

NATORAL RESOURCES LAW

NSA 201-4

COURSE NAME

CODE NO.

TOTAL CREDIT HOURS: 48

PREREQUISITE(S): None

I. PHILOSOPHY/GOALS:

This course will acquaint students with the Canadian and Ontario justice systems and how forest related Acts and regulations are formulated and implemented.

The students will be required to have a working knowledge of the content of the major Acts that affect forest resource use, as well as the role and powers of officers under these acts. Emphasis will be placed on aboriginal jurisdiction and rights related to aboriginal people.

II. STUDENT PERFORMANCE OBJECTIVES:

Upon successful completion of this course the student will:

1. Discuss the origin and rationale for Natural Resource legislation.
2. Describe the history and current status of Native Rights legislation in Ontario.
3. Describe the Levels of Court and jurisdictions of legislative power in Canada.
4. Distinguish between Provincial and Federal powers and procedures in enforcement.
5. Discuss the importance of major legislation that affects Natural Resources, emphasizing Native role or alternatives to these.
6. Discuss the role of Integrated Field Monitoring (I.F.M.) or Compliance Monitoring in Resource Management.

III. TOPICS TO BE COVERED:

1. The History of Natural Resource Law
2. The application of Native Legislation in the context of the BNA and the Constitution Act 1982
3. Laws and Their Application
4. Statutes and Regulations That Protect Our Forests
5. Statutes and Regulations That Protect Our Parks and Public Lands
6. Statutes and Regulations That Protect the Environment
7. Statutes and Regulations That Protect our Fish and Wildlife
8. Statutes and Regulations That Protect People (Related to Natural Resources)
9. Compliance Monitoring

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NSA 201-4

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IV. LEARNING ACTIVITIES:

STUDENT REQUIRED RESOURCES:

1.0 The History of Natural Resources Law

Upon successful completion of this unit, the student will be able to:

1.1 State the objectives of Natural Resources Legislation.

1.2 State the significance of the BNA, the Royal Proclamation, The Charter of Rights and Freedoms, and the Constitution Act 1982 to all peoples of Canada.

1.3 Distinguish among Federal, Provincial and Municipal jurisdiction and legislation after the BNA.

1.4 Draw a chart showing the levels of court and the responsibilities of each level.

1.5 Describe how the Charter of Rights and Freedoms may affect Natural Resource Law for aboriginal people.

2.0 The Application of Native Legislation

2.1 Explain "Aboriginal rights" to resources and how they are defined by case law.

2.2 Describe the origin of "Treaties" and treaty rights as related to Natural Resources.

Read the "Charter of Rights and Freedoms".

Assorted newspaper clippings

Read chapter 1 + 21 of the Aboriginal Law Handbook

Read "Self-Government and the Aboriginal and Treaty Food Harvesting Rights of the Aboriginal People of Ontario" - C, Reid

See above article by C. Reid

Read case study "William Treaty 1923".

NATURAL RESOURCES LAW

NSA 201-4

COURSE NAME

CODE NO.

IV. LEARNING ACTIVITIES: (cont'd)

STUDENT REQUIRED RESOURCES:

2.3 Discuss the significance of the Indian Act to Natural Resource management.

Read assigned sections of the Indian Act.

2.4 Describe significant case law that reflects aboriginal rights, treaty rights and common law.

Read clippings on:
The Sparrow Case
The Agawa Case
The Howard Case
The Pukaskwa Case 1994
The McCoy Case

2.5 Discuss the pro's and con's of Ontario's "Interim Enforcement Policy" re: aboriginal hunting and fishing.

and others as assigned
Read the "Interim Enforcement Policy - OMNR

Read Alternative vol. 1 & 2 "Aboriginal Peoples and Resource Development", "The Sparrow Decision"

Read Chapters 2-5 of Aboriginal Law Handbook

3.0 Laws and Their Applications

3.1 Describe "common law", "case law", "statute law" and "civil law" and give examples that affect aboriginal peoples.

3.2 Distinguish between provincial and federal offences and torts.

3.3 Describe significant differences between Federal and Provincial offences, their application, and procedure in their enforcement.

Read chapter 22 of Aboriginal Law Handbook

3.4 State the powers that officers and/or citizens have to perform arrests and searches under pertinent legislation.

3.5 Discuss the role of the Aboriginal Justice system under current and future legislation.

NATURAL RESOURCES LAW**NSA 201-4****COURSE NAME****CODE NO.****IV. LEARNING ACTIVITIES:(cont'd)****STUDENT REQUIRED RESOURCES:**4.0 Statutes and Regulations that Protect our Forests

Review key sections of:

- 4.1 State the intent of legislation that protects forests.
- 4.2. Discuss the proposed National Aboriginal Forest Practices Code (NAFA 1994)
- 4.3 Discuss changes to the Crown Timber Act (Crown Forest Sustainability Act).
- 4.4 Describe case studies and discuss problems related to this type of legislation vis a vis Aboriginal rights and treaty rights.

The Indian Act
The National Aboriginal Forest Practice Code
The Provincial Offences Act
The Criminal Code of Canada
The Young Offenders Act
The Crown Timber Act
The Woodlands Improvement Act
The Forestry Act
The Trees Act
The Forest Fire Prevention Act
The Forest Tree Pest Control Act

5.0 Statutes that Protect Our Parks and Public Lands.

The National Aboriginal Forest Practices Code (1994 Draft)

Read chapter 6 of Aboriginal Law Handbook

Review key sections of:

- 5.1 State the intent of legislation that protect parks and public lands.
- 5.2 Describe case studies and discuss problems related to this type of legislation vis a vis Aboriginal rights and treaty rights.

The Provincial Parks Act and Regulations
The Wilderness Areas Act
The Beds of Navigable Waters Act
The Public Lands Act
The Navigable Water Protection Act
The Lakes & Rivers Improvement Act
The Wild Rice Harvesting Act
The Conservation Authorities Act

6.0 Statutes That Protect the Environment

The Aggregate Resources Act

Review key sections of:

- 6.1 State the intent of legislation designed to protect our environment (Listed under "required resources").
- 6.2 Describe case studies and discuss problems related to this type of legislation vis a vis Aboriginal rights and treaty rights.

The Environmental Protection Act
The Environmental Assessment Act
Public Health Act
The Ontario Water Resources Act
The Drainage Act
The Canada Waters Act
Public Lands Act
The Lakes & Rivers Improvement Act
The Fisheries Act
The Pesticides Act

NATURAL RESOURCES LAW

NSA 201-4

COURSE NAME

CODE NO.

IV. LEARNING ACTIVITIES: (cont'd)

STUDENT REQUIRED RESOURCES:

7.0 Statutes that Protect Our Fish and Wildlife

Review key sections of:

7.1 State the intent of legislation designed to protect fish and wildlife (Listed under "Required Resources").

The Fisheries Act
The Ontario Fishery Regulations
The Migratory Birds Convention Act and Regulations
The Game and Fish Act and Regulations

7.2 Describe case studies and discuss problems related to this type of legislation vis a vis Aboriginal rights and treaty rights.

The Endangered Species Act
The Criminal Code of Canada

8.0 Statutes That Protect People Related to Natural Resources

Review key sections of:

8.1 State the intent of legislation (listed under "Required Resources") designed to protect people.

The Indian Act
The Trespass to Property Act
The Occupiers Liability Act
The Hunter Damage Compensation Act
The Game and Fish Act

8.2 Describe case studies and discuss problems related to this type of legislation vis a vis Aboriginal rights and treaty rights.

The Public Health Act
The Environmental Protection Act
The Off-Road Vehicles Act
The Motorized Snow Vehicles Act
The Livestock, Poultry and Honeybee Protection Act

9.0 Compliance and Field Monitoring

9.1 Describe the need and use of work permits on Crown Land at present.

9.2 Explain what legislation is monitored under the work permit system.

9.3 Describe the steps in compliance monitoring

9.4 Describe compliance monitoring on Aboriginal land.

Assignment

NATURAL RESOURCES LAW

NSA 201-4

COURSE NAME

CODE NO.

V. EVALUATION METHODS: (INCLUDES ASSIGNMENTS, ATTENDANCE REQUIREMENTS ETC.)

Three term tests based on theory, case studies	-	60%
Short reports based on reading assignments and courthouse visit	-	30%
Scrapbook based on Law cases	-	10%
		100%

<u>Grading</u>	-	A+	=	90%+
		A		80 - 89%
		B	=	70 - 79%
		C		60 - 69%

VI. REQUIRED STUDENT RESOURCES:

Imai, S., K. Logan, G. Stein, 1993. Aboriginal Law Handbook. Carswell Publ., Toronto. 329 p.

Study Guide for Natural Resource Law

Office Consolidations of Acts (available in the Bookstore)

"Alternatives", Vol. 18, No. 2 1991.

Other readings as assigned.

VII. SPECIAL NOTES:

Rewrites - Students with an overall average of more than 55% may have an opportunity to rewrite the course material in a final examination, providing their attendance and demonstrated effort are satisfactory.

Students with special needs (e.g. physical limitations, visual impairments, hearing impairments, learning disabilities) are encouraged to discuss required accommodations confidentially with the instructor.

Your instructor reserves the right to modify the course as he/she deems necessary to meet the needs of students.