Law and the Environment

Legal Studies/Env. Studies 430, Spring 2014

11:00 a.m. – 12:15 p.m., Tues.-Thur., Soc. Sci. 6112

Prof. Richard Keyser, rkeyser@wisc.edu

Office Hours: 12:30-1:30 p.m., Tues.-Thur., Social Sciences 7131, and by appointment.

Description: This class explores environmental studies through a focus on law and legal history. Although its main concentration is on U.S. environmental law, the course will begin and end with broader historical and global perspectives. The first of three units of the class survey the English, European, and early American legal approaches to land use, natural resources, and pollution through World War II. A second unit examines the development and practice of contemporary U.S. environmental law. The final unit considers the recent emergence of international environmental law.

Attendance: You are allowed TWO ‘free’ absences, which will not impact your grade. You do not earn points just for attending class, as this is expected, but after the two allowed absences, each additional absence may negatively impact your grade. Valid excuses are limited to university-recognized religious observances and for well-documented major illnesses or emergencies in the immediate family.

Participation: Everyone should try to speak in every class, and I will also try to call on students who do not seize the opportunity to speak up frequently. But quality of contribution counts more than quantity. Quality contributions are, ideally, clear and precise, while showing that you have understood the readings and that you are asking good critical questions about them (such as: What are the main questions the author tries to answer? What is the author’s main argument? What specific arguments or assumptions support the main argument? What specific evidence is used to support the arguments? What is left out?) Good participation also means that you listen to others and try to engage seriously but respectfully with what others say.

Computers and Electronic Devices: Due to the potential for distraction, these devices may not be used in class. The only exceptions are for students with documented disabilities and, when specifically announced by me, usage for access to electronic versions of assigned readings during class discussions of those readings.

Grades: 20% for the midterm, 30% each for the final paper and the final exam; and 20% for participation.

Exams: The two exams will be comprehensive in their coverage, but will emphasize the broader ideas and themes of the course. The format will include some identification-type, shorter essays, as well as one or two longer essays.

Paper: The paper will be an essay of 8-10 pages based on a topic of your choosing (with some guidance), and will require that you both draw on the assigned readings and do some research beyond the class materials (how much will depend on your topic). Essays will be turned in both as paper copies in class,
and as electronic copies to an anti-plagiarism website. Late papers will be marked down one grade per day late.

**Accommodations:** If you need accommodations due to any disability, please let me know within the first two weeks of class, i.e. by Jan. 30. In order to maintain confidentiality, please let me know by coming to my office hours or by emailing me to arrange a meeting. You will need to provide documentation from the McBurney Disability Resource Center, 702 West Johnson St., Suite 2104, tel. 608-263-2741, email: mcburney@studentlife.wisc.edu.

**Academic Honesty:** Your written work must reflect your own ideas, and where you draw on others’ words or ideas you need to indicate this clearly with proper quotations and citations. As the UW website explains, “plagiarism means presenting the words or ideas of others without giving credit. You should know the principles of plagiarism and the correct rules for citing sources….” For this quotation and more information, see: [http://students.wisc.edu/saja/misconduct/UWS14.html#overview](http://students.wisc.edu/saja/misconduct/UWS14.html#overview). As this website notes, “if you are unsure about the proper ways to give credit to sources, ask your instructor or consult the Writing Center at 6171 Helen C. White Hall (phone: 608/263-1992, e-mail: writing@wisc.edu). For a copy of their handout ‘Acknowledging, Paraphrasing, and Quoting Sources,’ please download: [http://writing.wisc.edu/Handbook/Acknowledging_Sources.pdf](http://writing.wisc.edu/Handbook/Acknowledging_Sources.pdf).

**Reading Assignments and Note-Taking:** Ideally all reading assignments for each week should be completed by Tuesday’s class so that you can make connections among the readings. If this is not possible, you may read the assignments in the order they appear on the syllabus. We will try to reserve time on Thursdays to discuss the primary sources (laws, judicial decisions, etc.). For best results, read each assignment carefully, take notes, and prepare a short summary of, response to, and critical questions provoked by it as a basis for class discussion (1-2 pages for each week’s readings).

**Required Textbooks (3) and Course Pack (1).** You need to purchase these four items (for the books, in the editions listed below), all of which are available through the UW Bookstore ([http://text.uwbookstore.com/home.aspx](http://text.uwbookstore.com/home.aspx)), and are listed here in the order in which they will be assigned. The textbooks are also on reserve at College Library.


SCHEDULE

I. History: Europe & Early America
Week 1, Jan. 21-23. Introduction: Landed Property & the Commons.
   - Course Pack Primary Sources: Property Rights, Early Common Law, & Manorial Law (6 pp.).

Week 2, Jan. 28-30. Commons Governance in Traditional Agro-Ecosystems.
   - Course Pack Primary Sources: Early Legal Texts on Forests & Commons (7 pp.).

Week 3, Feb. 4-6. Colonial America: Mercantilism, Enlightenment, & Settlement.
   - Course Pack Primary Sources: Colonial America (8 pp.).

   - Course Pack Primary Source: General Mining Act of 1872 (3 pp.).

   - Newfont, *Blue Ridge Commons*, finish ch. 1; ch. 2-3, pp. 30-96.
   - Primary Source Readings To Be Announced (TBA).

   - Newfont, *Blue Ridge Commons*, ch. 4, pp. 97-123.
   - Primary Source Readings TBA.

II. Modern U.S. Environmental Law
   - Primary Source Readings TBA.

Week 8, March 11-13. The ‘Golden Age’ of Environmental Law.
- Primary Source Readings TBA.

**Spring Break, March 17-21.**

- Primary Source Readings TBA.
- **Paper Proposals Due, March 27.**

Week 10, April 1-3. Executive Rule-Making.
- Primary Source Readings TBA.

Week 11, April 8-10. The Role of the Courts.
- Primary Source Readings TBA.

**III. International Law**

Week 12, April 15-17. International Institutions.
- Primary Source Readings TBA.

Week 13, April 22-24. International Law.
- Primary Source Readings TBA.
- **Paper Due: April 24.**

Week 14, April 29 - May 1. Responses to Climate Change, Globally & in the U.S.
- Primary Source Readings TBA.

Week 15, May 6-8. Is Global Environmental Governance Possible?
- Primary Source Readings TBA.

**Final Exam: Friday, May 16, 12:25 – 2:25 p.m.**