

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

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

PROFESSOR SARAH E. LIGHT
Fall 2023

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 (all meetings will be held via Zoom):

- Please make an appointment via the Calendly link in Canvas on the Course home page, as office hours are scattered throughout the week

Teaching Assistants:

Joshua Chertok: chertokj@upenn.edu

Kyle Huang: kzhuang@sas.upenn.edu

II. CLASS MEETING TIMES AND LOCATION

Tuesdays and Thursdays 10:15-11:45am

Location: TBD

III. 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 and ESG. 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. This will also be informed by your peers’ assessment of your contribution to the Final Group Presentation.
- **Quizzes: 40%**
 - There will be five short quizzes consisting of multiple-choice and short-answer questions over the course of the semester.
 - If you take all five quizzes, I will drop the lowest Quiz score.
- **Timely Submission of Proposed Topic for Final Group Presentation: 5%**
 - Due **October 24, by 11:59pm EST** via Canvas
- **Final Group Presentation: 25%**
 - 12 minutes/12 slides/plus Q&A
 - Slides & Bibliography due **Monday November 13, by 11:59pm EST** via Canvas
- **Timely Completion of Confidential Peer Assessment: 3%**
 - You will each be asked to complete a Confidential Peer Assessment of your peers’ contributions to the Final Group Project
 - Due on **Tuesday, December 5, by 11:59pm** via Canvas
- **Timely Completion of Quiz on Syllabus: 2%**
 - You must complete a multiple-choice Quiz on the Syllabus before **Thursday, August 31, at 11:59pm** via Canvas

Assignments and Grading Details:

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: I take Attendance via the Wharton Attendance app. Check in will open ten minutes before class begins. Please note: **Checking in via the App if you are not actually physically present in class is a violation of the University Code of Academic Integrity and will result in disciplinary sanction, a drop in grade, or potentially a failing grade in the course.**

Absences are either excused or unexcused. **Please submit all absence requests via the Wharton Attendance app.**

- **Excused absences** include: personal illness; family or personal health/medical emergencies; and religious holidays.
- **Unexcused absences** include: Job interviews, personal travel, and extracurricular activities, as among other reasons that are not listed as excused, above.
- **Note: Coming late, leaving early or otherwise missing 10 or more minutes of class without an excused reason counts as an unexcused absence.**
- **Each student may have up to two unexcused absences without any grading penalty other than lost class attendance and participation points on the dates of your absences.**
- **A third unexcused absence** will lead to a one-third-level drop in a student’s grade (from B+ to a B)
- **A fourth unexcused absence** will lead to a full-level drop in a student’s grade (from B+ to C+)
- **Six or more unexcused absences** will either require you to withdraw from the course or receive a failing grade.

Class Recordings: All class sessions will be recorded. Only students who have missed class for an excused reason are permitted access to the recordings. Requests for access to the videos should be sent to my Teaching Assistants.

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 any accommodation or extension is needed.

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. You will have **30 minutes** to complete each Quiz.
- Each Quiz needs to be taken within the 24-hour window of time listed on the Syllabus 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 only this 24-hour time period.
- Each Quiz will be approximately 5-10 questions and will draw on the class sessions and readings leading up to the Quiz from the date of the prior Quiz. Quizzes 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.
- To succeed on the Quizzes, you must do the readings and attend the class sessions. Quizzes are open notes/slides and you may refer to any assigned readings from the course **but you may not engage in any general internet searches (no “googling” or use of AI-assistance such as ChatGPT or similar programs is permitted)**. Keep in mind that each Quiz has a 30-minute time limit—if you have to look up every answer, you will not have time to complete the quiz so you will need to be prepared in advance.
- **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. You may not take the Quizzes while sitting in the same room as other students. 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.
- If you take all five 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 based on shared interests. 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.
- A **Proposed Topic** for each group's presentation must be submitted via Canvas for approval on or before **Tuesday October 24th 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 13th by 11:59pm EST**. Presentations will take place on several dates during the final weeks of class. I will randomly assign groups to each presentation date. I cannot accommodate requests for specific dates.
 - 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 may 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 Bibliography, you must use a consistent citation method for sources. You may use APA, Chicago Manual of Style, Bluebook, or MLA. 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.
- **Confidential Peer Assessment: 3%:**
 - Each student is expected to complete a Confidential Peer Assessment via Canvas to provide your candid evaluation of the contribution that each of your Project Group members made to the overall project. For each member of your group, you will be asked to rate their contribution on a scale of 1-10 and to offer additional comments in the text field. Please note: This Evaluation will NOT be shared with the other students in your group; only the Professor will see what you have written. Completion of this Assessment is due on or before **December 5, 2023, by 11:59pm** and will be graded for completion only.
- **Multiple Choice Quiz on Syllabus: 2%**
 - This multiple-choice Quiz will ensure that students have read this syllabus thoroughly. **You may take the Quiz as many times as necessary to achieve a perfect score.** There is no time limit for this Quiz. You must complete this Quiz by Thursday August 31, 2023, by 11:59pm. If you have joined the course after Class 2, you will be given an extension of time to complete this Quiz.

VI. CLASSROOM EXPECTATIONS

- We will start and end class on time.
- Electronic devices such as phones may not be used during class. Tablets may be used for note-taking or to access readings during the discussion. However, if students are using tablets for reasons other than note-taking, I reserve the right to require only handwritten note-taking and to ban tablets as well. Failure to adhere to this rule will negatively affect your attendance/participation grade.

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 29

Introduction to Sustainability, Environmental Management, Law, and Policy

Readings for Today:

- [Banks' Arctic Financing Retreat Rattles Oil Industry](#) (WSJ, 2020)
- CERES, [2023 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 August 31

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.

- **Complete multiple-choice Quiz on the Syllabus by Thursday, August 31st at 11:59pm.**

Class 3: Tuesday September 5

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 7

Does the Common Law Still Matter?

Common Law in the Climate Change Context

Readings for Today:

- *Kivalina v. ExxonMobil* [Coursepack #5]
- *City of Hoboken v. Chevron et al.* [Coursepack #6]
- Skim for Background Only: [IPCC Sixth Synthesis Report, 2023, Executive Summary](#)

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 8th at 3:45pm.**

Class 5: Tuesday September 12

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 14

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 #9]
 - 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?

Class 7: Tuesday September 19

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
- JB Ruhl & Jim Salzman, [*The Greens' Dilemma: Building Tomorrow's Climate Infrastructure Today*](#) (forthcoming, Emory Law Journal, 2023)
- 2023 NEPA Updates in the Inflation Reduction Act: [The New NEPA: A User's Guide \(blog post\)](#)
- Optional: [EPA: What is the Toxics Release Inventory?](#)

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

Class 8: Thursday September 21

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?

➤ **Complete Quiz #2 on Canvas by Friday September 22nd at 3:45pm.**

Class 9: Tuesday September 26

Current issues: Waste, Extended Producer Responsibility, and the Circular Economy

Readings for Today:

- [Clothing Waste is a Problem, Fashion Brands Could Force You to Pay For It](#) (Bloomberg, 2023)
- [Maine Will Make Companies Pay for Recycling. Here's How It Works](#) (2022)
- [California Plastics Recycling Law \(2022\)](#)
- [Universal 'chasing arrows' recycling symbol could be dumped in US](#) (The Guardian, 2023)

- *Optional:* [MacArthur Foundation Circular Economy Examples: Apeel](#)
- *Optional:* [Recent EPR Proposals](#)

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

Class 10: Thursday September 28

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]
- Dotson & Maghamfar, [The Clean Air Act Amendments of 2022: Clean Air, Climate Change, and the Inflation Reduction Act](#) (2023)

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

Class 11: Tuesday October 3

Clean Air, Climate Change, and the Major Questions Doctrine

Readings for Today:

- [West Virginia v. EPA](#) (Supreme Court, 2021)
- [Fact Sheet: EPA 2023 Proposed Rule for Vehicle Emissions Standards](#)
- [Fact Sheet: EPA 2023 Proposed Rule for Power Plant CO2 Emissions](#)
- Additional Readings may be posted to Canvas [regulatory changes in progress]

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

Class 12: Thursday October 5

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
- [Climate Plans Remain Insufficient](#) (UNFCCC)

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

➤ **Complete Quiz #3 on Canvas by Friday October 5th at 3:45pm.**

Class 13: Tuesday October 10

An Introduction to Energy Systems and Policy

Guest Speaker: Michael Panfil, Senior Director & Lead Counsel, Climate Risk & Clean Power, EDF

Readings for Today:

- S&T, Chapter 11
- Additional readings to be posted to Canvas

****Fall Break October 12-15****

Class 14: Tuesday October 17

Environmental Justice

Guest Speaker: Margot Brown, Senior Vice President, Justice & Equity, EDF

Readings for Today:

- Readings to be posted to Canvas
- Work with your Project Groups on proposed topic submission

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

Class 15: Thursday October 19

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](#)
- Review from Class #10, Dotson & Maghamfar, [The Clean Air Act Amendments of 2022: Clean Air, Climate Change, and the Inflation Reduction Act](#) (2023)

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 16: Tuesday October 24

Guest Speaker: Emily Wei, Principal, HXE Partners, WUG 2016

Readings for Today:

- Readings to be posted to Canvas
- Finish working with your Project Groups on proposed topic
- **Proposed Topic for Final Group Presentation is due on Tuesday October 24th by 11:59pm EST via Canvas**

Class 17: Thursday October 26

The SEC, Investors, and Banks as Climate Regulators

Readings for Today:

- [Fact Sheet: SEC Proposed Climate Disclosure Rule](#) (2022)
- Will update this reading to the Final Rule if it has been issued before today's class [to be posted to Canvas]
- Sarah E. Light, [The Law of the Corporation as Environmental Law](#) (2019)

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?

➤ **Complete Quiz #4 on Canvas by Friday October 27th at 3:45pm.**

Class 18: Tuesday October 31

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 2

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)
- [California Scared Off Its Biggest Insurer, More Could Follow \(May 2023\)](#)

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

Class 20: Tuesday November 7

Moving From Pollution Prevention to Sustainability: Clean Water

Readings for Today:

- S&T, Chapter 7
- *Sackett v. United States* (Supreme Court, 2023) [Coursepack #15]
 - Please read the entire Syllabus, skim each of the opinions, including concurrences
- Coca-Cola Water Stewardship Report (to be posted)

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 9

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

Readings for today:

- FIJI Water and Corporate Social Responsibility: Green Makeover or Greenwashing? [Coursepack # 16]
- **Reminder: All Student Presentation Slides and Bibliography Due on Monday, November 13th 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 10th at 3:45pm.**

Class 22: Tuesday November 14
Green Marketing and Greenwashing

Readings for today:

- [FTC Green Guides](#)
- [Chevron “Greenwashing” Targeted in Complaint Filed with FTC](#) (Bloomberg Green)
- [Amanda Shanor & Sarah E. Light, *Greenwashing and the First Amendment*](#) (Parts I and II only)

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 16
Student Project Presentations

Readings for today:

- No readings.

Class 24: Tuesday November 21
Student Project Presentations

Readings for today:

- No readings.

**** UG Thanksgiving Break November 22-26 ****

Class 25: Tuesday November 28
Student Project Presentations

Readings for today:

- No readings.

Class 26: Thursday November 30
Student Project Presentations

Readings for today:

- No readings.

Class 27: Tuesday December 5
Student Project Presentations

Readings for today:

- No readings.
- **Reminder: Peer Assessment must be completed by 11:59pm on Tuesday, December 5.**

Class 28: Thursday December 7
Final Class: Course Conclusion

Readings for today:

- No readings.

IX. INSTRUCTOR BIO

Sarah E. Light is a 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 repeatedly received the Excellence in Teaching Award at Wharton for both MBA and Undergraduate teaching.