

Course Outline

Course:	LAWS 3800 B – Law of Environmental Quality
Term:	Winter 2022
Prerequisites:	1.0 Credit in LAWS at the 2000 Level
Class:	Day & Time: Tuesdays, 11:35 am – 2:25 pm The course is blended synchronous/asynchronous, with modules being delivered asynchronously through Brightspace. The course also includes 1 synchronous introductory session and 5 synchronous workshops delivered on Zoom during normal class time on February 1 & 15, March 8 & 22, and April 5.
	Room: Online
Instructor:	Pierre Cloutier de Repentigny
Contact:	Office: n/a Office Hrs: By appointment through Brightspace Email: pierre.derepentigny@carleton.ca

CALENDAR COURSE DESCRIPTION

Various aspects of environmental law; pollution control, legal actions and remedies; legal foundations for participation in decision-making processes. Social, economic and political forces influencing the formulation and implementation of environmental law. Alternative forms of regulation that may articulate different demands.

COURSE DESCRIPTION

This course offers an introduction to world of environmental law, the main tool we use to regulate our social relationship with the environment, whether “natural” or human-made. It covers environmental law’s basic concepts, framework, main methods of regulation, relations to socio-economic issues and politics, and some key contemporary issues (e.g. climate change). In the age of the Anthropocene—a geological era characterised by the dramatic impact of (a subset of) humans on the biosphere—and in a settler colonial state like Canada where the application of settler law to Indigenous peoples is mired by systemic issues, environmental law is a legal field of

particular importance. Given the breath of environmental law and the complexity of the issues it seeks to address, this course only offers an overview and focuses on ensuring students' ability to navigate, understand, critique and work with environmental law, and to engage with related environmental and social issues.

The first half of the modules covers the foundations of environmental law (e.g., modes of regulations, jurisdictions, and basic principles). The second half explores issues in environmental law from a critical perspective (e.g., environmental justice, climate change, and reforms). The course also contains workshops where students will work in small groups on important environmental law issues.

COMMUNICATION

In terms of communication, you should ask all **course related questions** (e.g., questions related to assignments or a topic covered in the course) on the Q&A Forum on Brightspace. This ensures that questions and answers are available for all students to see. Before asking a question, make sure it has not been asked already. **Questions related to individual issues** (e.g., extensions, accommodations, technical difficulty) should be asked directly to me via email. I will only respond to emails between 9am and 5pm on regular weekdays. For **meetings**, you will be able to book a meeting on Brightspace with me to discuss any issues related to the course or your studies. If your questions cannot easily be answered via email, I will suggest you book an appointment with me instead. The **course TA** may be available for meetings via the same system. The availability of the TA will be confirmed on Brightspace.

REQUIRED TEXTS

All mandatory reading and audio-visual materials will be available on Brightspace. No material needs to be purchased.

If you prefer to have a textbook to follow along, I recommend William A Tilleman, Alastair R Lucas, Sara L Bagg & Patrícia Galvão Ferreira, *Environmental Law and Policy*, 4th ed (Emond Publishing, 2020); **OR** Jamie Benidickson, *Environmental Law*, 5th ed (Irwin Law, 2019).

EVALUATION

Detailed instructions for the assignments will be posted on Brightspace and discussed on Zoom during the introduction class or at the start of a workshop. All assignments should be submitted on Brightspace. Evaluation for this course is divided as follow:

- Workshops 50%
- Long or short essay(s) 30%
- Video commentary 10%
- Participation 10%

Official disclaimer: Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the

instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

Workshops (10% each for a total of 50%)

The synchronous class time includes 5 workshops worth 10% of your total grade each. The workshop will deal with crucial environmental issues (e.g., rethinking food security in light of pollinators decline) and/or practical exercises related to environmental law (e.g., creating an effective federal climate plan). The workshops will be done in small breakout groups and each group will fill out a worksheet and submit it with relevant attachment on Brightspace. Workshop activities will relate to the module(s) that precedes it. Dates:

1. February 1
2. February 15
3. March 8
4. March 22
5. April 5

Long or Short Essay(s) (30%)

A long essay of 2500 to 3500 words, excluding bibliography and references, exploring in more depth an aspect of environment law. The course readings are a good starting point, but you may explore topics not covered by the course. The topic should be sufficiently precise in order to engage with the topic (i.e., it needs to go beyond summarising issues and must present a thesis). Topics must be approved by me before March 29. If you do not get your topic approved, it will be assumed you chose the short essays option. You should book an appointment in advance of the deadline to discuss the topic and ensure that it is appropriate. The long essay is due on April 28 before 5 pm.

OR

Three (3) short essays of 1000 to 1250 words each, excluding bibliography and references, reflecting on one of the optional readings. For these essays, you select one optional reading in one of the modules and analyse the main arguments of the selected text (a summary of the argument is not enough). Each essay has to be on a different module (i.e., you cannot pick 3 optional readings in the same module). If you start with this option and realise you prefer to do a long essay, simply ensure that your essay topic is approved by the relevant date and the short essay(s) already submitted will not count towards your final grade. Each short essay is due two (2) weeks after the date of the relevant module (e.g., an essay based on an optional reading for module 6 would be due by March 15).

Video Commentary (10%)

A short video commentary on a current environmental issue based on a news report/article that is no more than 6 months old. The video should briefly summarise the issue in question in your own words (with or without visual elements) and offer your own analysis of the issue (which should be the majority of the video). You can be as creative as you want. The video should be around 5-6 minutes long and posted on Brightspace at the latest on April 7. The Narwhal

(<https://thenarwhal.ca/>) and the National Observer (<https://www.nationalobserver.com/>) are good sources of environmental news.

Participation (10%)

As this course does not follow a typical format, participation is also not “measured” in a typical manner. To give you some flexibility, a variety of task will be listed in an assignment sheet. Performing these tasks will earn you participation points, up to a maximum of 10. The tasks will vary, but will all have the aim of fostering discussion and collaboration rather than competition. They may include being responsible for filling and submitting a worksheet, leaving a constructive comment on a colleague’s video, sharing their notes on a reading, reviewing a colleague’s work, etc. Some of these tasks will leave a “trace” (e.g., posting something publicly on Brightspace), while others will require you to submit something to the TA. Submissions should be made as you go (i.e., you complete a task, you submit evidence of it, if needed, the same day). The last day for submissions is April 24. Completing tasks and submitting them when needed are your responsibility.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

While active participation is a crucial pedagogical component of this course, it should not be a barrier. If you are experiencing difficulties that prevent you from actively participating in one of the workshops or that might limit your participation, or if you need to be absent, please let me know and we can discuss an appropriate accommodation to ensure that you can still benefit from the course without hardship.

For one-time accommodation or for a short extension (4 days or less), an email suffices. For a longer extension or for more holistic accommodations, send me an email with this form <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf> filled and attached. Information on formal accommodation requests is found at the end of this syllabus.

If you submit the final essay after the deadline or get your essay topic approved after the deadline without proper justifications or without having obtained an extension, you incur the risk of getting a grade penalty of up to 5% per day.

SCHEDULE

Note on the readings: not all mandatory readings have to be read in full, some instructions are provided to make them more manageable. Each module is accompanied by a video lecture that outlines the main concepts found in the readings and act as a guide for the reading. The videos will be posted the week of the module. They do not, however, replace the readings; they are complementary. Optional texts are there for those who wish to explore certain topics in more depth and form the basis of the short essays option. They are also a good starting point for exploring an essay topic.

Introduction to the course (January 11)

This class is synchronous on Zoom.

Module 1: What is environmental law? (January 18)

Mandatory reading:

- Klaus Bosselmann, “A vulnerable environment: contextualising law with sustainability” (2011) 2:1 *Journal of Human Rights and the Environment* 45
- Stepan Wood, Georgia Tanner & Benjamin J Richardson, “What Ever Happened to Canadian Environmental Law?” (2010) 37 *Ecology Law Quarterly* 981 at 982-1016

Module 2: The purposes and ethical dimensions of environmental law (January 25)

Mandatory reading:

- Katie McShane, “Environmental Ethics: An Overview” (2009) 4:3 *Philosophy Compass* 407
- Chris McGrath, “The role played by policy objectives in environmental law” in Douglas Fisher, ed, *Research Handbook on Fundamental Concepts of Environmental Law* (Cheltenham, UK: Edward Elgar, 2016) 369
- John Borrows, “Living between Water and Rocks: First Nations, Environmental Planning and Democracy” (1997) 47:4 *University of Toronto Law Journal* 417 at 417-29, 453-68

Optional reading:

- Peter G Brown, “Are there any natural resources?” (2004) 23:1 *Politics and the Life Sciences* 12
- Christopher D Stone, “Should Trees Have Standing?—Toward Legal Rights for Natural Objects” (1972) 45 *Southern California Law Review* 450
- Jaye Ellis, “Crisis, Resilience, and the Time of Law” (2019) 32:2 *Canadian Journal of Law & Jurisprudence* 305
- Elizabeth Fisher, “Environmental Law as ‘Hot’ Law” (2013) 25:3 *Journal of Environmental Law* 347
- Nigel Bankes, Sharon Mascher & Martin Olszynski, “Can Environmental Laws Fulfill Their Promise? Stories from Canada” (2014) 6 *Sustainability* 6024

Module 3: Environmental law framework 1 – Federal, provincial, municipal and Indigenous jurisdictions (February 1)

Mandatory reading:

- *The Constitution Act, 1867* (UK), 30 & 31 Victoria, c 3, s 91-92A, 95
- *The Constitution Act, 1982*, s 25, 35, 35.1, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11
- *Municipal Act, 2001*, SO 2001, c 25, s 10, 11, 97.1, 135-147
- *114957 Canada Ltée (Spraytech, Société d'arrosage) v Hudson (Town)*, 2001 SCC 40 (up to para 42)
- Penny Becklumb, *Federal and Provincial Jurisdiction to Regulate Environmental Issues*, Library of Parliament, Publication No 2013-86-E (24 September 2013)
- Jessica Clogg, Hannah Askew, Eugene Kung & Gavin Smith, “Indigenous Legal Traditions and the Future of Environmental Governance in Canada” (2016) 29 *Journal of Environmental Law and Practice* 227

Optional reading:

- *Nulh Ghah Dechen Ts'edilhtan* (“Tsilhqot'in Nation Wildlife Law”), endorsed by the Tsilhqot'in Council of Chiefs on 25 July 2019
- Michael M'Gonigle, “Developing Sustainability: A Native/Environmentalist Prescription for Third-Level Government” (1990) 84 BC Studies 65
- Robert Hamilton, “Indigenous Peoples and Interstitial Federalism in Canada” (2019) 24:1 Review of Constitutional Studies 43
- Nathalie J Chalifour, “Canadian Climate Federalism: Parliament's Ample Constitutional Authority to Legislate GHG Emissions through Regulations, a National Cap and Trade Program, or a National Carbon Tax” (2016) 36 National Journal of Constitutional Law 331
- *Reference re Environmental Management Act (British Columbia)*, 2019 BCCA 181
- *Haida Nation v British Columbia (Minister of Forests)*, 2004 SCC 73
- *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44

Module 4: Environmental law framework 2 – International law and environmental principles (February 8)

Mandatory reading:

- Tseming Yang, “The Emerging Practice of Global Environmental Law” (2012) 1:1 Transnational Environmental Law 53
- Sam Adelman, “Rio+20: sustainable injustice in a time of crises” (2013) 4:1 Journal of Human Rights and the Environment 6
- Jerry V DeMarco, “The Supreme Court of Canada's Recognition of Fundamental Environmental Values: What Could be Next in Canadian Environmental Law?” (2007) 17:3 Journal of Environmental Law and Practice 159 at 159-61, 180-95, 203-04
- *New Delhi Declaration of principles of international law relating to sustainable development*, International Law Association, 6 April 2002, UN Doc A/CONF.199/8

Optional reading:

- Carmen G Gonzalez, “Bridging the North–South Divide: International Environmental Law in the Anthropocene” (2015) 32 Pace Environmental Law Review 407
- Karin Mickelson, “Between Crisis and Complacency: Seeking Commitment in International Environmental Law” (2013) 44 Netherlands Yearbook of International Law 139
- Elizabeth Brandon, “Does International Law Mean Anything in Canadian Courts?” (2001) 11 Journal of Environmental Law and Practice 399
- Andrea J Reid, “Post-2015 Sustainable Development Goals still neglecting their environmental roots in the Anthropocene” (2017) 77 Environmental Science and Policy 179
- Duncan French & Louis J Kotzé, “‘Towards a Global Pact for the Environment’: International environmental law's factual, technical and (unmentionable) normative gaps” (2019) 28 Review of European, Comparative & International Environmental Law 25

Module 5: Regulating the environment 1 – Administrative and regulatory control (February 15)

Mandatory reading:

- *Environmental Protection Act*, RSO 1990, c E.19 (skim to familiarise yourself with the structure of the statute and its mechanisms, focus on Parts II & II.1)
- Neil Gunningham, “Environment Law, Regulation and Governance: Shifting Architectures” (2009) 21:2 *Journal of Environmental Law* 179
- Martin Olszynski, “Environmental Laws as Decision-Making Processes (or, Why I am Grateful for Environmental Groups this Earth Day)” (22 April 2015) online (blog): *ABlawg* <<https://ablawg.ca/2015/04/22/environmental-laws-as-decision-making-processes-or-why-i-am-grateful-for-environmental-groups-this-earth-day/>>
- Shaun Fluker, “*Vavilov* and the Judicial Review of Natural Resources, Energy and Environmental Decisions in Canada” (2020) 123 *Resources* 1
- Oliver Houck, “Tales from a Troubled Marriage: Science and Law in Environmental Policy” (2003) 302:5652 *Science* 1926

Optional reading:

- Mark S Winfield, “An Unimaginative People: Instrument Choice in Canadian Environmental Law and Policy” (2008) 71 *Saskatchewan Law Review* 79
- Daniel A Farber, “Rethinking the Role of Cost-benefit Analysis” (2009) 76 *University of Chicago Law Review* 1361
- Jocelyn Stacey, “The Environmental Emergency and the Legality of Discretion in Environmental Law” (2015) 52:3 *Osgoode Hall Law Journal* 985
- Robin Kundis Craig & JB Ruhl, “Designing Administrative Law for Adaptive Management” (2014) 67:1 *Vanderbilt Law Review* 1
- R Michael M’Gonigle et al, “Taking Uncertainty Seriously: From Permissive Regulation to Preventative Design in Environmental Decision Making” (1994) 32:1 *Osgoode Hall Law Journal* 99

Module 6: Regulating the environment 2 – Penal sanctions and civil liability (March 1)

Mandatory reading:

- Ronda M Vanderhoek, “Due Diligence in Environmental Offences” in Allan E Ingelson, ed, *Environment in the Courtroom* (Calgary University Press, 2019) 262
- Alex Ikejiani, “The Exercise of Prosecutorial Discretion: Challenges to Environmental Prosecutions” in Allan E Ingelson, ed, *Environment in the Courtroom* (Calgary University Press, 2019) 175
- Shaun Fluker, “Sentencing Lake Louise Ski Resort Under the Species at Risk Act and A Comment on the Federal Environmental Damages Fund” (15 January 2019), online (blog): *ABlawg* <<https://ablawg.ca/2019/01/15/sentencing-lake-louise-ski-resort-under-the-species-at-risk-act-and-a-comment-on-the-federal-environmental-damages-fund/>>
- Maria Lee, “Tort, regulation and environmental liability” (2002) 22:1 *Legal Studies* 33

Optional reading:

- Leah M Howie, “Thinking Outside the Box: Environmental Protection Alternative Measures” (2007) 18:1 *Journal of Environmental Law and Practice* 87
- Michael J Lynch, Paul B Stretesky & Michael A Long, “Situational Crime Prevention and the Ecological Regulation of Green Crime: A Review and Discussion” (2018) 679 *ANNALS of the American Academy of Political and Social Science* 178
- Michael J Lynch, Paul B Stretesky & Michael A Long, “A Proposal for the Political Economy of Green Criminology: Capitalism and the Case of the Alberta Tar Sands” (2016) 58:2 *Canadian Journal of Criminology and Criminal Justice* 137
- Tim Wood, “Sticks and Carrots: *Rylands v Fletcher*, CRS, and Accountability for Environmental Harm in Common Law Jurisdictions” (2012) 91 *Canadian Bar Review* 275
- Bernard D Goldstein, “Toxic Torts: The Devil is in the Dose” (2008) 16:2 *Journal of Law and Policy* 551
- Lynda M Collins & Sarah Morales, “Aboriginal Environmental Rights in Tort” (2014) 27:1 *Journal of environmental law and practice* 1

Module 7: Regulating the environment 3 – Market-based approaches and voluntary mechanisms (March 8)

Mandatory reading:

- Jason J Czarnezki & Katherine Fiedler, “The Neoliberal Turn in Environmental Regulation” [2016] *Utah Law Review* 1
- Kate Wilkinson, “Payment for ‘ecosystem services’ and the ‘green economy’: greenwashing or something new?” (2014) 5:2 *Journal of Human Rights and the Environment* 168

Optional reading:

- Erik Gómez-Baggethun & Roldan Muradian, “In markets we trust? Setting the boundaries of Market-Based Instruments in ecosystem services governance” (2015) 117 *Ecological Economics* 217
- James Salzman, “Sustainable Consumption and the Law” (1997) 27 *Environmental Law* 1243
- Peter Dauvergne, “The Problem of Consumption” (2010) 10:2 *Global Environmental Politics* 1
- Jonathan Remy Nash & Richard L Revesz, “Markets and Geography: Designing Marketable Permit Schemes to Control Local and Regional Pollutants” (2001) 28:3 *Ecology Law Quarterly* 569
- Hope M Babcock, “Corporate Environmental Social Responsibility: Corporate “Greenwashing” or a Corporate Culture Game Changer?” (2010) 21 *Fordham Environmental Law Review* 1
- Natasha Affolder, “Rethinking Environmental Contracting” (2010) 21 *Journal of Environmental Law and Practice* 155

Module 8: Advocating for the environment – Litigation, law reform, and protests (March 15)

Mandatory reading:

- Jérôme Pelenc et al, “Alternative and Resistance Movements: The Two Faces of Sustainability Transformations?” (2019) 159 *Ecological Economics* 373
- Michael Peters, “Can democracy solve the sustainability crisis? Green politics, grassroots participation and the failure of the sustainability paradigm” (2019) 51:2 *Educational Philosophy and Theory* 133
- Ryan Gunderson & Claiton Fyock, “The Political Economy of Climate Change Litigation: Is There a Point to Suing Fossil Fuel Companies?” (2021) *New Political Economy*, DOI: 10.1080/13563467.2021.1967911
- Terry Mitchell, “Indigenous civil rights blockades should be met with a new diplomacy, not violence”, *The Conversation* (27 February 2020), online: <<https://theconversation.com/indigenous-civil-rights-blockades-should-be-met-with-a-new-diplomacy-not-violence-132427>>
- DT Cochrane, “Wet'suwet'en blockades: No more business as usual in Canada” *The Conversation* (19 February 2020), online: <<https://theconversation.com/wetsuweten-blockades-no-more-business-as-usual-in-canada-131961>>

Optional reading:

- Andrew Dobson, “Environmental Citizenship: Towards Sustainable Development” (2007) 15 *Sustainable Development* 276
- Max Koch, “Structure, action and change: a Bourdieusian perspective on the preconditions for a degrowth transition” (2020) 16:1 *Sustainability: Science, Practice and Policy* 4
- Nicholas A Robinson, “IUCN as Catalyst for a Law of the Biosphere: Acting Globally and Locally” (2005) 35 *Environmental Law* 249
- Phillip Paiement, “Urgent agenda: how climate litigation builds transnational narratives” (2020) 11:1-2 *Transnational Legal Theory* 121
- Jacqueline Peel & Hari M Osofsky, “Climate Change Litigation” (2020) 16 *Annual Review of Law & Social Science* 8.1
- Maxine Burkett, “Climate Disobedience” (2016) 27:1 *Duke Environmental Law & Policy Forum* 1

Module 9: Environmental rights and environmental justice (March 22)

Mandatory reading:

- John H Knox, “Constructing the Human Right to a Healthy Environment” (2020) 16 *Annual Review of Law and Social Science* 24.1
- Jason MacLean, “Greening the Charter? Why trying to constitutionalize a right to a healthy environment is misguided”, *CBA National* (28 February 2017), online: <<https://web.archive.org/web/20170324203906/nationalmagazine.ca/Articles/February-2017/Greening-the-Charter-Why-trying-to-constitutionalize.aspx>>
- Paul Mohai, David Pellow & J Timmons Roberts, “Environmental Justice” (2009) 34 *Annual Review of Environment and Resources* 405

- Deborah McGregor, “Mino-Mnaamodzawin: Achieving Indigenous Environmental Justice in Canada” (2018) 9 *Environment and Society: Advances in Research* 7

Optional reading:

- Natalia Ilyniak, “Mercury Poisoning in Grassy Narrows: Environmental Injustice, Colonialism, and Capitalist Expansion in Canada” (2014) 4 *McGill Sociological Review* 43
- Michael J Lynch, Paul B Stretesky & Michael A Long, “Environmental justice: a criminological perspective” (2015) 10 *Environmental Research Letters* 085008
- Neera M Singh, “Environmental justice, degrowth and post-capitalist futures” (2019) 163 *Ecological Economics* 138
- Colin Samson, “The Idea of Progress, Industrialization, and the Replacement of Indigenous Peoples: The Muskrat Falls Megadam Boondoggle” (2018) 44:4 *Social Justice* 1
- Lynda M Collins, “An Ecologically Literate Reading of the Canadian Charter of Rights and Freedoms” (2009) 26 *Windsor Review of Legal and Social Issues* 7
- Cynthia Giagnocavo & Howard Goldstein, “Law Reform or World Re-form: The Problem of Environmental Rights” (1990) 35:2 *McGill Law Journal* 345
- David R Boyd, “No Taps, No Toilets: First Nations and the Constitutional Right to Water in Canada” (2011) 57:1 *McGill Law Journal* 81
- Paola Villavicencio Calzadilla & Louis J Kotzé, “Living in Harmony with Nature? A Critical Appraisal of the Rights of Mother Earth in Bolivia” (2018) 7:3 *Transnational Environmental Law* 397

Module 10: Extinction – Tiny frog vs housing development projects (March 29)

Mandatory reading:

- *Species at Risk Act*, SC 2002, c 29 (skim to familiarise yourself with the structure of the statute and its mechanisms, focus on sections 32 to 84)
- Shaun Fluker, “Justice for the Western Chorus Frog?” (27 August 2015), online (blog): *ABlawg* <<https://ablawg.ca/2015/08/27/justice-for-the-western-chorus-frog/>>
- Shaun Fluker, “More Justice for the Western Chorus Frog” (12 September 2018), online (blog): *ABlawg* <<https://ablawg.ca/2018/09/12/more-justice-for-the-western-chorus-frog/>>
- Shaun Fluker, “The Cost of Justice for the Western Chorus Frog” (21 August 2020), online (blog): *ABlawg* <<https://ablawg.ca/2020/08/21/the-cost-of-justice-for-the-western-chorus-frog/>>
- Afshin Akhtar-Khavari, Michelle Lim & Katie Woolaston, “Environmental law’s extinction problem” (2020) 29:4 *Griffith Law Review* 493

Optional reading:

- Tanya C Tran, Natalie C Ban & Jonaki Bhattacharyya, “A review of successes, challenges, and lessons from Indigenous protected and conserved areas” (2020) 241 *Biological Conservation* 108271
- JL McCune et al, “Assessing public commitment to endangered species protection: A Canadian case study” (2017) 2 *FACETS* 178

- Stéphane Wojciechowski et al, “SARA’s Safety Net Provisions and the Effectiveness of Species at Risk Protection on Non-Federal Lands” (2011) 22:3 *Journal of Environmental Law and Practice* 203
- Michael J Lynch, “Blaming the poor for biodiversity loss: a political economic critique of the study of poaching and wildlife trafficking” (2017) 25:3 *Journal of Poverty and Social Justice* 263
- Any other articles from Afshin Akhtar-Khavari, Michelle Lim & Katie Woolaston, eds, *Environmental Law's Extinction Problem* (2020) 29:4 *Griffith Law Review* 513-685
- Vito De Lucia, “Competing Narratives and Complex Genealogies: The Ecosystem Approach in International Environmental Law” (2015) 27 *Journal of Environmental Law* 91

Module 11: Colonialism – Building a pipeline through Indigenous lands (April 5)

Mandatory reading:

- Nick Cunningham, “Canada’s Trans Mountain Pipeline Inches Forward, But Opposition Intensifies” (14 August 2020), online (blog): *DeSmog* <<https://www.desmogblog.com/2020/08/14/canada-trans-mountain-pipeline-tiny-house-warriors>>
- Matt Simmons, “Land defenders arrested on Wet’suwet’en territory as RCMP enforces Coastal GasLink injunction” (18 November 2021), online: *The Narwhal* <<https://thenarwhal.ca/rcmp-arrests-wetsuweten-coastal-gaslink/>>
- Marc Kruse & Carrie Robinson, “Injunctions by First Nations: Results of a National Study”, *Yellowhead Institute*, 14 November 2019, <<https://yellowheadinstitute.org/2019/11/14/injunctions-by-first-nations-results-of-a-national-study/>>
- Gavin Smith, “The invisible thread? The Coastal GasLink decision and why we must do more to recognize the application of Indigenous law” (15 January 2020), online (blog): *West Coast Environmental Law* <<https://www.wcel.org/blog/invisible-thread-coastal-gaslink-decision-and-why-we-must-do-more-recognize-application>>
- Heather Davis & Zoe Todd, “On the Importance of a Date, or, Decolonizing the Anthropocene” (2017) 16:4 *ACME: An International Journal for Critical Geographies* 761

Optional reading:

- Jason MacLean, “Manufacturing Consent to Climate Inaction: A Case Study of *The Globe and Mail*’s Pipeline Coverage” (2019) 42:2 *Dalhousie Law Journal* 283
- Dayna Nadine Scott, “The Networked Infrastructure of Fossil Capitalism: Implications of the New Pipeline Debates for Environmental Justice in Canada” (2013) 43 *Revue générale de droit* 11
- Gordon Christie, “Indigenous Authority, Canadian Law, and Pipeline Proposals” (2013) 25 *Journal of Environmental Law and Practice* 189
- Jessica Clogg et al, “Indigenous Legal Traditions and the Future of Environmental Governance in Canada” (2016) 29 *Journal of Environmental Law and Practice* 227

- Kylie Benton-Connell & DT Cochrane, ““Canada Has a Pipeline Problem”: Valuation and Vulnerability of Extractive Infrastructure” (2020) 119:2 *The South Atlantic Quarterly* 325
- Carmen Gonzalez, “Climate Change, Race, and Migration” (2020) 1 *Journal of Law and Political Economy* 109
- Alf Hornborg, “Colonialism in the Anthropocene: the political ecology of the money-energy-technology complex” (2019) 10:1 *Journal of Human Rights and the Environment* 7

Class 12: The Future of Environmental Law (April 12)

Mandatory reading:

- Michael M'Gonigle & Paula Ramsay, “Greening Environmental Law: From Sectoral Reform to Systemic Re-Formation” (2004) 14 *Journal of Environmental Law and Practice* 333
- Jason Hickel, “Is it possible to achieve a good life for all within planetary boundaries?” (2019) 40:1 *Third World Quarterly* 18

Optional reading:

- David R Boyd, “Sustainability Law: (R)Evolutionary Directions for the Future of Environmental Law” (2004) 14 *Journal of Environmental Law and Practice* 357
- Vito De Lucia, “Beyond anthropocentrism and ecocentrism: a biopolitical reading of environmental law” (2017) 8:2 *Journal of Human Rights and the Environment* 181
- Pierre Cloutier de Repentigny, “To the Anthropocene and beyond: the responsibility of law in decimating and protecting marine life” (2020) 11 *Transnational Legal Theory* 180

ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details [click here](#).

Academic Accommodations for Students with Disabilities: [The Paul Menton Centre for Students with Disabilities](#) (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation will be provided to students who compete or perform at the national or international level. Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic

accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.