

## **Environmental Law (ES 6) – Current Event Assignments**

---

You will be required to complete two current event assignments. These assignments consist of reading an article pertaining to environmental law in a newspaper, periodical, or journal, and preparing a one or two-page summary of the article. You will also make a brief, five-minute presentation of your current event to the class, during a regular class session. These current event assignments should: (1) increase your ability to research current events in environmental law; (2) increase your understanding of a particular area of environmental law; and (3) help you learn how critically to evaluate and present news articles regarding environmental laws.

**The last paragraph of your paper should include your personal opinion or interpretation of the articles. This is important.**

Examples of possible topic areas include: The Clean Air Act, The Clean Water Act, Superfund, the Endangered Species Act, toxic substances, land use policy, energy, or environmental justice.

Be aware that there are almost always at least two sides (and usually many more) to any argument, so make every attempt to present the issues in an unbiased manner. Also, know that the article that you choose may be biased or missing crucial information. For these reasons, it is highly recommended that you use more than one source for your paper. For example, the Los Angeles Times may report on the issue in one way and the San Jose Mercury may report on the issue in a different way. **Do not use opinion or op-ed pages as references as these convey the opinion of the newspaper or writer and are always biased.**

The papers should be about two pages in length, double-spaced, with one inch margins, and in 12-point font. **As much as possible, write the paper in your own words.** If you need to use one or two short quotes, cite properly. However, do not merely use long passages or quotes from the article(s) as this will have a negative effect on your score. **Be sure to cite your source(s) and submit your reference article(s) with the paper.**

A good source of environmental news is found is on the web at:

<http://www.latimes.com/news/science/environment/>

You can also find environmental articles by using the search function of appropriate newspaper web sites, or by using Google or another search engine. Mainstream news sources such as the San Jose Mercury News, the San Francisco Chronicle, the L.A. Times, the Sacramento Bee, the Washington Post, and the New York Times all have free archive searches. Once you have found an appropriate web site, type “environmental law” or “environment law” into the search function on the news web site and see what pops up. See me if you have any questions about biased sources or if you are having trouble finding articles.

Attached is a model of how you should prepare your current event papers.

## **18 States Sue EPA Over Greenhouse Gas Pollution**

Reuters; April 3, 2008

## **States Sue Over Emissions Curbs**

Baltimore Sun; April 3, 2008

These articles describe a recent lawsuit filed by 18 states and several environmental organizations alleging that the EPA has not acted in a timely manner in addressing greenhouse gas (GHG) emissions from cars and truck as ordered by the Supreme Court one year ago. This lawsuit was filed on the anniversary of the Supreme Court's Massachusetts v. EPA ruling. In that case, Massachusetts and 18 other states and organizations petitioned the EPA to regulate emissions of GHGs from new motor vehicles. The petition cited the EPA's mandatory duty to do so under the Clean Air Act Section 202(a)(1):

The [EPA] Administrator shall...prescribe...standards applicable to the emission of any air pollutant from...new motor vehicles, which in his judgment cause...air pollution which may reasonably be anticipated to endanger public health or welfare..."

In 2003, EPA declined the petition on the basis that; 1) the CAA does not authorize EPA to issue mandatory regulations to address global climate change, and 2) even if the EPA had the authority to set GHG standards, it would be unwise to do so at this time.

The Massachusetts v. EPA ruling was a 5-4 decision handed down by the Supreme Court on April 2, 2007. The high court held; (1) Massachusetts had standing to bring the lawsuit, (2) GHGs are "air pollutants" under the Clean Air Act, and (3) the EPA can avoid taking further action only if it determines that GHGs do not contribute to climate change or if it provides some reasonable explanation as to why it cannot or will not exercise its discretion. Here, the EPA's rationale for not regulating GHGs was found to be inadequate (actually nonexistent). However, the court did not require a timeline for compliance with their decision.

The lawsuit filed yesterday alleges that the EPA has made the required endangerment finding, but that they have not made any attempts to regulate GHGs. Last week, EPA spokesman Jonathan Shradar announced that an advanced notice of proposed rulemaking would occur later this spring. Their plan is to seek public comment on developing a program to limit GHG emissions. Environmental groups noted that more than 50,000 public comments had been received when the process was first announced almost nine years ago.

Energy lobbyist Scott Segal said that a thorough review of scientific data was wise because the financial hardships on middle and low-income groups would be severe if the EPA acted “too harshly and quickly.” This line of reasoning is consistent with the Bush II administration’s position since pulling out of Kyoto in 2002: GHG regulation is not good for the economy and we need to study the problem further. Further infuriating the plaintiffs in this case, the EPA refused to provide a waiver in December 2007 that would allow California to limit GHGs from automobiles and trucks. EPA’s reason for that denial was based on the grounds that climate change is a federal issue. Attorney General Marsha Coakley of Massachusetts said, “The EPA’s failure to act in the face of these incontestable dangers is a shameful dereliction of duty.”

**My Opinion:** The EPA’s arguments are disingenuous. On the one hand they state that it would be best to regulate GHGs on a federal level. While a national GHG emissions reduction program would be optimal, the current administration has shown no leadership in this arena, even when ordered by the Supreme Court to do so. On the other hand, the EPA is attempting to block the states from regulating GHGs. So the EPA’s unspoken position is that the federal government will not regulate GHGs and the states may not regulate GHGs. They cannot have it both ways. There is no time to lose.