

EXAM NUMBER: _____

ENVIRONMENTAL LAW

Professor Ryan Rowberry

Fall 2011

This take-home examination is scheduled to be completed and uploaded within 8 hours after check out during the exam window. The exam window runs from Thursday, December 1 through Wednesday, December 14. Regardless of check-out time, all exams must be returned no later than 11:59 p.m. on December 14.

1. The exam consists of 1 fact pattern and 4 pages, including these instructions.
2. You may not speak to or consult with anyone inside or outside of the College of Law about the exam until the final examination period for all tests at the College of Law expires on December 14. **Failure to strictly abide by this rule may result in the failure of this course.**
3. This is an open-book, open-note, open-internet exam. You may consult any materials you wish in answering the exam questions, aside from another human being.
4. You should address the exam questions using only the information provided in the fact pattern. If you find that the fact pattern lacks information that you need to evaluate an issue, note this, explain how the outcome may be affected, and proceed with your analysis.
5. Organization, clarity, and conciseness will be given significant weight in evaluating your answer. Heavy emphasis will be placed on the quality of your analysis.
6. Your answer must conform to the following technical requirements:
 - a. No more than 8 pages (any additional pages will not be read)
 - b. Place exam number in top, right corner of each page
 - c. Pages must be numbered in the bottom, right corner of each page
 - d. Double Space the text of the memorandum
 - e. Times New Roman, 12 point Font
 - f. 1-inch margins

g. Footnotes should be single spaced and in 10 point Font

7. Penalties for Failure to Abide by Exam Instructions

- a. Late Exams → Exams that are not returned within 8 hours of checkout will not be read and you will fail the course.
- b. Failure to Conform to Technical Requirements in #6 → Noncompliant format may result in -10% off of your final curved grade for the Fall semester at discretion of the instructor.

GOOD LUCK!!! ENJOY YOUR HOLIDAY BREAK!!!

Rowberry Wind Development Corporation (RWDC) is a new player in the wind farm industry. RWDC has its eyes on purchasing a private, undeveloped 1000-acre tract on Eisen Hill from AmmoCorp on which it plans to build a wind farm comprising 50 wind turbines. The site on Eisen Hill overlooks Eisen Town, a tourist destination known for its historic buildings listed on the National Register of Historic Places, unimpeded views of picturesque Eisen Hill trees and foliage, and crisp, clean air.

RWDC has a five-year, five-phase plan in place to construct and connect these 50 wind turbines to the electrical grid: in year one, ten turbines would be constructed and become operational; in year two, ten more turbines would be constructed and become operational, and so on up to year five. To construct the wind farm, RWDC would need to fill in a section of Eisen Creek, which runs through a portion of the site. Eisen Creek is a navigable tributary of the Eisen River and contains some endangered Kupfer Fish. RWDC engineers plan to fill in Eisen Creek with soil—from areas on Eisen Hill that are leveled and graded for wind turbine pads—using long, wide, plastic tubes, called “slurry tubes.”

For the past fifty years, AmmoCorp has intermittently used the site for ammunitions production and testing, but any records about the scale of company operations were destroyed in a fire only three months ago. However, the chemicals associated with AmmoCorps’ munitions are known to present significant groundwater contamination problems and are highly toxic to humans and other species.

You are a young associate to the general counsel of RWDC. Your boss wants you to draft a memorandum to RWDC’s CEO explaining (1) what federal permits and authorities RWDC would need for this wind farm project; and (2) potential liabilities, if any, that RWDC may incur

if it purchases the 1000-acre tract from AmmoCorp. RWDC's CEO is new to environmental law, so make sure that you include relevant legal authorities to support your findings.