

## **Environmental Health Seminar: The Flint Water Crisis**

**ENV 5310**

**Vermont Law School Summer Session 2019**

**(add location)**

**Monday thru Thursday, 9 am to noon**

**Instructor:** Professor Kathleen Falk, 2017 Doug Costle Chair in Environmental Law at VLS

**Email:** kfalk@vermontlaw.edu

**Office:** (add location)

**Office hours:** Monday thru Thursday from noon to 1 pm or by appointment

### **Course Structure, Content, Format and Goals:**

In general, the seminar will cover in a chronological fashion the events of the Flint, MI, water crisis with these on-going questions discussed and analyzed: What actually did happen at key steps during the crisis and what did each key leader/player specifically do? What could have been done differently by those key leaders at each key step that could have changed what happened for the better?

There are Flint-like crises in many places and, sadly, there will be others for years to come. The goal of the course is for students to learn skills that will enable them to analyze any environmental health crisis and take specific steps to improve the outcome presented by the crisis. This course prepares students to be the leaders working to resolve such a crisis. Throughout the course Professor Falk will present information on the variety of tools that could be used in any environmental health crisis, including education, community organizing, use of media, administrative advocacy, legislative solutions, and litigation.

The weekly reading materials center on the Flint water crisis as the case study. The materials include press clippings, community publications, scientific studies, agency enforcement orders, court pleadings and decisions and other documents. The weekly readings and the written assignments will all be on the TWEN. The seminar will meet daily from Monday through Thursday for two weeks. Throughout the course a number of the actual leaders/players in Flint will skype into class for students to engage in a direct conversation with those real leaders.

Throughout the two week course, each student will "assume" or "adopt" the role of one of the key leaders/players in the Flint crisis; each student will research his or leader and do a presentation about that leader in one class. Throughout the course the student will be called upon to describe what your leader actually did throughout the crisis and what other options might have existed that could have changed for the better what subsequently happened.

For the Final Paper due August 2 each student will write a paper, no longer than 20 double-spaced pages, about an environmental health crisis occurring right now somewhere in the country on a topic approved by Professor Falk no later than 11:59 pm, Friday, August 2. In no more than two double-

spaced pages, a description of the topic, a draft outline, and an initial list of intended source materials is due in TWEN and by email to Professor Falk by 11:59 pm Sunday, July 28. The Final Paper will include a brief description of the key leaders/players -- and most importantly -- what steps the student thinks the leaders ought to take in order to produce the best practical possible outcome, using the "lessons learned" from this course, such as the use of education, organizing, media, legislation, administrative advocacy, litigation, and other tools. This written paper is due in TWEN and also by email to Professor Falk by 11:59 pm on Friday August 2. Each student will orally present her/his work to the entire class during the final class of the course on Thursday, August 1, and will lead a brief discussion among the students. Each student will prepare a one-page Final Outline for her/his oral presentation that will be shared with the other students during that final class.

**Grading Policy:**

Overall Class Participation (25%)

Student presentation in one class describing the role/leader "assumed" by the student and the different alternative steps the leader might have taken (25%)

Final Written Paper (30%), Final Outline (5%) and oral presentation to the class (15%)

Grades will be letter-based: A, B, C, D or F. Class participation will be graded with a "0" for unexcused absence, a "1" for excused absence, a "2" for present, a "3" for average participation, a "4" for above average and a "5" for excellent participation. A late Final Paper will receive one grade lower from the grade they would have gotten for every 24 hours after the deadline.

**Attendance:**

Please contact Professor Falk as soon as possible if there is an emergency that requires a student to miss class.

**Academic Integrity and Ethical Behavior:**

Students are responsible for following The Vermont Law School policies on ethics and academic misconduct.

**Syllabus:**

**Class 1 July 22: Introductions; overview of course; expectations; assignments; grading.**

**Historical background and setting-the-stage for the Flint water crisis.**

Reading: Falk Bio.

Readings: Vermont Journal of Environmental Law Top 10 Environmental Watch List 2017 "Lead, Water and Injustice in Flint and Beyond" by Student Rachel Oest and Vice Dean David Mears.

Reading: June 14, 2017, Interim Report by the prosecutors in the Flint Water Crisis.  
[http://www.greatlakeslaw.org/Flint/Flint\\_Water\\_Crisis\\_Investigation\\_Interim\\_Report.pdf](http://www.greatlakeslaw.org/Flint/Flint_Water_Crisis_Investigation_Interim_Report.pdf)

Reading: Watch NOVA Flint Crisis video of May 31, 2017, on PBS and Panel of leaders/experts on WKAR tv

Reading: Watch 1989 film Roger and Me by Michael Moore.

Reading: Hand- out on recent demographic data of Flint

**Primer on the Roles of the 4 "branches" of Government: Legislative, Executive, Judicial and the Press.**

Reading: Agendas and Instability in American Politics(University of Chicago Press 1993) at pages 235 - 251.

The Freedom of Information Act

**Role of the Media:**

Reading: <https://www.mediamatters.org/research/2016/02/02/analysis-how-michigan-and-national-reporters-co/208290>

**Identification of key leaders/players in the crisis; and students choose their role for the course and begin to research their role.**

**Approval of the Final Paper topic is needed from Professor Falk by noon on Friday, July 26. Students submit a no longer than two-page description of the current environmental crisis fact situation chosen for their Final Paper, including a draft outline and preliminary list of sources intended for their research, due in TWEN and also by email to Professor Falk by 11:59 pm Sunday, July 28.**

**Class 2 July 23: Citizens Sound the Alarm.**

Reading: Flints Kids Were Getting Sick; We Had to Find Out Why", Glamour Magazine article

Reading: "Flint is Family" article in Elle Magazine, August 2016

Reading: Dangerous Drinking Water Afflicts Rural USA, USA Today, December 14, 2016

Reading: Examples of high lead levels in other communities;  
<https://www.thestate.com/news/special-reports/article224593265.html>

**The State of Michigan Responds; Student "Michigan Governor" leads the discussion.**

Reading: New York Times articles: January 19, 21, 22, February 26 and May 2.

Reading: January 5, 2016 Michigan Declaration of Emergency; January 17 Federal Declaration of Emergency

**The Regulatory Agencies Respond; Student "EPA Regulator" leads the discussion.**

Guest speaker by video-conference call: Mark Durno, Homeland Security Advisor, Emergency Response Branch, Environmental Protection Agency

Reading: Great Lakes Law Blog, January 2016 Emergency Order

Reading: Flint Rash Investigation Report(August 2016)

<https://www.phe.gov/emergency/events/Flint/Documents/rash-report.pdf>

Reading: New York Times articles of January 26 and February 8 and 22, 2016

Reading: [https://www.cbsnews.com/news/epa-administrator-andrew-wheeler-exclusive-interview/?utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=newsletter\\_axiosgenerate&stream=top](https://www.cbsnews.com/news/epa-administrator-andrew-wheeler-exclusive-interview/?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosgenerate&stream=top)

**Professor Falk describes the Final Paper assignment and students begin to think about their topic.**

**Class 3 July 24: Citizen Advocates Organize.**

Guest speaker by video-conference: Kirk Smith, CEO of the Greater Flint Coalition

Reading: "Flint Water Crisis -- NAACP 20-Point Communities Priorities Plan"

Reading:

[https://www.nrdc.org/flint?gclid=EAlalQobChMIm7m0jJWT1gIVAgZpCh3IIQJFEAMYAiAAEgKpOfD\\_BwE](https://www.nrdc.org/flint?gclid=EAlalQobChMIm7m0jJWT1gIVAgZpCh3IIQJFEAMYAiAAEgKpOfD_BwE)

Reading: July 18, 2016 press release: "Care for Flint"

Reading: US DHHS fliers and brochures about programs

Reading: US DHHS "Community Health and Outreach Workers Serving Flint" White Paper

**Class 4 July 25: Science responds to the results of the tests; Student leads the discussion.**

Guest speaker by video-conference call: Dr. Mona Hanna-Atisha, pediatrician at Children's Hospital and Michigan State University

Reading: "You Have an Incredible, Powerful Voice", Cosmopolitan May 2016 article.

Reading: "Flint Kids: Tragic, Resilient, and Exemplary", American Journal of Public Health (May 2017)

Reading: [https://www.washingtonpost.com/news/inspired-life/wp/2016/01/26/meet-the-heroic-professor-who-helped-uncover-the-flint-lead-water-crisis/?utm\\_term=.45ab21ec0cc6](https://www.washingtonpost.com/news/inspired-life/wp/2016/01/26/meet-the-heroic-professor-who-helped-uncover-the-flint-lead-water-crisis/?utm_term=.45ab21ec0cc6)

Reading: <https://www.nytimes.com/2016/08/21/magazine/flints-water-crisis-and-the-troublemaker-scientist.html>

Reading: <http://news.pioneergroup.com/manisteenews/2019/03/21/federal-judge-throws-out-flint-water-researchers-defamation-lawsuit/>

Reading: Operation of the health Registry;  
<https://www.detroitnews.com/story/news/education/2019/03/12/flint-kids-exposed-lead-get-intense-assessments/2527556002/>

#### **Congress Takes Action.**

Reading: Press release December 10, 2016: Senate Passes Agreement to Provide Critical help for Flint and Other Communities, Clearing Way for President's Signature.

Reading: UTube videos of Congressional hearings 2-3/2016 (Cong. Kildee) and 3-17/2016(Gov. Snyder and EPA Administrator)

**Approval of the Final Paper topic is needed from Professor Falk by noon on Friday, July 26. Students submit a no longer than two-page description of the current environmental crisis fact situation chosen for their Final Paper, including a draft outline and preliminary list of sources intended for their research, due in TWEN and also by email to Professor Falk by 11:59 pm Sunday, July 28.**

#### **Class 5 July 29: Civil Litigation Produces Results; Student NRDC attorney leads the discussion.**

Guest speaker by video-conference : Attorney Dimple Chaudhary, Natural Resources Defense Council, one of the lead attorneys in the Flint civil lawsuit

Reading: Chaudhary Bio.

Reading: Concerned Pastors for Social Action et al., Notice of Intent to Sue Under the Safe Drinking Water Act, 42 U.S.C. § 300j-8(b)(1)(a), for Failure to Control Lead in Drinking Water in Flint, Michigan, and Failure to Assist Michigan Schools with Lead

Testing and Remediation (November 2015);  
[http://www.greatlakeslaw.org/files/aclu\\_nrdc\\_noi.pdf](http://www.greatlakeslaw.org/files/aclu_nrdc_noi.pdf)

Reading: News article Associated Press "Flint, state reach deal to replace water lines",  
March 28, 2017

Reading: Federal Court "Opinion and Order Granting Plaintiff's Motion for Preliminary  
Injunction", November 10, 2016:  
[http://www.greatlakeslaw.org/Flint/Concerned\\_Pastors\\_for\\_Social\\_Action\\_PI\\_Opinion.  
pdf](http://www.greatlakeslaw.org/Flint/Concerned_Pastors_for_Social_Action_PI_Opinion.pdf)

Reading: Federal Court decision approving settlement, April 17, 2017:  
[http://www.greatlakeslaw.org/Flint/Concerned\\_Pastors\\_for\\_Social\\_Action\\_Settlement\\_  
Agreement.pdf](http://www.greatlakeslaw.org/Flint/Concerned_Pastors_for_Social_Action_Settlement_Agreement.pdf)

**Reading:** [https://www.mlive.com/news/flint/2019/03/flint-homes-at-highest-risk-of-  
having-lead-in-water-will-get-their-pipes-replaced-this-year.html](https://www.mlive.com/news/flint/2019/03/flint-homes-at-highest-risk-of-having-lead-in-water-will-get-their-pipes-replaced-this-year.html)

Reading: NRDC intervenes in lawsuit challenging the new state lead and copper rule;  
[https://www.nrdc.org/experts/cyndi-roper/michigans-lead-drinking-water-  
protections-under-attack](https://www.nrdc.org/experts/cyndi-roper/michigans-lead-drinking-water-protections-under-attack)

**Reading:**  
[https://www.detroitnews.com/story/news/local/michigan/2019/03/31/lawyer-asks-  
judge-disqualify-nessel-office-flint-civil-suits/3314628002/](https://www.detroitnews.com/story/news/local/michigan/2019/03/31/lawyer-asks-judge-disqualify-nessel-office-flint-civil-suits/3314628002/)

Reading: Federal criminal indictments for manslaughter. See  
[https://www.google.com/amp/www.chicagotribune.com/news/nationworld/midwest/c  
t-nick-lyon-flint-water-crisis-20170614-story,amp.html](https://www.google.com/amp/www.chicagotribune.com/news/nationworld/midwest/c-t-nick-lyon-flint-water-crisis-20170614-story,amp.html)

### **Class 6 July 30: The City Steps Up; Student X leads the discussion.**

Guest speaker by video-conference call: Dr. Pamela Pugh, Chief Health Officer, City of  
Flint

Reading: New York Times April 12, 2016

Reading: City of Flint press release and fliers December 2016

Reading: [https://www.abc12.com/content/news/Flint-water-activists-deliver-15000-  
petitions-to-Mayor-Weaver-demanding-more-action-507521381.html](https://www.abc12.com/content/news/Flint-water-activists-deliver-15000-petitions-to-Mayor-Weaver-demanding-more-action-507521381.html)

### **Environmental Justice/Injustice Investigation Concludes.**

Reading: Environmental Communication and the Public Sphere, by Robert Cox and  
Phaedra Pezzullo (SAGE 2016) at pps 234-257.

Reading: "The Flint Water Crisis: Systemic Racism Through the Lens of Flint", Report of the MI Civil Rights Commission, February 2017:

[http://www.greatlakeslaw.org/Flint/MCRC\\_Flint\\_Water\\_Crisis\\_Report.pdf](http://www.greatlakeslaw.org/Flint/MCRC_Flint_Water_Crisis_Report.pdf)

Reading: NYT June 5, 2017

Reading: [https://www.wnem.com/news/nestle-to-continue-flint-water-donations-through-august/article\\_28d2bb1e-57cf-11e9-9c29-a7e5fb01d671.html](https://www.wnem.com/news/nestle-to-continue-flint-water-donations-through-august/article_28d2bb1e-57cf-11e9-9c29-a7e5fb01d671.html)

### **Class 7 July 31: Overall Federal Response; Student X leads the discussion**

Guest speaker by video-conference call: Dr. Nicole Lurie, formerly Ass. Secretary for Emergency Preparedness, US Dept of Health and Human Services

Reading: White House Blog May 4, 2016 President Obama to Flint: It's Not Enough Just to Fix the Water.

Reading: Flint Water Advisory Task Force Report, March 21, 2016:

[http://www.michigan.gov/documents/snyder/FWATF\\_FINAL\\_REPORT\\_21March2016\\_517805\\_7.pdf](http://www.michigan.gov/documents/snyder/FWATF_FINAL_REPORT_21March2016_517805_7.pdf)

Reading: Flint Rash Investigation Report (August 2016):

<https://www.phe.gov/emergency/events/Flint/Documents/rash-report.pdf>

Reading: <https://www.wxyz.com/news/whitmer-budget-would-direct-180m-more-toward-drinking-water>

### **Class 7 July 31: The Criminal Courts Take Action.**

Reading: "2 Former Flint Emergency Managers are Charged Over Tainted Water ", New York Times December 21, 2016

Reading: "Top Michigan health official, four others charged with manslaughter in Flint water crisis"; [https://www.washingtonpost.com/news/energy-environment/wp/2017/06/14/top-michigan-health-official-charged-with-manslaughter-in-flint-water-crisis/?utm\\_term=.6a9886de43d1](https://www.washingtonpost.com/news/energy-environment/wp/2017/06/14/top-michigan-health-official-charged-with-manslaughter-in-flint-water-crisis/?utm_term=.6a9886de43d1) , Washington Post June 14,2017.

### **Re-review the roles of the four branches of government....what worked and what didn't? What will/could/should happen in Flint in the future?**

Reading: EPA Inspector General Report (October 2016):

[https://www.epa.gov/sites/production/files/2016-10/documents/\\_epaig\\_20161020-17-p-0004.pdf](https://www.epa.gov/sites/production/files/2016-10/documents/_epaig_20161020-17-p-0004.pdf)

Reading: "A Different View of the Path from Flint" by Ronnie Levin, Marc Edwards and Joel Schwartz, The Environmental Law Institute May/June 2017.

**Discussion of expectations from the student for her/his oral presentation to the class on August 1 and for the Final Outline for her/his oral presentation to the class on August 1.**

**Final Paper assignment is discussed; it is due in TWEN and also by email to Professor Falk by 11:59 pm on Friday, August 2.**

**Class 8 August 1: Oral presentations by students; all students participate in the discussion.**

**Oral presentations of the Final Paper by each student in class; also due in class on August 1 is the Final Outline for the student presentation to the class.**

Course evaluations are completed in class.