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Christopher J. Neumann chairs the Environmental Law practice group in the Denver Office of the law firm Greenberg Traurig, LLP where he counsels clients in the petroleum, natural gas, mining, airline, homebuilding and retail industries on a wide variety of litigation, environmental, natural resources, administrative, American Indian law and insurance coverage matters. Prior to joining Greenberg Traurig, Chris served as a law clerk for the Environmental Enforcement Section of the U.S. Department of Justice and for Waste Management, Inc. Chris has served as an appointee of Governor Bill Owens and Governor Bill Ritter to the Colorado Solid and Hazardous Waste Commission since September 2005. In May 2007, Chris was elected to serve on the Commission’s Executive Committee as Vice Chairman. Chris also served on the Colorado Air Quality Control Commission from 2004 to 2007. Chris received an undergraduate degree in civil engineering from the University of Notre Dame and a law degree and certificate in environmental and natural resources law from the Northwestern School of Law of Lewis and Clark College. Chris has been listed in the Chambers & Partners USA Guide as a leading environmental lawyer from 2007 to 2009, and was selected as a Rising Star by Colorado Super Lawyers & Rising Stars magazine in 2009.

David Kreutzer has worked for the Colorado Attorney General’s Office since 1996, focusing on hazardous and solid waste enforcement and environmental remediation. His practice includes administrative and district court enforcement and appeals. Mr. Kreutzer also advises the Colorado Department of Public Health and Environment on legislative, open records and enforcement process issues. Mr. Kreutzer has recently been appointed to head the AGO’s Hazardous & Solid Waste & CERCLA Litigation Unit, and supervises eight attorneys and their support staff. Mr. Kreutzer routinely lectures and develops curricula for the Western States Hazardous Waste Project, a multi-state enforcement training and coordination organization.

Mr. Kreutzer was in private practice for six years prior to joining the Colorado AGO where he
represented plaintiffs in toxic tort suits and non-profit environmental groups against federal land
management agencies. Mr. Kreutzer received a bachelors degree in political science from the
University of Colorado in 1984 and his law degree from the University of Denver Law School in 1989. While at DU, Mr. Kreutzer edited articles for the American Bar Association’s
Administrative Law Journal.

Course Summary

This course examines the litigation strategies and procedures used to enforce and defend against
enforcement under environmental protection statutes, such as the Clean Water Act (“CWA”),
Clean Air Act (“CAA”), Resource Conservation and Recovery Act (“RCRA”), the
Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”) and the Toxic Substances Control Act (“TSCA”). Students will study the practical application of
these strategies and procedures by preparing and arguing an injunction hearing based on an
environmental enforcement hypothetical. Topics covered during the course will include civil
enforcement, administrative enforcement, criminal enforcement, and citizens’ suits. The course
will introduce the full range of policy perspectives on these key environmental litigation matters.
The primary focus of the course will be on environmental protection statutes administered by
EPA, with some analysis of state enforcement and relationships between state and federal
systems. Because of the emphasis on procedure and complex litigation and administrative law
issues, this course can be useful not only to students with an interest in environmental law, but
also to those interested in other regulatory schemes. Although not a prerequisite, courses in
Environmental Law or Administrative Law may be helpful.

Course Materials: Craig Johnston & Susan Mandiberg, Environmental Enforcement (2008,
unpublished manuscript), course packs available in bookstore; West’s ENVIRONMENTAL LAW
STATUTES

Office Hours: Professors Neumann and/or Kreutzer will hold office hours on Thursdays before
class from 3:45 p.m. to 4:15 p.m.

Grading: Grades for this course will be based on an environmental enforcement preliminary
injunction oral advocacy project (25%), class participation (5%) and a final exam (70%).

Topics

1. 1/14 Overview: Introduction & Basics of State/Federal Relationship

Investigation: Documents & Reports I & II

Pages 1-1 to 3-26 (57 pp)

2. 1/21 Investigation: Inspections I & II
Who is liable?

Pages 4-1 to 6-23 (66 pp)

3. 1/28 Injunctive Relief

Judicial Civil Enforcement - Penalty Actions

Pages 7-1 to 8-21 (44 pp)

4. 2/4 Administrative Enforcement - Compliance Orders

Administrative Penalties

Pages 9-1 to 10-36 (65 pp)

5. 2/11 Criminal Enforcement I: Mental State

Criminal Enforcement II: Knowing Endangerment & Special Defenses

Pages 11-1 to 12-16 (48 pp)

6. 2/18 Criminal Enforcement II: Knowing Endangerment & Special Defenses

Choosing Among Enforcement Options - State/Federal Tensions

Statutes of Limitations & Other Timing Issues

Pages 12-17 to 12-29; 14-1 to 14-20; 15-1 to 15-21 (52 pp)

7. 2/25 Effect of Evidentiary Privileges on Enforcement Against Organizations

Environmental Audits

Pages 17-1 to 17-33; 18-1 to 18-30 (63 pp)

8. 3/4 Dealing With Regulatory Imprecision

Nature of Claims, Information Gathering and Notice

Pages 19-1 to 20-29 (54 pp)

9. 3/11 Injunction Hearings

10. 3/18 Injunction Hearings
Spring Break

11. 4/1 Standing
    Gwaltney/Redressability/Mootness
    Pages 21-1 to 22-30 (59 pp)

12. 4/8 Mootness and its Effect
    Preclusion/Judicial Actions
    Pages 23-1 to 24-25 (50 pp)

13. 4/15 Preclusion/Administrative Actions
    Attorney Fees
    Pages 25-1 to 25-24; 26-1 to 26-29 (50 pp)

    Government Liability II: State Agencies & Facilities
    Pages 26-1 to 26-29; 27-1 to 27-26; 28-1 to 28-19 (74 pp)

Final Exam: TBA (April 26 to May 6)