

WATER LAW
Fall 2025
Course Number 6341
Section Number 25910

Prof. Tracy Hester

Class Hours: **Tuesday-Thursday 1:00 pm to 2:30 pm**
Room ____

Office Hours: Wednesdays from 9:30 am to noon in my office (LAW341K)
and by appointment at [my office hours Zoom site](#).

You can also reach me at 713-743-1152
or tdheste2@central.uh.edu to schedule a visit at any other time.

Mode of Instruction: Face-to-Face

Course Description: Welcome to Water Law!

Water is the indispensable resource. Yet clean and usable water is surprisingly scarce, and our supplies of it have come under stress from demands by growing cities, vital agriculture operations, industrial and power production processes, and recreational uses. Beyond our human vantage, ecosystems and imperiled species also depend on water for their survival, and climate change has ramped up even more pressure on our increasingly erratic supplies.

In this course, we'll explore the legal doctrines that govern the production, use, and discharge of water. This survey will include an overview of differing rights systems to allocate access to water (e.g., riparian vs. prior allocation systems); special rules for water under federal jurisdiction; the unique legal status of groundwater; the intersection of water management and endangered species protection; and the difficult legal questions raised when water regulation affects other constitutionally protected rights.

We will explore this broad field together with three goals:

- to acquaint you with the fundamentals of key federal and state legal regimes that govern water management and production. This class will examine systems used throughout the United States, but we will also focus as much as

we can on Texas water law and its quirks;

- to explore some of the most common legal strategies and analytical skills that govern this area (as well as other legal fields with strong administrative or regulatory dimensions), and
- to provide some fundamental forms or legal documents to help you handle water rights issues that might arise in your future legal work.

The class will use a combination of lectures, class discussions, case studies, in-class exercises and sample problems. Where possible, I'll introduce real-life on-going matters and projects to provide an opportunity to wrestle with some of the most active questions in modern water law practice.

As an outcome of taking this class, you should be able to identify key water rights legal issues that might affect government actions, business activities, human health, and protected natural resources and species.

Course Materials:

We will use the following course book: **R. Adler, Robin Kundis Craig, and Noah Hall, *Modern Water Law* (3d ed. 2024).**

In addition, I'll distribute class handouts and supplemental materials as needed. We'll also use the Canvas class website where you can access additional optional materials as well as recordings of class lectures.

Assignments

Our reading assignments will follow the course syllabus, although we may vary a bit in pace and coverage as the semester progresses (i.e., expect changes as we go). Of course, you should read each day's assigned materials in advance and be prepared to discuss them in class.

Class Participation

In general, I will treat you in class the same way that I'd treat you as a new attorney working for me at a law firm. So please be prepared to discuss the readings assigned for that day as well as to think creatively about how to apply those materials to new situations and hypotheticals. I'll call on you randomly pursuant to an opt-out roster, but I will expect everyone to jump into class discussions even if you're not on call.

We'll also upload links to recordings of every session to the class Canvas website.

Grading

Your grade in this class will be based on a final examination. This exam will last three hours, and will consist of three essay questions (one hour each question). You can use your personal notes or outlines that you create, your text book for this class, and any handouts. No commercial outlines or briefs, please. We'll discuss the final exam's format and other issues later in the semester.

I'll adjust grades by one notch (i.e., a half-grade) based on class participation as merited. It works both ways - you can raise your grade with energetic and insightful participation, or you can lower it by consistently failing to prepare adequately for class.

Honor Code

The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

Personal Resources

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. Go to http://www.uh.edu/caps/outreach/lets_talk.html .

Artificial Intelligence

General.

Generative artificial intelligence is a form of machine learning that creates new and original output based on the data it has been trained on or has access to, employing algorithms to generate content in response to prompts. Examples of the technology include what are known as generative “large language models” (LLMs). Two well-known LLM implementations are ChatGPT and Claude. LLM output can include text, images, music, code, and more. This syllabus policy covers the textual output of generative LLMs (AI-Generated Work Product)—which can include computer code or programs and human-language content. Because AI-Generated Work Product can often mimic human intelligence, it could potentially be used as a substitute for a student’s own work product. Such use is potentially problematic to the extent that it becomes a substitute for internalized student understanding of the material or creates a dependency on AI-Generated Work Product, which may be strictly prohibited in settings that include the bar examination.

Prohibition.

Subject to the exceptions immediately below, your continuing enrollment in this course constitutes your pledge not to generate or to use any AI-Generated Work Product—whether from yourself or others—in relation to any assessment in this course. The term “assessment” means any graded or ungraded work product for this course that is submitted to the instructor, presented in a class session, or used in an oral or written graded assessment for this course.

Exceptions.

The following AI-Generated Work Product uses are exceptions to the preceding prohibition. The exceptions’ intent is to allow the generation and use of AI-Generated Work Product for specific, narrowly defined activities related to this course.

- You may generate and use AI-Generated Work Product for class preparation, although you must disclose the full extent of that use if your instructor asks. You may generate and use AI-Generated Work Product for study supplements to aid with general understanding of course content. This could take different forms that include creating examples or explanations of a concept, generation of diagrams and flow charts, “gamification” of course content, flash cards for study, or sample questions and answers.
- You may generate and use AI-Generated Work Product for an outline that summarizes the course content.

- You may use AI-Generated Work Product to check your originally drafted text for misspellings, grammar and punctuation errors, strength and clarity of prose, verbosity, effective transitional language and thesis sentences, word choice, excessive passive voice, and like things.
- You may use AI-Generated Work Product for the purpose of language translation.

Discrimination and Sexual Harassment/Misconduct Policy

The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University system's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08, available here:

<http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php>

http://www.uhsystem.edu/compliance-ethics/_docs/sam/01/1d7.pdf
(antidiscrimination)

http://www.uhsystem.edu/compliance-ethics/_docs/sam/01/1d8.pdf
(sexual misconduct)

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the

instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Center for Students with DisABILITIES](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform.

I will record all of our classes unless I specifically notify you otherwise. You may use my recordings for your own studying and notetaking, but the University does not authorize you to share them with *anyone* without my prior written approval. Per University policy, failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Language Required by the University of Houston for All Syllabi:

Resources for Online Learning

The University of Houston is committed to student success, and provides information to optimize the online learning experience through our Power-On website (<https://uh.edu/power-on/learning/>). Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, Blackboard, and Canvas; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact UHOnline@uh.edu.

UH Email

Please check and use your CougarNet email for communications related to this course. Faculty use the CougarNet email to respond to course-related inquiries such as grade queries or progress reports for reasons of FERPA. To access your CougarNet email, login to your Microsoft 365 account with your CougarNet credentials. Visit University Information Technology (UIT) for instructions on how to connect your CougarNet e-mail on a mobile device.

Webcams

Access to a webcam is required for students participating remotely in this course. Webcams must be turned on when you join the class remotely for any class session or exam. Your camera must be turned on unless I direct otherwise.

Security Escorts and Cougar Ride

UHPD continually works with the University community to make the campus a safe place to learn, work, and live. The security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety, please call 713-743-3333. Arrangements may be made for special needs.

Parking and Transportation Services also offers a late-night, on-demand shuttle service called “Cougar Ride” that provides rides to and from all on-campus shuttle stops, as well as the MD Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at <https://uh.edu/af-university-services/parking/cougar-ride/>.

Syllabus Changes

Please note that I may need to make modifications to the course syllabus. Notice of such changes will be announced as quickly as possible through email and the Canvas website.

Week 1 (Aug. 26, 28)

Fundamental Concepts of Water Law; Introduction to Riparian Rights

Week 2 (Sept. 2, 4)

Riparian Rights to Take and Use Fresh Water

Week 3 (Sept. 9, 11)

Introduction to Prior Appropriation Approach to Water Rights; Elements and Attributes of Appropriative Rights

Week 4 (Sept. 16, 18)

Legal Attributes of Appropriative Rights; Introduction to Groundwater Rights

Week 5 (Sept. 23, 25)

Prior Appropriation of Groundwater Rights; Modern Applications of Water Law Principles

Week 6 (Sept. 30, Oct. 2)

Modern Applications of Water Law Principles – Innovations with Prior Appropriation

Week 7 (Oct. 7, 9)

Control and Ownership of Navigable Waters

Week 8 (Oct. 14, 16)

Public Rights in Water – Public Trust Doctrine; Federal Water Interests

Week 9 (Oct. 21, 23)

Federal Water Projects; Interstate Water Management

Week 10 (Oct. 28, 30)

Equitable Apportionment of Interstate Waters; Interstate Compacts

Week 11 (Nov. 4, 6)

The Water-Energy Nexus; Endangered Species and Water Use

Week 12 (Nov. 11, 13)

Endangered Species Act Impacts on Water Use

Week 13 (Nov. 18, 20)

Takings Claims and Water Rights

Week 14 (Nov. 25, then Thanksgiving holiday break)

Texas Water Rights and Permitting; Climate Change and Water Rights;
Water Antitrust; Water Bankruptcy

Week 15 (Dec. 2)

Voluntary review session – attendance **not** required.