

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

**LGST 2150/8150
ENVIRONMENTAL MANAGEMENT, LAW AND POLICY**

PROFESSOR SARAH E. LIGHT
Fall 2022

I. INSTRUCTOR

Professor Sarah E. Light

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

Office Phone: 215-573-0575

Office: 661 Huntsman Hall

Student Drop-In/Office Hours (via Zoom): TBD and by appointment (make an appointment via Calendly; see Canvas for details)

II. CLASS MEETING TIMES AND LOCATION

Tuesdays and Thursdays 1:45-3:15pm

Location: TBD

III. CROSS-LISTING MBA/UNDERGRADUATE SCHEDULE DIFFERENCES

This course has 28 class sessions, consistent with the undergraduate schedule. MBA students taking this class are excused on 4 of those dates as noted below (October 13, 18, 20, and November 22).

IV. COURSE OBJECTIVES

The law and public policy shape the relationships between business firms and the environment, including the climate. 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 waste. We will also examine the emerging concept of private environmental governance. 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. TEXTS 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; I will also make this available through the Penn Library System).
- Readings through links in the Syllabus (also available through Course Materials @ Penn Libraries tab)

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: 25%:**
 - Attendance and participation in class discussions and exercises
- **Quizzes: 40%**
 - **There will be five short quizzes consisting of multiple-choice and short-answer questions over the course of the semester.**
 - **I will drop the lowest Quiz score.**
- **Timely Submission of Proposed Topic for Final Group Presentation: 5%**
 - Due **October 27, by 11:59pm EST** via Canvas
- **Final Group Presentation: 30%**
 - 12 minutes/12 slides/plus Q&A
 - Slides & Bibliography due **Monday November 14, by 11:59pm EST**

Class Attendance and Participation:

Participation: Students are expected to attend class, to prepare for classes conscientiously, and to 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 an opportunity to participate.

Attendance: Each student is permitted two “freebie” absences during the term for any reason without a penalty if you provide me with advance notice (an email before class is fine).¹ These can be used for job interviews, sports or other extracurricular activities, travel that conflicts

¹ You may not use these excused absences for the final class or on the day of your Group Presentation.

with class, etc. that otherwise would not qualify as an excused absence. Beyond those free absences, I mark absences either as excused or unexcused.

- **Excused absences** include: Red Pass (please email me a screenshot); family or personal health/medical emergencies; and religious holidays. Job interviews and extracurricular activities are *not* excused absences—you should save your freebies for those. A significant number of unexcused absences will 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 third of a 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.).

- **Extenuating Circumstances:** If there are extenuating circumstances of which you are aware that will affect your ability to complete an assignment on time, please contact me as soon as possible to discuss whether an accommodation or extension is needed. Extenuating circumstances may be the same types of reasons that qualify for an excused absence, and further include mental health considerations.

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

Quizzes:

- There will be five short Quizzes on Canvas that will cover material from the readings and class discussions. Each Quiz needs to be taken between the end of class on Thursday at 3:45pm and the next day, Friday, at 3:45pm. Each quiz will be available on Canvas for this 24-hour time period.
- Each Quiz will be approximately 3 - 5 questions and will draw on the class sessions and readings leading up to the Quiz from the date of the prior Quiz (they are not cumulative, though they may cover broader course themes that recur throughout the course and that are introduced in the first few class sessions).
 - Material covered during the four Undergraduate-only course dates will not be on the Quizzes.
- To succeed on the Quizzes, you must do the readings and attend the class sessions. Quizzes are open note/slides and you may refer to any assigned readings from the course **but you may not engage in any general internet searches (no googling)**. However, each Quiz has a 45-minute time limit—if you have to look up every answer, you will not have time to complete the quiz.
- All standards of Academic Integrity apply to the Quizzes. It goes without saying that you are not permitted to share Quiz questions or answers with other students in the course. Any cheating will be handled in accordance with University policy and can be grounds for failing the entire course (not just the Quiz).
- Students will not have the option to take Quizzes late or to make-up missed quizzes.
- Your lowest Quiz score will be dropped.

Final Group Presentations and Proposed Topics:

- Each student must participate in a Group Presentation on a topic of the group's choosing. I will give students an opportunity to choose groups during the first few weeks of class. For anyone who has not chosen a group by a certain date, I will assign students randomly to

groups. Each group will prepare a presentation of no more than **12 minutes and 12 slides**, with approximately 5-8 minutes to respond to in-class Q&A after your presentation.

- I strongly advise choosing (and will assign you to) undergraduate-only groups and MBA-only groups.
- A **Proposed Topic** for each group's presentation must be submitted via Canvas for approval on or before **Thursday October 27th at 11:59pm EST**. You are encouraged to submit your proposal as early as possible. Further detail about topic selection and expectations for the Final Group Presentation will be provided in class.
- Your **slides** and **bibliography** for the Final Group Presentation are due via Canvas on **Monday November 14th by 11:59pm EST**. Presentations will take place on several dates during the final weeks of class.
 - 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 the quality of sources and research as cited in the bibliography. Students may use notes during their presentations, but should not read the presentation from a written document.
 - **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, 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, including for charts and graphics in slides. No statement that relies on a source should fail to reference the source.

VI. CLASSROOM EXPECTATIONS

- We will start and end class on time.
- Electronic devices such as phones and laptops may not be used during class. Failure to adhere to this rule will negatively affect your attendance/participation.

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 August 30

Introduction to Sustainability, Environmental Management, Law, and Policy

Readings for Today:

- [Banks' Arctic Financing Retreat Rattles Oil Industry](#) (WSJ, 2020)
- CERES, [2022 Proxy Season/Climate Resolutions](#)
- [Walmart Project Gigaton 2022 Update](#) and [Key Goals and Metrics](#)

Discussion Question: Why should firms care about climate change and the environment? What drives firm decision making regarding environmental and climate impacts? For which environmental and climate impacts are firms responsible?

Class 2: Thursday September 1

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 #1]
- [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 6

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 #2]
- *Missouri v. Illinois* (S. Ct. 1906) [Coursepack #3]
- *Georgia v. Tennessee Copper Co.* (S. Ct. 1907) [Coursepack #4]

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 8

Does the Common Law Still Matter?

Common law in the Climate Change Context

Readings for Today:

- *City of New York v. Chevron Corp.* [Coursepack #5]
- [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?

- **Complete Quiz #1 on Canvas by Friday September 9th at 3:45pm.**

Class 5: Tuesday September 13

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 #6]
- Elinor Ostrom, *Governing the Commons* (1990), Chapter 1 [Coursepack #7]

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 15

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 #8]
 - 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—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?

➤ **Complete Quiz #2 on Canvas by Friday September 16th at 3:45pm.**

Class 7: Tuesday September 20

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 #9]
 - *Read only the NEPA analysis through p. *16*
- [NEPA 2022 Update Press Release](#)

- [EPA: What is the Toxics Release Inventory?](#)

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

Class 8: Thursday September 22 **Superfund and RCRA**

Readings for Today:

- S&T, Chapter 9
- **Today after class, I will assign any unassigned students to groups for Group Presentations.**

Discussion Question: What purpose does strict liability under Superfund serve? Is it fair? How can firms address issues of non-hazardous waste? What more should business firms be doing to address waste?

Class 9: Tuesday September 27 **Current issues: Waste, Extended Producer Responsibility, and the Circular Economy**

Readings for Today:

- Maine Will Make Companies Pay for Recycling. Here's How It Works, <https://www.nytimes.com/2021/07/21/climate/maine-recycling-law-EPR.html?referringSource=articleShare>
- [Maine's Landmark Recycling Reform Law Will Take Years to Implement](#)
- [We Never Got Good at Recycling Plastic; Some States are Trying a New Approach](#)
- [Cal Recycle, Product Stewardship and Extended Producer Responsibility](#) (EPR)
- *Optional:* MacArthur Foundation, Upstream Innovation Guide (Skim), <https://emf.thirdlight.com/link/agy3es34kly-k2qe8a/@/preview/1?o>

Discussion Question: Should manufacturers be responsible for the end-of-life management of their products? Should retailers?

Class 10: Thursday September 29 **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 #10]
- Skim: IPCC Sixth Assessment Report, Summary for Policymakers, https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf

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

- **Complete Quiz #3 on Canvas by Friday September 30th at 3:45pm.**

Class 11: Tuesday October 4

Clean Air and Climate Change and the Major Questions Doctrine

Readings for Today:

- [West Virginia v. EPA](#) (Supreme Court, 2021)
- Additional Readings will be posted to Canvas [regulatory changes in progress]

Discussion question: What does the Major Questions doctrine mean for the future of climate change regulations?

****Fall Break October 6-9****

Class 12: Tuesday October 11 [note: classes follow a Thursday Schedule]

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?

Class 13: Thursday October 13 (UGs only, MBA Exam Period)

Environmental Justice

**Guest Speaker: Professor Seema Kakade, Univ. Maryland Carey School of Law
Director, Environmental Law Clinic**

Readings for Today:

- Readings to be posted to Canvas

Discussion questions: What are environmental and climate justice? How can environmental/climate justice considerations be prioritized in public and private decision making?

**** MBA Extended Fall Break October 15-23 ****

Class 14: Tuesday October 18 (UGs only, MBAs on Fall Break)

An Introduction to Energy Systems and Policy

Guest Speaker: Professor Shelly Welton, University of Pennsylvania Carey School of Law

Readings for Today:

- S&T, Chapter 11
- Readings to be posted to Canvas

Class 15: Thursday October 20 (UGs only; MBAs on Fall Break)

Corporate Engagement with Climate Policy

Guest Speaker: Victoria Mills, EDF+Business

Readings for Today:

- Readings to be posted to Canvas

Class 16: Tuesday October 25

Market-Leveraging Instruments for Climate Change:

Taxes and Tradable Permits

Readings for Today:

- Ronald Coase, *The Problem of Social Cost* (1960) [Coursepack # 11] -- 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 17: Thursday October 27

The SEC, Investors, and Banks as Climate Regulators

Readings for Today:

- [Fact Sheet: SEC Proposed Climate Disclosure Rule](#)
- Sarah E. Light, [The Law of the Corporation as Environmental Law](#) (2019)
- **Proposed Topic for Final Group Presentation is due on Thursday October 27th, by 11:59pm EST via Canvas**

Discussion Questions: What kinds of climate risks should publicly traded firms be required to disclose? Should financial regulators and firms be addressing climate risk at all? Are investors and banks a reliable source of private governance?

Class 18: Tuesday November 1

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 # 12]
- *Penn Central Transp. Co. v. New York*, 438 U.S. 104 (1978) [Coursepack # 13]

Discussion Question: Should governments be allowed to regulate how private property owners use their oceanfront property in light of climate change?

Class 19: Thursday November 3

Flooding and Sea Level Rise

Eminent Domain cont'd

The Role of Insurance in Climate Change Adaptation and Resilience

Readings for Today:

- *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992) [Coursepack # 14]
- 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?

- **Complete Quiz #4 on Canvas by Friday November 4th at 3:45pm.**

Class 20: Tuesday November 8

Moving From Pollution Prevention to Sustainability: Clean Water

Readings for Today:

- S&T, Chapter 7
- [Coca-Cola Water Stewardship Report, 2022](#)

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: Thursday 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 # 15]
- **All Student Presentation Slides and Bibliography Due on Monday, November 14th by 11:59pm via Canvas.**

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?

- **Complete Quiz #5 on Canvas by Friday November 11th at 3:45pm.**

Class 22: Tuesday November 15
Green Marketing and Greenwashing

Readings for today:

- [FTC Green Guides](#) (Press Release, 2012)
- [Chevron "Greenwashing" Targeted in Complaint Filed with FTC](#) (Bloomberg Green)

Discussion Questions: What legal limits should there be on claims by firms about their "green" business practices and products? Should such limits apply only to claims about specific products, or to claims about firms' overall climate/ESG programs?

Class 23: Thursday November 17
Student Project Presentations

Readings for today:

- No readings.

**** UG Thanksgiving Break November 24-27 ****
**** MBA Extended Thanksgiving Break: November 21-27 ****

Class 24: Tuesday November 22 (Thursday schedule, UG Only, MBAs on extended Thanksgiving Break)
Student Project Presentations (UG groups only)

Readings for today:

- No readings.

Class 25: Tuesday November 29
Student Project Presentations

Readings for today:

- No readings.

Class 26: Thursday December 1
Student Project Presentations

Readings for today:

- No readings.

Class 27: Tuesday December 6
Student Project Presentations

Readings for today:

- No readings.

Class 28: Thursday December 8
Final Class: Course Conclusion

Readings for today:

- No readings.

IX. INSTRUCTOR BIO

Sarah E. Light is an Associate Professor of Legal Studies and Business Ethics at the Wharton School of Business at the University of Pennsylvania. 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 received the Excellence in Teaching Award at Wharton for both MBA and Undergraduate teaching, and the Helen Kardon Moss Anvil Award for Outstanding MBA Teaching.