



The University of New Mexico

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Examination No. _____

580 ENVIRONMENTAL LAW

Semester I, 2004

UNM School of Law
Professor Denise Fort
Final Examination
Three Credits

You have seven hours from the time that you upload the exam to complete it. You must complete it during one consecutive seven hour period.

INSTRUCTIONS

A. This is a take-home, open-book examination. You may use:

1. All materials supplied in connection with the course in Environmental Law;
2. The statutes;
3. Materials prepared by you, including class notes, any outlines or notes you have prepared as a study aid; and
4. The assigned casebooks.

You may not use any commercial outlines or nutshells.

B. You may not discuss any of these questions with any person, ask any person's assistance in research, nor discuss these questions until the end of the exam period.

C. Organize your answers to questions and be complete, but not verbose. Do provide informal citations to authority (cases, statutes, etc.). Do not provide a general discussion of an area unless it is relevant to the question.

D. For question three you may use the Internet or go to the library to review the state's water quality statutes and regulations.

Have a good vacation; please stay in touch as you pursue your career.
Best wishes!

Question One.

You represent a facility that is seeking to locate in Bernalillo County. The facility will have discharges to the air, will generate hazardous waste, and will have ground and surface water discharges. In addition, there are some unpleasant odors associated with the facility that can be smelled at some distance from the facility (up to 5 miles, depending on prevailing winds). The odors are an unavoidable aspect of the operations. Exposure to these odors can result in nausea; other consequences are unclear. The manager has assured you, its new local counsel, that it can comply with all existing state and federal regulations for its emissions and operations. What questions would you have for the manager? What advice would you give her about siting concerns?

Question Two.

The national state of denial over global warming is beginning to confront some unpleasant realities. In Alaska, listing buildings signal that the permafrost is beginning to melt. Rising temperatures have been measured within the continental U.S. You have been approached by some New Mexico ski operators who are convinced that their multimillion dollar investments are quickly losing value. They want to pursue litigation under NEPA, which has been used against them with such success in recent years. What is your advice to them? What do you want to know?

Question Three.

The state of New Mexico is considering assuming responsibility for administration of the National Pollutant Discharge and Elimination System. Please write a thoughtful memorandum exploring all of the consequences that you can anticipate for the state's citizens and its waters. Think these consequences through from a variety of different perspectives, or stakeholders, and present the implications as you would understand them.