.281.9126 (mobile)</b>	<b>wburns@scu.edu</b>

### Readings

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The readings for the course will be derived from the following sources, designated in the class schedule with the icons listed below:

- **T** COASTAL AND OCEAN LAW (3d ed. 2007)
- **E** Electronic documents on the ClaraNet course site
- **O** Online Hyperlinks (must be accessed via the online version of the Syllabus on ClaraNet)

### GRADING

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#### **Final Examination or Term Paper Option [90% of grade]**

- Students in this class will have the option of either completing a term paper (the assignment is structured to facilitate meeting your writing requirement at SCU) or taking a final examination:
  - Guidelines for preparation of the term paper, including pertinent benchmarks, are included in the “Guidelines” document in the “Term Paper Materials” folder on the ClaraNet site. The “Term Paper Materials” folder also contains a document with a list of potential topics, which is not meant to be exhaustive. It is my goal to help everyone who is interested in developing a paper for publication in either an SCU or non-SCU law journal;

- The final examination will consist of three essay questions and will cover theoretical and empirical materials discussed in class and in the readings.

## **Class Participation [10% of grade]**

- I am a firm believer in the value of classroom discussion as a means of clarifying and expanding upon assigned readings and drawing upon the collective insights of class members. Thus, members of the class are expected to come to class prepared to discuss assigned reading materials and to be active participants in class discussions.

<b>Class Schedule</b>	
January 10	<b>Overview of Course</b> <ul style="list-style-type: none"> <li>➤ Class introductions</li> <li>➤ Review of Syllabus</li> </ul>
January 15	<b>NO CLASS: MLK Day</b> <ul style="list-style-type: none"> <li>• Readings <ul style="list-style-type: none"> <li>➤ [O]</li> </ul> </li> </ul>
<b>SECTION 1</b>	<b>Public and Private Interests in Coastal Lands/Water</b>
January 17	<b>Title to Lands Under Coastal Waters/State Authority Over Submerged Lands</b> <ul style="list-style-type: none"> <li>• Readings <ul style="list-style-type: none"> <li>➤ [T] Ch. 1, pp. 1-38</li> </ul> </li> </ul>
January 22	<b>State Authority Over Submerged Land, Part 2 &amp; Private Property Interests in Coastal Waters/Lands</b> <ul style="list-style-type: none"> <li>• Readings <ul style="list-style-type: none"> <li>➤ [T] Ch. 1, pp. 38-64</li> </ul> </li> </ul>
January 24	<b>Private Property Interests in Coastal Waters/Lands</b> <ul style="list-style-type: none"> <li>• Readings <ul style="list-style-type: none"> <li>➤ [T] Ch. 1, pp. 64-97</li> </ul> </li> </ul>

## **SECTION 2**      **Protecting Water Quality and Habitats: Sec. 404 of the Clean Water Act**

**January 29**      **Geographic Scope of CWA: Part 1**

- Readings
  - **T** Ch. 2, pp. 134-156

**January 31**      **Geographic Scope of CWA: Part 2**

- Readings
  - **T** Ch. 2, pp. 156-171
  - **E** United States v. Johnson (1<sup>st</sup> Cir. 2006)

**February 7**      **GUEST SPEAKER: Dr. Frank Maes, Department of Public International Law, University of Ghent**

- Topic: *International Marine Pollution Regimes*
- Readings: TBA

## **SECTION 3**      **Federal/State Management of Coastal Development**

**February 12**      **The Coastal Zone Management Act of 1972**

- Readings
  - **T** Ch. 3, pp. 221-227 ; 243-272

**February 14**      **Coastal Development Criteria and Limits of State Regulation**

- Readings
  - **T** Ch. 3, pp. 279-293 ; 346-368

## **SECTION 4**      **U.S. Rights/Jurisdiction in the Ocean**

**February 20**      **UNCLOS and Jurisdiction**  
**(Tuesday)**

- Readings
  - **T** Ch. 5, 369-373; 389-408

## **SECTION 5**      **International, National, State Regulation of Fisheries**

**February 21**      **U.S. Fisheries Regulation**

- Readings
  - **E** Okey, *Membership of the Eight Regional Fishery Management Councils in the United States: Are Special*

*Interests Over-represented?*, 27 MARINE POLICY 193-206 (2003)

➤ T Ch. 7, pp. 595-618

February 26

## International Fisheries Regulation

- Readings

- O [United Nations Convention on the Law of the Sea \(1982\), Articles 61-67](#)
- O [Straddling Fish Stocks Convention \(1995\)](#)
- O Birdlife International, [Regional Fisheries Management Organisations: Their Duties and Performance in Reducing Incidental Mortality of Albatrosses](#) 32-61 (2006)
- O [WWF/TRAFFIC, Follow the Leader](#) 16-31 (2006)

February 28  
(1.10pm, Moot Court Room, class combined with IEL class)

## Paul Kibel, Policy West & Golden Gate University Law School

- Topic: *Trade Regimes for Fishery Conservation: CITES, the WTO and the Law of the Sea*

- Readings

- E Swan, *Port State Measures to Combat IUU Fishing: International and Regional Developments*, SUSTAINABLE DEVELOPMENT LAW & POLICY 38-43 (Fall 2006)
- E Kibel, *Alone at Sea: Chile's Presencial Ocean Policy*, 12(1) JOURNAL OF ENVIRONMENTAL LAW 45-63 (2000)
- E Fordham & Dolan, *A Case Study in International Shark Conservation: the Convention on International Trade in Endangered Species and the Spiny Dogfish*, 34 GOLDEN GATE LAW REVIEW 531-571 (2004)

March 5

March 7

March 12

**NO CLASS: SPRING BREAK**

**NO CLASS: SPRING BREAK**

**Regulation of Aquaculture**

- Readings

- E

March 14

**GUEST SPEAKER: Professor Gunther Handl, Tulane University School of Law**

- Topic: TBA

- Readings: TBA

**SECTION 6**

**Marine Mammals and Endangered Marine**

## Wildlife

March 19

### U.S. Marine Mammal Protection Act

- Readings
  - **T** Ch. 8, pp. 637-673

March 21

### Endangered Species Act and Marine Wildlife

- Readings
  - **T** Ch. 8, pp. 720-754

March 26

### The International Convention for the Regulation of Whaling

- Readings
  - **O** [Text of the International Convention for the Regulation of Whaling](#) (1946)
  - **E** Burns & Wandesforde-Smith, *The International Whaling Commission and the Future of Cetaceans in a Changing World*, 11(2) REVIEW OF EUROPEAN COMMUNITY AND INTERNATIONAL ENVIRONMENTAL LAW 199-210 (2002)
  - **E** Aron, Burke & Freeman, *The Whaling Issue*, 24 MARINE POLICY 179-191 (2000)

March 28

### ICRW and Small Cetaceans

- Readings
  - **T**

April 2

### The Convention on the Conservation of Antarctic Marine Living Resources

- Readings
  - **O** [Text of the Convention for the Conservation of Antarctic Marine Living Resources](#)
  - **E** Constable, et al., *Managing Fisheries to Conserve the Antarctic Marine Ecosystem: Practical Implementation of the Convention on the Conservation of Antarctic Marine Living Resources*, 57 ICES JOURNAL OF MARINE SCIENCE 778-791 (2000)
  - **O** Clark & Hemmings, *Problems and Prospects for the Convention on the Conservation of Antarctic Marine Living Resources Twenty Years On*, 4(1) JOURNAL OF INTERNATIONAL WILDLIFE LAW & POLICY 47-62 (2001)
  - **E** Gascón & Werner, *CCAMLR and Antarctic Krill: Ecosystem Management Around the Great White Continent*, SUSTAINABLE DEVELOPMENT LAW & POLICY 14-16 (Fall, 2006)

SECTION 7

Special Topics in Coastal and Ocean Law

April 4

## Invasive Species in the Marine Environment

- Readings

- **E** Bax, et al., *Marine Invasive Alien Species: A Threat to Global Biodiversity*, 27 MARINE POLICY 313-323 (2003)
- **E** Chapman et al., *Live Seafood Species as Recipes for Invasion*, 17(5) CONSERVATION BIOLOGY 1386-1395 (2003)
- **O** [U.S. Executive Order 13112 of Feb. 3, 1999 - Invasive Species](#)
- **E** Firestone & Corbett, *Coastal and Port Environments: International Legal and Policy Responses to Reduce Ballast Water Introductions of Potentially Invasive Species*, 36 OCEAN DEVELOPMENT & INTERNATIONAL LAW 291-316 (2005)

April 9

## Implementing the Precautionary Principle in Marine Regimes

- Readings

- **E** Vanderzwaag, *The Precautionary Principle and Marine Environmental Protection: Slippery Shores, Rough Seas and Rising Normative Tides*, 33 OCEAN DEVELOPMENT & INTERNATIONAL LAW 165-188 (2002)
- **E** González-Laxe, *The Precautionary Principle in Fisheries Management*, 29 MARINE POLICY 495-505 (2005)
- **E** WWF/TRAFFIC, [Follow the Leader](#) 11-17 (2006)

April 11

## The WTO and Protection of the Marine Environment

- Readings

- **O** [General Agreement on Tariffs & Trade](#) (1947), especially Articles I, XI, XX
- **E** Urgese, *Dolphin Protection and the Mammal Protection Act Have Met Their Match: The General Agreement on Tariffs and Trade*, 31 AKRON LAW REVIEW 1-32 (1998)
- **E** Ni, *Redefinition and Elaboration of an Obligation to Pursue International Negotiations for Solving Global Environmental Problems in Light of the WTO Shrimp/Turtle Compliance Adjudication between Malaysia and the United States*, 14 MINNESOTA JOURNAL OF GLOBAL TRADE 1-23 (2004)

April 16

## U.S. Ocean Energy and Mineral Resources

- Readings

- **T** Ch. 6, pp. 441-473

April 18

NO CLASS

April 23

Class Summary and Term Paper Presentations

May 14

FINAL EXAMINATION, 1.15-4.15pm

