

**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**  
**Fall 2020**

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**I. INSTRUCTOR**

Professor Sarah E. Light

Email: [lightsa@wharton.upenn.edu](mailto:lightsa@wharton.upenn.edu) (best method of contact)

Office Phone: 215-573-0575

Office: 661 Huntsman Hall

Student Drop-In/Office Hours (via Zoom): Tuesdays 1:30-2:30pm and by appointment

**II. CLASS MEETING TIMES AND LOCATION**

**Tuesdays and Thursdays 10:30am-11:50pm EST**

**Location: Online via Zoom (Synchronous)**

**III. COURSE OBJECTIVES**

The law and public policy shape the relationships between business firms and the environment, including the climate. The primary goal of this course is to learn to think critically about: (1) the relationship between business and the natural environment including the climate; (2) the existing legal and policy framework of environmental and climate 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 provide a grounding in the foundational concepts of environmental law and policy. 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 informational regulation affects business strategy regarding climate change and how the law of municipal and hazardous waste management informs business practices about e-waste. We will also examine the emerging concept 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 environmental and climate strategy into business practices. The final part of the course will consist of student group presentations.

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* (5th ed., Foundation Press 2019) (“S&T”).
- Coursepack (available via Canvas through Study.net).

#### V. ASSIGNMENTS AND GRADING

Students will be required to complete the following assignments. There is no final exam in this course.

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

- **Class participation: 10%:**
  - Participation in class discussions and exercises
- **Two In-Class Quizzes: 50%**
  - **September 29th** (Class 9) (25%)
  - **October 20th** (Class 15) (25%)
- **Proposed Topic for Final Group Presentation:**
  - Due **October 27<sup>th</sup>**, by **11:59pm EST** via Canvas
- **Final Group Presentation: 30%**
  - Due **Thursday November 12th**, by **11:59pm EST** (Recording, Slides, Bibliography)
  - Q&A with each Group to be held on several dates in the final weeks of class
- **Discussion Posts on Group Projects: 10%**
  - To be graded for timely completion

**Class Participation:** This class will be held through synchronous Zoom online classes.

Students are expected to prepare for classes conscientiously, and contribute to the class discussion. This means providing thoughtful commentary (not just many comments), engaging in analysis, and/or posing relevant questions. It also means being prepared to discuss the readings, including legal cases and other materials. For some classes, I may assign “panels” of students to be on-call/participate on a given day to ensure that everyone has the opportunity to participate. **For students who are unable to participate in the synchronous Zoom classes, an alternative method of class participation through written discussions will be available.**

**Excused absences** include: illness, family or personal medical emergencies and religious holidays. Job interviews and extracurricular activities are *not* excused absences. A significant number of unexcused absences can have a negative impact on your grade.

**General Guidelines for Assignments.** I have intentionally given you plenty of time to complete all assignments, so all assignments must be handed in on time. If an assignment 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. If advance notification is possible, please let me know in advance.

**Please note: Assignments must be submitted via Canvas in .word (not .pdf) format unless otherwise noted.**

#### **In-Class Quizzes:**

- There will be two in-class quizzes on Canvas on **September 29<sup>th</sup> (Class 9)** and **October 20<sup>th</sup> (Class 15)**. These will be a way for you to demonstrate your mastery of the concepts we have discussed in class and in the readings. They will be a combination of multiple-choice, short answer, and long answer questions.

#### **Final Group Presentation & Discussion Question Posts:**

- Each student must participate in a Group Presentation on a topic of the group's choosing. Students will present in groups of four, and will have an opportunity either to choose their group partners by a certain date, or to be assigned to a group. Each group will prepare a 20-minute presentation (5-minutes per person) and record it for the rest of the class to watch. The Final Group Presentation recordings are due on **Thursday November 12<sup>th</sup> by 11:59pm EST**. You must also submit your slides and bibliography via Canvas.
- Topics must be approved in advance. A **Proposed Topic** must be submitted for approval on or before **October 27<sup>th</sup> at 11:59pm EST** via Canvas. Further detail about topic selection and expectations for the Final Group Presentation will be provided in class.
- We will use a "flipped classroom" approach to engage in discussion about the Group Presentations over the final several classes. Students will be assigned to watch several Group Presentations in advance of each class. During class, each of the assigned presentation groups will have a portion of the class to respond to questions and to engage in discussion about their presentation topic.
- To facilitate these discussions, students will be required to submit **Discussion Questions via a Canvas Discussion** (with a separate thread for each Presentation) for each presentation no later than 24-hours in advance of the class in which the presentation is discussed. I will review the questions and select several to initiate a discussion with the presenters during the synchronous class session. Please do not simply repeat questions asked by others (though it is okay to note that you had the same question as another student, and then ask a new question).
- Discussion Questions must be submitted for each presentation by the deadlines set forth in the Syllabus, so that the students in each presentation group may review the submitted questions in advance of the in-class discussion.
- **All students share responsibility and the grade for 25 points of the presentation.** Grades for the group projects will be based on the quality of the final presentation itself, how well the group's presentation coheres as a whole, as well as any supplementary written or other submissions provided indicating sources and research. Students may use notes during their presentations, but should not read the presentation from a written document.

In addition, **5 points will be awarded *individually* based on clarity of presentation as well as responses to Q&A during the flipped class discussions.**

**Citations, Collaboration and Plagiarism.** Submissions must represent only the student's own creative work and effort. **I take plagiarism and cheating very seriously and will deal with such actions according to University policy.**

For your Group Presentation, as with any paper, you must use a consistent citation method for sources. Any source you quote or rely on must be footnoted in a bibliography, with source and page references, 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.

## VI. CLASSROOM EXPECTATIONS

- We will start and end class on time.
- Your video must be turned on during synchronous class time.

## VIII. COURSE OUTLINE

*Please note: These assignments are subject to revision as the course progresses, depending upon changes in the law, other global events, and our progress.*

### **Class 1: Tuesday September 1**

#### **Introduction to Sustainability, Environmental Management, Law and Policy**

*Readings for Today:*

- Royal Bank of Canada – Financing Oil Sands [Coursepack #1]
- [Morgan Stanley Environmental and Social Policy Statement 2020](#)
- [Walmart's Project Gigaton](#) (watch short video and read this page)

*Discussion Question:* What drives firm decision making regarding environmental and climate impacts?

### **Class 2: Thursday September 3**

#### **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 #2]
- [Orin Kerr, How to Read a Legal Opinion](#)
- S&T, Chapters 1 & 2

*Discussion Questions:* Be prepared to answer all of the questions listed on “How to Brief a Case” which I have posted to the Files menu of Canvas.

### **Class 3: Tuesday September 8**

#### **The Common Law Roots of Environmental Law: Public and Private Nuisance**

*Readings for Today:*

- *Madison v. Ducktown Sulphur, Copper and Iron Co.* (Tenn. 1904) [Coursepack #3]
- *Missouri v. Illinois* (S. Ct. 1906) [Coursepack #4]
- *Georgia v. Tennessee Copper Co.* (S. Ct. 1907) [Coursepack #5]

*Discussion Questions:* Be prepared to answer the questions listed on “How to Brief a Case” which I have posted to the Files menu of Canvas. Are courts good at handling environmental disputes? Why or why not?

### **Class 4: Thursday September 10**

#### **Does the Common Law Still Matter?**

#### **Common law in the Climate Change Context**

*Readings for Today:*

- *Kivalina v. ExxonMobil* (excerpts from 9<sup>th</sup> Circuit opinion) [Coursepack #6]
- [Intergovernmental Panel on Climate Change, Summary for Policymakers, Global Warming of 1.5°C](#)

Note: At the end of Class, I will assign roles for the SHARC negotiation exercise to be conducted during Class #5

*Discussion Question:* Is nuisance law a good tool to address climate change? Why or why not?

### **Class 5: Tuesday September 15**

#### **Moving toward Regulation: What is its Purpose?**

#### **A Classic Paradigm from Economics: The Tragedy of the Commons**

*Readings for Today:*

- Your instructions for the SHARC negotiation exercise
- Garrett Hardin, *The Tragedy of the Commons*, 162 Science 1243 (1968) [Coursepack #7]
- Elinor Ostrom, *Governing the Commons* (1990), Chapter 1 [Coursepack #8]

*Discussion Questions:* What is the tragedy of the commons? What role do law and regulation play in averting the tragedy of the commons?

**Class 6: Thursday September 17**  
**Moving Toward Regulation: What is its Purpose?**  
**Environmental Justice**

**Guest Lecturer, Professor Carlton Waterhouse, Howard University Law School**

*Readings for Today:*

- [Executive Order 12898 on Environmental Justice](#)
- Luke W. Cole, Luke W., and Sheila R. Foster, *From the Ground Up: Environmental Racism and the Rise of the Environmental Justice Movement*, (NYU Press, 2000) (Introduction & Chapter 5 only) [Coursepack #9]

**Note: Class 6 will be a joint Zoom synchronous session with Professor Waterhouse's Environmental Law class**

*Discussion questions:* What is environmental justice? How can environmental justice considerations be prioritized in public and private decision making?

**Class 7: Tuesday September 22**  
**The Rise of Modern Federal Environmental Law and the Regulatory State:**  
**Regulatory Options, and the Regulatory Process**

*Readings for Today:*

- S&T, Chapter 3, Parts I & II
- *Chevron v. Natural Resources Defense Council* (S. Ct. 1984) [Coursepack #10]
  - Before you read *Chevron*, please read the “Chevron Guidance Questions” handout in the Files menu of Canvas. This will help to provide some context for the case.
  - The key legal rule we will focus on from *Chevron* appears in Part II of the Court’s opinion – please be sure to focus your reading and attention on that rule. The remainder of the opinion is the Court’s application of that rule to the facts of a complex dispute under the Clean Air Act. I do not expect you to master all of the details of the Clean Air Act dispute beginning with Part III, and will explain them in class. Please do, however, be sure to skim Part VII, which contains the conclusions of the Court relating to text, legislative history, and policy.

*Discussion Questions:* Why should courts give deference to how agencies interpret statutes? What should the role of the administrative state be as compared to the role of the courts in addressing environmental challenges?

### **Class 8: Thursday September 24**

#### **Information Disclosure as Public Law and Private Environmental Governance: The National Environmental Policy Act (NEPA), the TRI, and the Equator Principles**

##### *Readings for Today:*

- S&T, Chapter 12
- Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, March 25, 2020 [Coursepack #11]
  - *Read only the NEPA analysis through p. \*16*
- [NEPA Final Rule Fact Sheet](#) (Amending NEPA's regulations, 2020)
- [EPA: What is the Toxics Release Inventory?](#)

*Discussion Question:* Is information disclosure an effective form of regulation?

### **Class 9: Tuesday September 29**

#### **In-class Quiz #1**

### **Class 10: Thursday October 1**

#### **Prescriptive Rules, Strict Liability, and New Business Models for Waste Superfund, RCRA, and Rubicon Global**

##### *Readings for Today:*

- S&T, Chapter 9
- Rubicon Global Case [Coursepack #12]

*Discussion Question:* What purpose does strict liability under Superfund serve? Is it fair? What drives Rubicon Global's business model?

### **Class 11: Tuesday October 6**

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

##### *Readings for Today:*

- S&T, Chapter 5
- *Massachusetts v. EPA* (S. Ct. 2007) [Coursepack #13]

*Discussion Question:* Does the Clean Air Act apply to greenhouse gas emissions? Should it?

## **Class 12: Thursday October 8**

### **Clean Air, Climate Change, and International Law: Montreal and the Paris Agreement**

#### *Readings for Today:*

- S&T, Chapter 6
- [Paris Agreement on Climate Change](#), Articles 2, 4, 5, 6, 14, 20, 21

#### *Optional reading:*

- Jean Gailbraith, [The Legal Structure of the Paris Agreement, RegBlog.org](#) (Dec. 21, 2015)

*Discussion Question:* Is the Montreal Protocol a good model for an international agreement on climate change?

**Today after class, I will open the sign-ups for Group Presentations (Groups of 4). Voluntary sign-ups will be open for one week. Please feel free to use the Discussion Boards in Canvas to find others interested in similar topics. If you have not voluntarily formed a group by Thursday, October 15, I will assign you to a group.**

## **Class 13: Tuesday October 13**

### **Market-Leveraging Instruments for Climate Change: Taxes and Tradable Permits**

#### *Readings for Today:*

- Ronald Coase, *The Problem of Social Cost* (1960) [Coursepack # 14] -- pp. 1-19
- Sarah E. Light, [The New Insider Trading: Environmental Markets within the Firm](#) (2015)
- [Regional Greenhouse Gas Initiative \(RGGI\) Program Overview](#)

*Discussion Question:* Why use market-leveraging instruments to address greenhouse gas emissions rather than prescriptive rules, information disclosure, or some other form of regulation?

## **Class 14: Thursday October 15**

### **Non-Traditional Sources of Climate Governance: Investors, Corporate Boards, and Others**

#### *Readings for Today:*

- [US Securities and Exchange Commission Guidance Regarding Disclosure Related to Climate Change](#) (Feb. 2, 2010)
- Sarah E. Light, [The Law of the Corporation as Environmental Law](#) (2019)



*Discussion Question:* Should the SEC be requiring publicly traded firms to disclose climate-related risks? Why or why not?

**After class today, I will assign you to a Group for presentations if you have not already signed up for one.**

**Class 15: Tuesday October 20**  
**In-Class Quiz #2**

**Class 16: Thursday October 22**  
**Energy Systems and Policy**  
**Guest Speaker: Alexandra Klass, Distinguished McKnight University Professor**  
**University of Minnesota Law School**

*Readings for Today:*

- S&T, Chapter 11
- Other readings to be announced

**Class 17: Tuesday October 27**  
**Land Use Law, Zoning, and Eminent Domain as a Form of Environmental Control**

*Readings for Today:*

- *Village of Euclid v. Ambler Realty Co.* (S. Ct. 1926) [Coursepack # 15]
- *Penn Central Transp. Co. v. New York*, 438 U.S. 104 (1978) [Coursepack # 16]
- *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992) [Coursepack # 17]
- **Proposed Topic for Final Group Presentation is due on October 27<sup>th</sup>, by 11:59pm EST via Canvas**

*Discussion Question:* Should governments be allowed to prevent private property owners from using their oceanfront property in the way that the owners choose?

**Class 18: Thursday October 29**  
**The Role of Insurance in Climate Change Adaptation and Resilience:**  
**Flooding and Sea Level Rise**

*Readings for Today:*

- Carolyn Kousky & Sarah E. Light, [Insuring Nature](#), Duke Law Journal (2019)

*Discussion Questions:* What role can insurance play in climate mitigation, adaptation, and/or resilience? Should it be public or private?

### **Class 19: Tuesday November 3**

#### **Environmental Protection and the Corporate Social Responsibility Debate**

*Readings for today:*

- Milton Friedman, *The Social Responsibility of Firms is to Increase Profits* [Coursepack #18]
- Michael Porter & Mark R. Kramer, *Creating Shared Value*, Harvard Business Review, Jan.-Feb. (2011) [Coursepack #19]
- [FTC Green Guides](#) (Press Release, 2012)
- **Note: I will NOT hold office hours on Tuesday, Nov. 3<sup>rd</sup>**

*Discussion Questions:* What is the purpose of a business firm? What are the duties of a business firm with respect to the environment? What limits should there be on claims by firms about their “green” business practices and products?

### **Class 20: Thursday November 5**

#### **Moving From Pollution Prevention to Sustainability: Clean Water**

*Readings for Today:*

- S&T, Chapter 7
- [Coca-Cola Water Stewardship Report 2019](#) (Note: If a newer report is available before class, this reading will be updated)

*Discussion Questions:* How can the law encourage business firms to think about sustainability, rather than merely pollution prevention? Should the law do this?

### **Class 21: Tuesday November 10**

#### **Pulling it all together: Product Stewardship & Lifecycle Analysis: Bottled Water**

*Readings for today:*

- FIJI Water and Corporate Social Responsibility: Green Makeover or Greenwashing? [Coursepack #20]

*Discussion Questions:* Imagine that you are the Chief Sustainability Officer for FIJI Water. What is your strategy to improve the firm’s environmental performance moving forward? How will you present this strategy to the CFO?

**Class 22: Thursday November 12**

**Guest Speaker: Rebekah Moses, Head of Impact Strategy, Impossible Foods**

- No reading for today
- I will explain how the “flipped” classroom will work for student presentations starting next week
- **Student Presentation Videos Due on Thursday November 12<sup>th</sup> by 11:59pm via Canvas.** In addition, you must submit your **slides** and **bibliography** via Canvas.
- **I will make all of the Videos available on Friday November 13<sup>th</sup> to the class**
- Please watch assigned student presentations and submit your Discussion questions for Class 23 Presentations by **Monday November 16<sup>th</sup> at 10:30am EST via Canvas discussion board (24 hours before the start of class)**

**Class 23: Tuesday November 17**

**Student Project Presentations**

*Readings for today:*

- No readings. Please watch assigned student presentations and submit your Discussion questions for Class 24 Presentations by **Wednesday November 18<sup>th</sup> at 10:30am EST via Canvas discussion board (24 hours before the start of class)**

**Class 24: Thursday November 19**

**Student Project Presentations**

*Readings for today:*

- No readings. Please watch assigned student presentations and submit your Discussion questions for Class 25 Presentations by **Monday November 23<sup>rd</sup> at 10:30am EST via Canvas discussion board (24 hours before the start of class)**

**Class 25: Tuesday November 24**

**Student Project Presentations**

*Readings for today:*

- No readings. Please watch assigned student presentations and submit your Discussion questions for Class 26 Presentations by **Monday November 30<sup>th</sup> at 10:30am EST via Canvas discussion board (24 hours before the start of class).**

*November 26-29: Thanksgiving Break*

**Class 26: Tuesday December 1**  
**Student Project Presentations**

*Readings for today:*

- No readings. Please watch assigned student presentations and submit your Discussion questions for Class 27 Presentations by **Wednesday December 2<sup>nd</sup> at 10:30am EST via Canvas discussion board (24 hours before the start of class).**

**Class 27: Thursday December 3**  
**Student Project Presentations**

*Readings for today:*

- No readings.

**Class 28: Tuesday December 8**  
**Final Class: Wrap Up**

- No readings.

**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. She received her J.D. from Yale Law School. Prior to joining the Wharton faculty, 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.

Professor Light has been awarded the Excellence in Teaching Award at Wharton. In 2016, Professor Light was one of ten faculty nominated by the MBA student body for the Helen Kardon Moss Anvil Award for Outstanding MBA Teaching.