


**POLS 653 – Environmental Policy and the Law**  
**California State University, Chico**   
**Fall Semester 2009**  
**706 Butte Hall, Thursdays 7:00-9:50 p.m.**

Professor: Dr. Mahalley Allen  
Email: mdallen@csuchico.edu  
Office Telephone: 530-898-6489  
Office: 725 Butte Hall  
Office Hours: Tuesdays: 1:00-5:00 p.m., Thursdays: 1:00-2:00 p.m., and by appointment.

**Course Description and Format:**

This course is an investigation and analysis of the development and implementation of environmental policies by the various levels of government within the U.S. federal system, with a particular focus on the legal context of environmental policymaking. We first consider environmental policy in the United States by examining different perspectives and approaches to environmental policy. Then we explore American environmental law by examining specific environmental laws and paradigms.

**Materials:**

- Ferrey, Steven. 2007. *Environmental Law: Examples and Explanations*. 4<sup>th</sup> ed. New York: Aspen Publishers.
- Klyza, Christopher McGrory, and David Sousa. 2008. *American Environmental Policy, 1990-2006*. Cambridge, MA: MIT Press.
- Vista: Additional readings will be made available on the Vista course page. In addition, the course syllabus and assignments are also available on Vista.

**Students with Disabilities:**

Students in this course who have a documented disability that may prevent them from fully demonstrating their abilities should contact me personally as soon as possible so that we can discuss accommodations necessary to ensure full participation in this course and the college experience. The staff of Disability Support Services coordinates accommodations and services for CSU, Chico courses. If you have a disability for which you may request accommodation and have not contacted them, please do so at 530-898-5959.

**Furloughs:**

The California State University system is in severe debt. As a result, in addition to general campus closure days, all CSU faculty are also being required to take furlough days throughout the semester. We will not be allowed to work on those furlough days. Because my furlough dates are not yet known, this syllabus, including reading assignments, due dates for assignments, discussion leader dates, etc. is subject to change. I will post any revisions to the syllabus on the Vista course page.

## **Grades**

- Reaction Papers 30% (5% each)
- Discussion Leader 25%
- Conference Reaction Paper 10%
- Final Exam 25%
- Class Participation 10%

Course grades will be based on the following scale:

A = 100-94%, A- = 93-90%,  
B+ = 89-87%, B = 86-84%; B- = 83-80%,  
C+ = 79-77%, C = 76-74%, C- = 73-70%,  
D+ = 69-67%, D = 66-60%, F = 59-0%.

This means that if, for example, you receive an 89.4% in the course, your course grade will be a B+. There will be no opportunities for extra credit in the course so plan accordingly. I do not curve course grades. Grade appeals must be typed and submitted to me within one week of when I return the assignment or paper to you.

## **Participation:**

Graduate education is largely about self-education, and it is expected and necessary that each student complete all the required reading prior to each class session. Because this course will be conducted primarily as a seminar, not as a lecture, all students must come to class familiar with the material, ready to comment regularly, assist in the analysis of the literature, and engage each other in discussion. A successful graduate seminar involves widespread participation by all students. You should anticipate that I will call on you in class to contribute your opinion or observations on the assigned readings or classroom discussion. Regular class attendance is expected and vital. You cannot participate and, thus, earn participation points unless you attend class.

Because student participation is so vital to this course, if lack of class participation becomes a problem, I will start giving weekly quizzes and use those to calculate your class participation grade.

## **Attendance:**

At the beginning of each class, I will circulate a sign-in sheet for you to initial and record your attendance. It is your responsibility to make sure that you have done so before I leave the classroom. The sign-in sheet will be the official record of your attendance.

## **Reaction Papers:**

You will write six separate reaction papers on six different sets of required weekly readings. You cannot turn in more than one reaction paper per class period and set of readings. There will be no exceptions. Plan accordingly. Reaction papers must be submitted in hard copy (not emailed).

Each reaction paper should be approximately 2 pages long, typed, double-spaced, with normal font and margins (one inch all around, Times New Roman 12 point font). Do not take up half of the first page putting the name of this class, the course number, my name, etc. Just your name, the date, and a title will be sufficient.

A reaction paper is not a summary or description of the information in the readings. Instead, it identifies the main theses or arguments of the author(s) and then reacts to or critiques those theses or arguments. The purposes of a reaction paper are: to help you develop a more thorough understanding of that week's readings, to assist you in preparing for class discussion, and to help you prepare to take the comprehensive exam for your M.A. degree.

In analyzing the readings, it may be helpful to think about some of the following questions, and others like them:

Does the author(s) build a persuasive case for the main argument?

What are the reading's strengths and weaknesses?

What are the main points of debate that arise for you after completing the reading?

How and why could the authors have gone further in their arguments than they did?

Does some point in the reading need further investigation?

What is the strongest scholarly contribution found in the reading?

Is there a common theme found throughout the week's readings?

How does this reading tie in with readings or themes discussed previously in the course?

If the reading is a court case, do you agree with the decision of the court? Why or why not? How should the court have decided the issue?

Reaction papers do not need to cover all of the readings for a particular week (although they can). You may want to concentrate on one point or issue that the readings bring up for you and use your paper to develop that point.

### **Discussion Leader:**

Each student will lead class discussion one time during the semester. We will sign up for discussion dates and topics at the beginning of the semester. When you lead class discussion, you will be responsible for summarizing the readings for the class, engaging the class in discussion about the readings, and asking questions about the readings. Your discussion should review the main ideas or points of the readings and outline any problems or weaknesses you see with them. You should also prepare a list of questions to pose to the class about the readings. Please note being a discussion leader does not mean giving a formal presentation but rather means initiating, facilitating, and moderating discussion for the class. For each of your readings, you are required to prepare handouts for the class summarizing or outlining the readings. You may write a reaction paper on the readings you use to lead discussion, although you do not have to do so.

### **Citations and References - Style Manual for Political Science:**

Because you are learning to think like a political scientist, you should start writing like one too. APSA publishes a *Style Manual for Political Science*, which details how political scientists are to prepare their text-style, in-text citations, references, tables, etc. In all your writing for this course, you must follow the guidelines of the *Style Manual for Political Science*. Do not use MLA, APA, or other citation styles. A pdf copy of the relevant sections of the *Style Manual for Political Science* are available on Vista. Use of a style other than that outlined in the *Style Manual for Political Science* will result in a significantly lower grade.

**Late Assignments:**

Late assignments will be assessed a penalty of one letter grade (10%) daily. This penalty begins as soon as the assignment is due. This means that a paper turned in 10 minutes after it is due is already assessed a penalty of 10%.

**Academic Honesty:**

Plagiarism will not be tolerated. Any student caught plagiarizing will receive an F for the entire course and his/her name will be forwarded to Student Judicial Affairs for further action, including possible suspension and expulsion. Please familiarize yourself with the University Catalog's discussion regarding academic honesty.

**Reading Assignments:**

The following required reading assignments should be completed prior to each class. Please note that the topic for each class is listed in bold, followed by the reading assignments for that day. Please bring your reading assignments with you to class.

**Week 1 August 27**                      **Class Introduction, Review of U.S. Political System, and Overview of Environmental Policy**

**Week 2 September 3**                      **Environmental Policy, Collective Action, and Intergenerational Goods**

Hardin, Garrett. 1968. "The Tragedy of the Commons." *Science* 162: 1243-1248.

Klyza and Sousa, Chapter 1: Environmental Policy Beyond Gridlock.

Lowry, William R. 1998. "Public Provision of Intergenerational Goods: The Case of Preserved Lands." *American Journal of Political Science*, 42:1082-1107.

Ostrom, Elinor, et al. 1999. "Revisiting the Commons: Local Lessons, Global Challenges." *Science* 284 (9): 278-282.

Winter, Soren C., and Peter J. May. 2001. "Motivation for Compliance with Environmental Regulations." *Journal of Policy Analysis and Management* 20(4):675-698.

**Week 3 September 10**                      **Public Opinion and Attitudes about Environmentalism**

Downs, Anthony. 1972. "Up and Down with Ecology: The Issue-Attention Cycle." *The Public Interest* 28:38-50. Find a copy at: <http://www.anthonysdowns.com/upanddown.htm>

Dunlap, Riley E., Chenyang Xiao, and Aaron M. McCright. 2001. "Politics and Environment in America: Partisan and Ideological Cleavages in Public Support for Environmentalism." *Environmental Politics* 10(4):23-48.

Ellis, Richard J., and Fred Thompson. 1997. "Culture and the Environment in the Pacific Northwest." *American Political Science Review* 91(4):885-897.

Guth, James, et al. 1995. "Faith and the Environment: Religious Beliefs and Attitudes on Environmental Policy." *American Journal of Political Science* 39(2):364-382.

Inglehart, Ronald. 1995. "Public Support for Environmental Protection: Objective Problems and Subjective Values in 43 Societies." *PS: Political Science & Politics* 28(1):57-72.

Whittaker, Matthew, Gary M. Segura, and Shaun Bowler. 2005. "Racial/Ethnic Group Attitudes toward Environmental Protection in California: Is 'Environmentalism' Still a White Phenomenon?" *Political Research Quarterly* 58(3):435-447.

#### **Week 4 September 17      Environmental Policy and Congress**

Klyza and Sousa, Chapter 2: Creating the Current Institutional Landscape of Environmental Policymaking.

Klyza and Sousa, Chapter 3: Regulatory Reform, Reconciliation, and Rough Riders: Environmental Policymaking in Congress.

Rabe, Barry G. 1990. "Legislative Incapacity: The Congressional Role in Environmental Policy-making and the Case of Superfund." *Journal of Health Politics, Policy, and Law*. 15(3):571-589.

Shipan, Charles R., and William R. Lowry. 2001. "Environmental Policy and Party Divergence in Congress." *Political Research Quarterly* 54(2):263.

#### **Week 5 September 24      Environmental Policy, the President, and the Bureaucracy**

Klyza and Sousa, Chapter 4: National Monuments, Roadless Forests, and Aging Electric Utilities: Executive Policymaking through Statutory Discretion and Rulemaking.

Kraft, Michael E., and Normal J. Vig. 1984. "Environmental Policy in the Reagan Presidency." *Political Science Quarterly* 99(3):415-439.

Ringquist, Evan J. 1995. "Political Control and Policy Impact in EPA's Office of Water Quality." *American Journal of Political Science* 39(2):336-363.

Wood, B. Dan. 1988. "Principals, Bureaucrats, and Responsiveness in Clean Air Enforcements." *American Political Science Review* 82(1):213-234.

#### **Week 6 October 1      Environmental Policy and Subnational Politics**

Crotty, Patricia McGee. 1987. "The New Federalism Game: Primacy Implementation of Environmental Policy." *Publius: The Journal of Federalism* 17(2):53-67.

Davidson, Debra J. 2001. "Federal Policy in Local Context: The Influence of Local State-Societal Relations on Endangered Species Act Implementation." *Policy Studies Review* 18(1):212-240.

Hays, Scott P., Michael Esler, and Carol E. Hays. 1996. "Environmental Commitment among the

States: Integrating Alternative Approaches to State Environmental Policy.” *Publius: The Journal of Federalism* 26(2):41-58.

Klyza and Sousa, Chapter 7: The States and Environmental Policy: Junior Partner, Next Generation Innovator, Passionate Advocate, or All of the Above?

Konisky, David M. 2007. “Regulatory Competition and Environmental Enforcement: Is There a Race to the Bottom?” *American Journal of Political Science* 51(4):853-872.

**Week 7 October 8                      Environmental Policy and the Courts**

Ferrey, Chapter 2, Administrative Procedure for Environmental Regulation.

*Friends of the Earth, Inc. v. Laidlaw Environmental Services, Inc.*, 528 U.S. 167 (2000).

*Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992).

Klyza and Sousa, Chapter 5: From “Who Has Standing?” to “Who is Left Standing?”: The Courts and Environmental Policymaking in the Era of Gridlock.

Ringquist, Evan J., and Craig E. Emmert. 1999. “Judicial Policymaking in Published and Unpublished Decisions: The Case of Environmental Civil Litigation.” *Political Research Quarterly* 52(1):7-37.

*Sierra Club v. Morton*, 405 U.S. 727 (1972).

*United States v. Students Challenging Regulatory Agency Procedures*, 412 U.S. 669 (1973).

**Week 8 October 15                      Campus Closure Day. No class.**

**Week 9 October 22                      The Constitution and the Environment**

*City of Philadelphia v. New Jersey*, 437 U.S. 617 (1978).

Ferrey, Chapter 4: Constitutional Issues: The Commerce Clause and Environmental Preemption.

*Hodel v. Indiana*, 452 U.S. 314 (1981).

*Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992).

*Maine v. Taylor*, 477 U.S. 131 (1986).

*New York v. United States*, 505 U.S. 144 (1992).

*Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302 (2002).

**Week 10 October 29            The National Environmental Policy Act**

Ferrey, Chapter 3: The National Environmental Policy Act.

*Hanly v. Mitchell*, 460 F.2d 640 (2d Cir. 1972).

*Kleppe v. Sierra Club*, 427 U.S. 390 (1976).

*Metropolitan Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766 (1983).

*Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989).

**Week 11 November 5            This Way to Sustainability Conference at CSU, Chico**

No class. Attend three hours of conference workshops or panels instead.

Conference reaction paper due November 19, 2009.

**Week 12 November 12        Hazardous Waste Law and Policy**

*American Mining Congress v. Environmental Protection Agency*, 824 F.2d 1177 (D.C. Cir. 1987).

*Cooper Industries, Inc. v. Aviall Services, Inc.*, 543 U.S. 157 (2004).

Ferrey, Chapter 8: The Management of Hazardous Waste and Solid Wastes: RCRA.

Ferrery, Chapter 9: The Superfund: Hazardous Substance Remediation.

*United States v. Monsanto Co.*, 858 F.2d 160 (4<sup>th</sup> Cir.1988).

*United States v. Northeastern Pharmaceutical & Chemical Co., Inc.*, 810 F.2d 726 (8<sup>th</sup> Cir. 1986).

**Week 13 November 19        Air Pollution Law and Policy**

*Boomer v. Atlantic Cement Company*, 257 N.E.2d 870 (N.Y. 1970).

Ferrey, Chapter 5: Air Quality Regulation.

*Natural Resources Defense Council, Inc. v. Train*, 545 F.2d 320 (2d Cir. 1976).

*Spur Industries, Inc. v. Del E. Webb Development Co.*, 494 P.2d 700 (Ariz. 1972).

*Union Electric Co. v. EPA*, 427 U.S. 246 (1976).

*Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457 (2001).

**Week 14 November 26      Thanksgiving Vacation. No class.**

**Week 15 December 3      Water Pollution Law and Policy**

*Arkansas v. Oklahoma*, 503 U.S. 91 (1992).

Ferrey, Chapter 6: Water Pollution.

Ferrey, Chapter 7: Rights to Use Water.

*Concerned Area Residents for the Environment v. Southview Farm*, 34 F.3d 114 (2d Cir. 1994).

*Sierra Club v. Abston Construction Co.*, 620 F.2d 41 (5<sup>th</sup> Cir. 1980).

*Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001).

*United States v. Riverside Bayview Homes, Inc.*, 474 U.S. 121 (1985).

**Week 16 December 10      Endangered Species Law and Policy**

*Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687 (1995).

Ferrey, Chapter 13: The Endangered Species Act.

*Northern Spotted Owl v. Hodel*, 716 F.Supp. 479 (W.D. Wash. 1988).

*Tennessee Valley Authority v. Hill*, 437 U.S. 153 (1978).

*Thomas v. Peterson*, 753 F.2d 754 (9<sup>th</sup> Cir. 1985).

**Finals December 17      Final exam due at 7 p.m.**