

**DEPARTMENT OF LEGAL STUDIES AND BUSINESS ETHICS
THE WHARTON SCHOOL, UNIVERSITY OF PENNSYLVANIA**

**LGST 215-815
ENVIRONMENTAL MANAGEMENT, LAW AND POLICY**

**PROFESSOR SARAH E. LIGHT
SPRING 2014**

I. INSTRUCTOR

Professor Sarah E. Light

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Office Phone: 215-573-0575

Office: 647 Huntsman Hall

Office Hours: Wednesdays 1:30-3pm and by appointment

II. CLASS MEETING TIMES AND LOCATION

Tuesdays and Thursdays 10:30am-12pm

Room **TBA**

III. COURSE OBJECTIVES

The law and public policy shape how business managers must think about their firms' interactions with the environment. The primary goal of this course is to learn to think critically about:

- (1) the relationship between business and the natural environment,
- (2) the existing legal and policy framework of environmental protection and its effects on what business managers are charged to do, and
- (3) the potential to effect change in that legal and policy environment.

The first part of the course will introduce you to concepts of sustainability, and will provide a grounding in the foundational concepts of environmental law. As we address different topics in environmental law and policy, we will examine a series of case studies in which law, policy and business intersect. Examples include how the law of municipal and hazardous waste management informs business practices about e-waste; how informational regulation affects business strategy; and how the dominance of state rather than federal rules governing hydraulic fracturing affects both business decisions and the economic and environmental implications of that practice. We will also examine the emerging concepts of private environmental governance, in which private contracting, third-party certification, and insurance can impose environmental

obligations and create incentives in the absence of government action. We will then focus on different approaches of incorporating sustainability into business practices, including through lifecycle analysis and environmental management systems. The final part of the course will consist of student group presentations on current topics in environmental management, law and policy.

Students are not expected to have any previous experience with environmental law or policy.

IV. TEXT AND READINGS

The assigned texts for this course are:

- James Salzman and Barton H. Thompson, Jr., *Environmental Law and Policy* (3d ed., Foundation Press 2010) (“S&T”).
- *Environmental Protection and the Social Responsibility of Firms: Perspectives from Law, Economics and Business* (Bruce L. Hay et al., eds.) (Resources for the Future, 2005).
- Coursepack (available from Wharton Reprographics through Study.net).

V. ASSIGNMENTS AND GRADING

Students will be required to participate in class, prepare two individual papers and a final group project. There is no final exam in this course.

The final grade for the course will be determined as follows:

- Class participation: 20% (including in-class exercise(s))
- Individual Paper # 1: 20%
- Individual Paper # 2: 25%
- Final Group Project: 30%

Class Participation: Students are expected to be punctual, attend each class, prepare for classes conscientiously, and contribute to the class discussion. This means providing thoughtful commentary, engaging in analysis, and/or posing relevant questions. It also means being prepared to discuss the readings, including legal cases and other materials. There will be at least one in-class exercise.

General Guidelines for Written Assignments. I have intentionally given you plenty of time to complete each assignment, so all written assignments must be handed in on time. If a paper is late for any unexcused reason, it is penalized one grade level for each 24-hour period or portion thereof it is late (*i.e.*, A would become A-; an A- would become B+ etc.). Excused reasons would include death in the family, serious illness or family emergency, with advance notification if possible.

Individual Paper #1: Due Monday, February 10, 2014, at 10:30 am. Individual Paper # 1 will be on an assigned topic. The paper must be no more than 1,500 words. I have set the deadline for 24 hours prior to class so that I can review your papers before class, and we can discuss your responses in class on February 11th. If you miss the Monday deadline, but still turn your paper in before the start of class, the standard 24-hour penalty policy will apply. However, failure to submit Individual Paper #1 by the start of class on February 11th, when we will discuss student responses to the assignment, will result in no credit on that assignment.

Individual Paper #2: Due Thursday, March 20, 2014, at or before the start of class. Individual Paper # 2 will be on a topic of your choice. The paper must be no more than 2,000 words. Your paper should discuss a relevant topic in environmental policy, law or management related to material assigned in the course. Topics must be approved in advance.

Final Group Project: Each student must participate in a group project. Students should begin to consider a topic that they would like to investigate relatively early in the semester. The topic must be approved by the Professor in advance. Past projects have addressed a wide variety of topics such as: Chinese Renewable Energy Policy, Extending the Green Revolution to Africa, Endocrine Disruptors, Solar Technology and Sustainable Ski Resorts, among others. At the end of the semester, each group will present its research to the rest of the class. Depending upon class size, students may join together in groups of two or three, and share responsibility and the grade for the presentation. Grades for the group projects will be based on the quality of the final presentation itself, as well as any supplementary written or other submissions provided indicating sources and research.

Citations, Collaboration and Plagiarism. As with any paper, you must use a consistent citation method for sources. Any source you quote or use must be either footnoted, with source and page references, or noted parenthetically, for example (Sax 1980 at p. 7) with the full citation provided in a bibliography (*e.g.*, Joseph L. Sax, *Mountains without Handrails: Reflections on the National Parks* (University of Michigan Press 1980)). Please make reference to *all* sources used. No statement that relies on a source should fail to reference the source.

Papers must represent only the student's own creative work and effort. Any plagiarism or cheating will be dealt with according to University policy. Students may use computer-assisted spelling or grammar programs and may discuss general ideas of paper topics with others. But no writing coaches, relatives, or other personal assistance may be relied upon for the actual writing. The work must be your own. With respect to grading, I will give credit to well-organized, well-written, and well-reasoned papers. The paper should deal with material critically and thoughtfully. What works best for each individual varies, but many students find the following methods to be useful: stating a thesis and defending it against the best counter-arguments, writing an outline and then following it, or writing and organizing notes on index cards or otherwise before starting to compose. An unerring rule of good writing is to rewrite. Be self-critical in assessing your own writing and be sure to give yourself enough time to revise and edit. Deadlines will be strictly enforced with penalties assessed for lateness (except for emergencies). Emergencies include death in the family or other serious situations (approved, if possible, in advance).

VI. CLASSROOM EXPECTATIONS

- We will start and end class on time.
- You must display your name tent.
- You must turn off all phones, laptops and other electronic devices.
- No food during class.
- Drinks in reusable containers are permitted.

VIII. COURSE OUTLINE

Please note: These assignments are subject to revision as the course progresses, depending upon changes in the law, our progress, and student interest.

Class 1: Thursday, January 16

Introduction to Sustainability, Environmental Management, Law and Policy

Readings for Today:

- Donald S. Siegel, *Green Management Matters Only If It Yields More Green*, 23 *Academy of Management Perspectives* 5 (2009) [Coursepack #1]
- Alfred A. Marcus and Adam R. Fremeth, *Green Management Matters Regardless*, 23 *Academy of Management Perspectives* 17 (2009) [Coursepack #2]
- Wal-Mart's Sustainability Strategy [Coursepack #3]

Class 2: Tuesday, January 21

A Classic Paradigm from Economics: The Tragedy of the Commons

Readings for Today:

- Garrett Hardin, *The Tragedy of the Commons*, 162 *Science* 1243 (1968) [Coursepack #4]).
- S&T, Chapters 1 & 2.

Class 3: Thursday, January 23

The Tragedy of the Commons, cont'd.

Learning Lab: The Tragedy of the Tuna

Introduction to the U.S. Legal System and Anatomy of a Lawsuit

Readings for Today:

- *Edmunds v. Duff*, 280 Pa. 355 (Apr. 28, 1924) [Coursepack #5]

Class 4: Tuesday, January 28

The Common Law Roots of Environmental Law: Public and Private Nuisance Introduction to the U.S. Legal System and Anatomy of a Lawsuit, cont'd.

Readings for Today:

- *Madison v. Ducktown Sulphur, Copper and Iron Co.* (Tenn. 1904) [Coursepack #6]
- *Missouri v. Illinois* (S. Ct. 1906) [Coursepack #7]
- *Georgia v. Tennessee Copper Co.* (S. Ct. 1907) [Coursepack #8]

Class 5: Thursday, January 30

Does the Common Law Still Matter? Common law in the Climate Change Context

Readings for Today:

- *Kivalina v. ExxonMobil* Complaint (read only Parts I, IV, all four Claims for Relief and Relief Requested) [Coursepack #9]
- *Kivalina v. ExxonMobil* decision (9th Circuit) [Coursepack #10]
- *Optional Reading:* Report of the Intergovernmental Panel on Climate Change, Summary for Policymakers, Working Group 1 to the Fifth Assessment Report (AR5), *available at* http://www.climatechange2013.org/images/uploads/WGIAR5-SPM_Approved27Sep2013.pdf

Class 6: Tuesday, February 4

The Rise of Modern Federal Environmental Law and the Regulatory State Regulatory Options, and the Regulatory Process

Readings for Today:

- S&T, Chapter 3, pp. 44-75.
- *Chevron v. Natural Resources Defense Council* (S. Ct. 1984) [Coursepack #11]
- **Note: I will post the first assignment for Individual Paper #1 on E-Waste today after class. Individual Paper # 1 is due on Monday, February 10, 2014 by 10:30am via email or Canvas.**
- **Please note, this is *one day before* Class 8. If fail to hand in your memo on time, standard lateness penalties apply for up to 24 hours. Because we will be discussing the topic and your responses in Class 8, if you fail to hand in your paper by the start of Class 8, you will receive no credit on this assignment.**

Class 7: Thursday, February 6

Pollution Prevention and Hazardous Waste Management: Superfund and RCRA

Readings for Today:

- S&T, Chapter 8
- *American Mining Congress (AMC) v. EPA* (D.C. Cir. 1987) [Coursepack #12]
- *Allied-Signal: Managing the Hazardous Waste Liability Risk* [Coursepack #13]

Individual Paper # 1 is due on Monday, February 10, 2014 by 10:30am via email or Canvas. Please note, this is *one day before* Class 8.

Class 8: Tuesday, February 11

**Complete discussion of RCRA and Superfund
Current Issues in Waste Management: E-Waste**

Readings for Today:

- Readings listed in the writing assignment on e-waste

Class 9: Thursday, February 13

Clean Water: From Pollution Prevention to Sustainability

Readings for Today:

- S&T, Chapter 6
- *Entergy Corp. v. Riverkeeper, Inc.* (S. Ct. 2009) [Coursepack #14]
- Coca-Cola Water Stewardship, Sustainability Report, available at: <http://www.coca-colacompany.com/sustainabilityreport/world/water-stewardship.html#section-replenishing-the-water-we-use>

Class 10: Tuesday, February 18

Clean Air: Common Law, the Clean Air Act, and Climate Change

Readings for Today:

- S&T, Chapters 4 & 5
- *Massachusetts v. EPA* (S. Ct. 2007) [Coursepack #15]

Class 11: Thursday, February 20

Clean Air and Climate Change after *Massachusetts v. EPA*

Readings for Today: (Note: this is a rapidly evolving area of the law; final readings to be announced)

- *Utility Air Regulatory Group v. EPA; Coalition for Responsible Regulation v. EPA* (S. Ct. cert. granted) (to be confirmed)
- S&T, Chapter 5
- ***Due today: 2-paragraph summary of proposed topic for Individual Memo #2***
- ***Sign-up in class for Group Presentation dates***

Class 12: Tuesday, February 25

Energy Policy: Hydraulic Fracturing and Environmental Federalism

Readings for Today:

- S&T, Chapter 11
- David Spence, *Federalism, Regulatory Lags, and the Political Economy of Energy Production*, 161 U. Pa. L. Rev. 431 (2013) [Coursepack #16]
- U.S. Energy Information Administration, Annual Energy Outlook 2013
http://www.eia.gov/forecasts/aeo/MT_naturalgas.cfm (only the summary is required; full report optional)

Class 13: Thursday, February 27

Mandatory Information Disclosure as a Regulatory Tool: The National Environmental Policy Act (NEPA) and the Toxics Release Inventory (TRI)

Readings for Today:

- S&T, Chapter 12
- Excerpt of Sarah E. Light, *NEPA's Footprint* [Coursepack # 17]
- Bradley Karkkainen, *Information as Environmental Regulation: TRI and Performance Benchmarking; Precursor to a New Paradigm?* 89 Geo. L.J. 257 (2001) [Coursepack # 18]
- *Optional:* EPA Comment Letter on Keystone XL Pipeline Project Environmental Impact Statement, Apr. 22, 2013, available at: <http://www.epa.gov/compliance/nepa/keystone-xl-project-epa-comment-letter-20130056.pdf>

Class 14: Tuesday, March 4
Environmental Markets

Readings for Today:

- Robert Stavins, *A Meaningful Cap-and-Trade System to Address Climate Change*, 32 Harv. Envtl. L. Rev. 293 (2008) [Coursepack # 19]
- Nathaniel Gronewold, *Europe's Carbon Emissions Trading – Growing Pains or Wholesale Theft?* NY Times (Jan. 31, 2011) [Coursepack #20]
- Pilita Clark, *Microsoft to Adopt Carbon Offset Scheme*, Financial Times (May 8, 2012) [Coursepack #21]
- *See generally* Regional Greenhouse Gas Initiative, <http://www.rggi.org/>

Class 15: Thursday, March 6

Risk Regulation in the Face of Uncertainty: Toxic Chemicals, the Precautionary Principle and International Compliance

- S&T, Chapter 7, pp. 175-197 (Toxic Substances).
- Noah Sachs, *Jumping the Pond: Transnational Law and the Future of Chemical Regulation*, 62 Vand. L. Rev. 1817 (2009) [Coursepack #22]

-----Wharton Spring Break, March 8-16, 2014-----

Class 16: Tuesday, March 18

Alternative Forms of Environmental Governance: Private Governance and Informational Regulation

Readings for Today:

- Michael Vandenbergh, *The New Wal-Mart Effect: The Role of Private Contracting in Global Governance*, 54 U.C.L.A. L. Rev. 913 (2007) [Coursepack #24]
- Mark Cohen & Michael Vandenbergh, *The Potential Role of Carbon Labeling in a Green Economy* [Coursepack # 25]
- *Due at start of next class: Individual Paper #2.*

Class 17: Thursday, March 20

Alternative Forms of Environmental Governance cont'd: Informational Regulation, Certification Programs, SEC Rules on Climate Change Disclosures

Readings for Today:

- US Securities and Exchange Commission Guidance Regarding Disclosure Related to Climate Change (Feb. 2, 2010), available at: <http://www.sec.gov/rules/interp/2010/33-9106.pdf>
- Climate Disclosure Project Global 500 Climate Change Report, available at: <https://www.cdproject.net/CDPResults/CDP-Global-500-Climate-Change-Report-2012.pdf> (Read executive summary; skim the rest).
- *Due today: Individual Paper #2.*

Class 18: Tuesday, March 25

Alternative Forms of Environmental Governance cont'd: Insurance as a form of environmental regulation, Climate Change Adaptation and Resilience

Readings for Today:

- Sean Hecht, *Climate Change and the Transformation of Risk: Insurance Matters*, 55 U.C.L.A. L. Rev. 1559 (2008) [Coursepack # 23]
- *Optional:* Howard Kunreuther, Erwann Michel-Kerjan and Mark Pauly, *Making America More Resilient toward Natural Disasters: A Call for Action* (2013), available at: <http://wpcarey.asu.edu/CEESP/events/upload/Kunreuther-Making-America-More-Resilient-toward-Natural-Disasters-A-Call-for-Action.pdf>
- *Optional:* <http://www.businessweek.com/articles/2013-08-22/femas-new-flood-maps-pressure-homeowners-to-raise-their-houses>

Class 19: Thursday, March 27

Product Stewardship: Bottled Water [in-class exercise]

Readings for today:

- FIJI Water and Corporate Social Responsibility: Green Makeover or Greenwashing? [Coursepack # 26]
- FTC Green Guides, available at <http://www.ftc.gov/os/2012/10/greenguides.pdf>
- I will provide instructions in class for the group exercise on bottled water.

Class 20: Tuesday, April 1

Environmental Protection and the Corporate Responsibility Debate

Readings for today:

- *Environmental Protection and the Social Responsibility of Firms*, pp. 1-106

Class 21: Thursday, April 3

Environmental Protection and the Corporate Responsibility Debate, cont'd.

Readings for today:

- *Environmental Protection and the Social Responsibility of Firms*, pp. 107-end

Class 22: Tuesday, April 8

Environmental Management Systems/Strategic Environmental Management

Readings for today:

- Michael Porter & Claas Van der Linde, *Green & Competitive: Ending the Stalemate*, Harvard Business Review, 73/5 (Sept./Oct. 1995): 122-133 [Coursepack #27]
- Renato J. Orsato, *Competitive Environmental Strategies: When Does it Pay to be Green?* California Management Review, 48/2 (Winter 2006): 127-143 [Coursepack # 28]
- Olivier Boiral, *Corporate Greening through ISO 14001: A Rational Myth?* Organization Science, 18/1 (Jan.-Feb. 2007): 127-146 [Coursepack # 29]

Class 23: Thursday, April 10

Lifecycle Analysis and Assessment: Promises and Limitations

Readings for today:

- *Life Cycle Management: How Business Uses it to Decrease Footprint, Create Opportunities and Make Value Chains More Sustainable*, available at: <http://www.unep.fr/shared/publications/pdf/DITx1208xPA-LifeCycleApproach-Howbusinessusesit.pdf>
- *Cradle-to-Cradle Design at Herman Miller: Moving toward Environmental Sustainability* [Coursepack #30]

Class 24: Tuesday, April 15

Student Project Presentations

Class 25: Thursday, April 17

Student Project Presentations

Class 26: Tuesday, April 22
Student Project Presentations

Class 27: Thursday, April 24
Student Project Presentations

Class 28: Tuesday, April 29
Final Class: Wrap Up

IX. INSTRUCTOR BIO

Sarah E. Light is an Assistant Professor of Legal Studies and Business Ethics at the Wharton School of Business at the University of Pennsylvania, where she teaches Environmental Management, Law and Policy. Light earned her A.B. in Social Studies from Harvard College, where she graduated *magna cum laude*, Phi Beta Kappa, and was awarded the John Harvard Scholarship and Elizabeth Cary Agassiz Scholarship for highest academic achievement. Professor Light subsequently earned an M. Phil in Politics from Oxford University where she was a Rhodes Scholar. Light earned her J.D. from Yale Law School. Professor Light served for ten years as an Assistant United States Attorney for the Southern District of New York, Civil Division, and for four of those years as the Chief of the Office's Environmental Protection Unit. In that capacity, Light represented the United States and its agencies in affirmative, defensive, and bankruptcy litigation and settlement negotiations.

Professor Light has previously taught Sustainability Management, Law and Policy at the Earth Institute at Columbia University, and Environmental Dispute Resolution as a Visiting Assistant Professor at Brooklyn Law School.