

GEOG 463/563
Geography, Law, and Environment
Winter 2017, UH 2:00 - 3:20
201 Condon

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This course considers the role of laws in shaping the evolving character of places, as well as the ways in which geographical arrangements and understandings find expression in the law. We consider how law has organized the landscape by regulating how humans divide and use the surface of the earth; how the regulation of public resources has shaped environment, society and place throughout the United States; and how the rise of the administrative state has constrained and driven conflicts over resources. We also consider reciprocal influences: how legal structures have been shaped by historical and geographical context, often with long-lasting repercussions.

The regional focus of the course is the United States. We will adopt a loosely historical approach, beginning with the early development of common law in the colonies and early American republic, moving on to the disposal and regulation of the vast lands and limited waters of the American West, continuing with the rise of administrative bureaucracies that transformed rivers and lands under the New Deal, and ending with an examination of the regulatory systems put in place since the late 1960s.

Most course materials will be on blackboard [<http://blackboard.uoregon.edu>]. You should consult the site regularly for announcements. All non-textbook class readings are under “Course Documents” on the site. **The course will involve considerable reading; a commitment to completing readings before the session to which they are assigned is essential to success in the course.** Readings will be drawn from the book *Land Use and Society: Geography, Law, and Public Policy* by Rutherford H. Platt (revised edition, Island Press, 2004) [available at the U of O bookstore--hereinafter referred to as Platt] and from a variety of other books and academic journals posted on the blackboard site. In addition to active participation in class discussions (20% of the grade), for undergraduates there will be a late-in-the-quarter midterm on readings/lectures (worth 30% of the grade) and a paper/presentation (50% of the grade). Graduate student grades will be based on participation in class discussion (20% of the grade), a late-in-the-quarter take-home midterm focused on lectures/general readings, plus a few additional readings that will be assigned during the term and posted on Blackboard (20% of the grade), and a paper/presentation (60% of the grade). To ensure a level playing field for everyone, extra-credit work will not be an option. Here are the details on the various graded components of the class:

Participation:

To do well it is essential to attend classes regularly and participate fully. Your participation will reflect your level of attendance, as well as active participation in discussions in a way that

demonstrates advanced preparation and engagement with class materials. Students will be called upon regularly to summarize or give comments on readings. If an extraordinary circumstance prevents you from completing relevant readings before a given class, you should come to class anyway and tell the professor at the beginning that you are not prepared on that day.

Midterms

The late-in-the-term midterm will be in short essay form; it is designed to ensure that students are attending class, staying up with readings, and digesting course material. The undergraduate midterm will be an in-class, open-note exam (you may consult notes you have taken in class or on the readings). The graduate student midterm will be in the form of a take-home exam.

Projects/Papers

- Undergraduates will undertake an independent research project on a local (i.e., southern Willamette Valley) issue (see separate handout on the GEOG 463 independent research/paper assignment) and present the results of their research on a field trip (see below). Undergraduates will be divided into teams of two-people each for these projects, but each student will be responsible for a distinct segment of the project. The oral presentation will account for 20% of the final grade, and the written product (approx. 7-8 pages per student) will account for 30% of the final grade. Term papers will be due on June 7 (the last day of class). No extensions will be granted unless the circumstances are truly exceptional.
- Graduate students will undertake a research project on their own, which need not be in the southern Willamette Valley, but can be. They will prepare a written paper of c. 15 pages (40% of the grade) and will make a presentation of their findings either during the field trip (if appropriate) or in class near the end of the term (20% of the grade).

Field Trip

A required full-day field trip will take place on March 10, 11 or 12 (date to be set at the beginning of the term). If you know that you cannot participate in this field trip, please see the instructor before registering for the class. A modest course fee is assessed to cover the cost of the field trip.

Learning Environment:

Everyone should respect the class as a place for learning. Showing respect for your peers is absolutely essential to a good group learning process. This includes tolerance of differing opinions, listening as well as talking, and refraining from personal attacks. Violations of academic integrity, such as plagiarism and cheating, will not be tolerated (see <http://libweb.uoregon.edu/guides/plagiarism/students/>). Suspected violations will be reported to the Director of Student Judicial Affairs. If that office finds the student to be guilty of a violation, that determination may result in a failing grade for the course. Electronic devices such as cell phones and pagers must be turned off during class. If you decide to use a laptop in class (not necessarily recommended), it should be used for nothing other than note taking while class is in session.

SCHEDULE OF CLASS TOPICS AND READINGS

Jan. 10

Introduction to the subject matter of the course
Geographical and legal perspectives on the environment
Discussion of term paper assignment and field trip

Reading: Platt, chapter 1.

Jan. 12

The nature of the law-geography nexus
Law as a cultural and ecological system
Continued discussion of term paper/field trip assignment

Reading: Platt, chapter 2.
Gary Thompson, Fred Shelley & Chand Wije, *Geography, Environment, and American Law* – pp. 1-9.
Alexander Murphy, “Planning for places in an issue-based legal environment,” *Urban Geography* 15(1): 4-8.

Jan. 17

The roots of American approaches to land use regulation
Commitment to specific term paper/field trip topics

Reading: Platt, chapter 3.
William Cronon, *Changes in the Land* Ch. 4, “Bounding the land”
Joseph E. Taylor III 1999, *Making Salmon: An Environmental History of the Northwest Fisheries Crisis* – Ch. 1 excerpts: pp. 13-20, 23-27, 35-8.

Jan. 19

The roots of American approaches to the use and appropriation of water [Denielle Perry]

Reading: Mary Ellen Wolfe, *A Landowner’s Guide to Western Water Rights*, 1996, pp. 16-31.

Olen Paul Matthews, “Simplifying Western Water Rights to Facilitate Water Marketing, *Water Resources Update*, 2003, pp. 40-44.

National Academies, *Drinking Water: Understanding the Science and Policy Behind a Critical Resource*, 2008. [skim]

Stephen E. Draper, Limits to Privatization, *Journal of Water Resources Planning and Management*, 2008, pp. 493-503.

Jan. 24 *Meet in the Lewis Lounge, 4th floor of the Knight Law Library*

Special session on legal research with law librarians Stephanie Midkiff and Angus Nesbit. (Session to include a tour of the law library.)

Jan. 26

The nature of property rights
Delineating and regulating public lands and water, from the American Revolution to the early 20th century

Reading: Platt, chapter 7, pp. 209-226.
William E. Nelson 1975: *Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society, 1760-1830* – pp. 1-2, 4-5, 7-8;
Taylor, *Making Salmon* pp. 45, 59-67.
Donald Worster 1979, *Dust Bowl: The Southern Plains in the 1930s*, pp. 3-8.
Charles F. Wilkinson 1992, *Crossing the Next Meridian: Land, Water, and the Future of the American West*, pp. 17 (middle)-23 (top).

Jan. 31

Organizing, simplifying and “making legible” land and natural resources

Reading: Excerpts from James C. Scott 1998, *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed*, pp. 11-22, 44 (middle) – 47 (middle), 49 (middle) – 51 (top)
Platt Ch. 7, pp. 226 – 235.
Carl Madden, “Land as a Natural Resource,” in *The Good Earth of America*, pp. 6-30.

Feb. 2

The changing geographic context of the mid-19th-mid 20th centuries
The role of transportation innovations

Reading: Donald Meinig, *The Shaping of America* Vol. 3 “New Economic Regions, pp. 227-245; “Railroads: The Conquest for Territory” pp. 245-265.
John Jakle, “Paving America for the Automobile,” in Michael Conzen, ed., *The Making of the American Landscape*, 2nd ed, chapter 18.

Feb. 7

Organizing cities in the 19th and early 20th centuries

Reading: Platt, chapters 4 (pp. 95-112), 5, and 6.

Feb. 9

The emergence of modern environmental law (post-World War II period)

Reading: Platt, chapter 12.
Sara Ewert, "Environmental Politics in the Nixon Era" (a book review essay),
Journal of Policy History 15 (3), 2003, pp. 345-348.

Feb. 14

Oregon land use law and politics

Reading: Peter Walker and Patrick Hurley, *Planning Paradise: Politics and Visioning of Land Use in Oregon*. Tucson: University of Arizona Press, 2011, chpts 1, 3 & 4.

Feb. 16

Recent approaches to protecting land from development [Susan Gary]
Land trusts and conservation easements

Reading: Elizabeth Byers and Marin Ponte, *The Conservation Easement Handbook*. The Trust of Public Land and the Land Trust Alliance, 2005, pp. 7-25.
Shea Airey, "Conservation Easements in Private Practice." *Real Property, Trust and Estate Law Journal* 44, 2010, pp. 747-759 & 764-780.
Jonathan Weber, "A Class War Runs Through It," *New York Times*, September 6, 2005.
Pecos River Open Spaces, Inc. v. County of San Miguel and San Miguel County Assessor, Court of Appeals of New Mexico, 2013 WL 309847.

Feb. 21

Indian law and the environment

Reading: Mary Wood, "Native Environmental Sovereignty in the New Millennium," *Open Spaces, Open Spaces* 2 (3), 2012, pp. 9-16.
Stipulation - Confederated Tribes and Bands v. Baldrige, 605 F. Supp. 833, United States District Court, W.D. Washington, 1985.
Joy Yanagida, "The Pacific Salmon Treaty," *American Journal of International Law*, 81, 1987, excerpts (ignore crossed-out text)
Order - Confederated Tribes & Bands of Yakama v. Baldrige, 898 F. Supp. 1477, United States District Court, W.D. Washington, 1995.

Feb. 23

Legal/policy approaches to land use issues in recent decades
The landscape dimension of the geography-environment-law nexus

Reading: Platt, excerpts from chapters 9, 10, and 11 (details on next page)

Chapter 9 - 260-274 (middle); 278-283 (top)
Chapter 10 - 291-305 (top); 320 (middle) - 325
Chapter 11 - 353-365
Donald Meinig 1979. "Symbolic Landscapes: Some Idealizations of American Communities," in *The Interpretation of Ordinary Landscapes*, pp. 164-192.

Feb. 28

Organizing government: The imprint of federal and local jurisdiction on the landscape

Reading: Wilbur Zelinsky, "The Imprint of Central Authority," in Michael Conzen, ed., *The Making of the American Landscape*, 2nd ed, chapter 15.
Platt, chapter 8.

Mar. 2 – Undergraduate midterm on readings/lectures (during regular class period)

Graduate take-home midterm handed out (due in class on Mar. 7)

Mar. 7

Political influences on environmental initiatives
Case study: The Wild and Scenic Rivers Act (Denielle Perry)

Reading: TBA

Mar. 9

Lessons from other parts of the world
Case studies: TBA

Reading: TBA

Mar. 10, 11 or 12 (provisional) - All-day field trip

Mar. 14 - No Class – Day off because of the field trip the previous weekend

Mar. 16

Field trip post-mortem
Emerging challenges to the dominant geography-environment-law nexus

Reading: Mary C. Wood, 2006. "Nature's Trust: Reclaiming an Environmental Discourse."
Wendall Berry, "Does Community Have a Value?"
Encinias decision in In the Matter of Howard Sleeper, et. al.

Mar. 20, 5 pm - Papers to be submitted electronically to both abmurphy@uoregon.edu and dperry3@uoregon.edu