SECTION A  (55 MARKS)

PLEASE NOTE THAT THIS SECTION IS COMPULSORY AND THAT ALL QUESTIONS IN THIS SECTION MUST BE ANSWERED

QUESTION 1  (20 MARKS)

Derick Watts has recently started a textile manufacturing company in Kwazulu-Natal known as Damnex Textiles (Pty) Ltd. Derick informs you that in carrying out its activities Damnex Textiles (Pty) Ltd will produce significant amounts of industrial effluent (liquid) which will have to be disposed of into municipal sewers. Derick approaches you for advice on the legal requirements that have to be met before effluent can be disposed into the municipal sewage system. Advise him fully.

AND

QUESTION 2  (20 MARKS)

Petroleum Unlimited (Pty) Ltd wants to construct a filling station in Gauteng and have applied for authorisation in terms of the relevant EIA legislation. The filling station is to be constructed in an area which already contains several existing filling stations. The authorisation to conduct the activity has been granted by the relevant environmental authority. The relevant environmental authority reaches its decision on the basis that the filling station in question will not have any significant impact on the environment. Caltex (Pty) Ltd, who already have a filling station in the area, want to obtain an interdict from the High Court to prevent Petroleum Unlimited (Pty) Ltd from commencing the activity in question. Caltex (Pty) Ltd is of the view that if Petroleum Unlimited (Pty) Ltd construct the filling station in question then this would have an adverse impact on its business as well as on the other filling stations which already carry on business in the area. Advise Caltex (Pty Ltd fully on the legal position in this instance.
QUESTION 3 (15 MARKS)

Dynamic Manufacturers (Pty Ltd and Exotic Fertilizers (Pty) Ltd both operate factories on a particular piece of land in Newcastle. There is a significant amount of pollution on the land in question which has been caused by the activities of both factories. On 10 August 2010, the Department of Water and Environmental Affairs issues a directive in terms of s 28 of the National Environmental Management Act 107 of 1998 (NEMA) requiring Dynamic Manufacturers (Pty Ltd to take extensive measures to rehabilitate the land in question. Dynamic Manufacturers (Pty Ltd, however, refuses to comply with the directive. They subsequently receive a letter from the Department which states that if they do not comply with the directive, the Department will itself take the necessary measures to rehabilitate the land in question and will recover the full cost from Dynamic Manufacturers (Pty Ltd. Dynamic Manufacturers (Pty Ltd want to know whether the Department is entitled to do this. Advise them fully on the legal position.

PLEASE ANSWER EITHER:

SECTION B

OR

SECTION C

SECTION B

QUESTION 1 (20 MARKS)

PLEASE ANSWER BOTH QUESTIONS 1.1 AND QUESTION 1.2

1.1 Discuss the principles contained in s 2 of NEMA. In the course of your answer, you must include a discussion of the case of Minister of Works v Kyalami Ridge Environmental Association 2001 (3) SA 1151 (CC).10 marks

1.2 Critically discuss the provisions of the National Environmental Management: Integrated Coastal Management Act 24 of 2008 relating to dumping at sea. (10)
SECTION C  (20 MARKS)

QUESTION 1

Critically discuss the Kyoto Protocol to the United Nations Framework Convention on Climate Change. Your answer must include a discussion of the following:

- An explanation of what you understand by the term ‘global warming’;
- A discussion of why the United States of America has not ratified the Kyoto Protocol;
- An explanation of what is meant by the ‘common but differentiated responsibility’ and the extent to which this is reflected in the Kyoto Protocol.
- An analysis of the strengths and weaknesses of the Kyoto Protocol; and
- Suggestions on drafting an effective successor to the Kyoto Protocol.

THE END