**EES 312**

**Energy, Law, and the Environment**

**Spring 2019**

**Syllabus**

**Instructor: Sharon Tisher**

**307 Winslow Hall**

**581-3158 (o)**

**email: sharon.tisher@maine.edu**

**Office Hours: Tuesday and Thursday,**

**11:00 – 11:50 a.m.**

(Please advise me before or after class if you plan to visit and I am happy to schedule other times)

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**Catalog Description:**

This course addresses major ethical and legal questions pertaining to energy production and utilization, including environmental and social impacts. Through a combination of lectures, role play, case studies, and discussions, students will consider these issues in local, national, and international contexts.

**Course Description:**

This course will explore legal approaches to the environmental consequences of human production and utilization of energy. A central focus of the course is how to harness legal principles and institutions to develop an energy policy that addresses the problem of global climate change and other environmental consequences of energy development and use. We will examine three case studies through a variety of ethical perspectives, and through the lens of several thematic paradigms (lawmaking against human error; lawmaking against economic power and political dynamics; the notion of public utility; and the role of the corporations in law and public policy). We will address these issues in state, national, and international contexts. The case studies include oil and gas development in the Amazon basin; natural gas development in New York State (groundwater pollution and the “fracking” controversy); and a Maine wind power project.

This is an interactive course. In various class exercises throughout the course, you will role-play members of a Presidential Energy Advisory Committee, and will work on development of your own proposals for elements of a new Coordinated National Energy Policy.

The case studies, readings, and class discussions will inform your ideas and ethical perspectives on possible elements of this policy, and your final proposals will be presented in your term paper.

**Texts:**

Bosselman, et al., *Energy, Economics and the Environment: Cases and Materials* (Foundation Press 2010), selections posted on Blackboard and, as a failsafe, class e-reserves (use “EES 312” your Mainestreet username to access the e text), and additional readings in Blackboard. A hard copy of the Bosselman text is on reserve for in library use, for students exploring other parts of the text to develop term paper proposals.

**Course Conference on Blackboard:**

Various materials posted on Blackboard, including judicial decisions, journal articles, on-line videos of policy debates, on-line investigative reports, activist websites, newspaper opinion pieces, task force reports, statutes, PowerPoint presentations.

**Course Learning Outcomes**

*After successfully completing the course, students will be able to:*

1. **Describe the major forces and constraints that will shape energy policy in the United States in future decades;**
2. **Comprehend the legal principles and institutions that frame energy and environmental policy;**
3. **Assess the diverse ethical perspectives bearing on energy development and use in the world today;**
4. **Outline the social, political, economic and environmental consequences of oil and gas development in the developing world;**
5. **Explain and evaluate the economic and environmental arguments for and against the extensive development of natural shale gas in the United States;**
6. **Explain and evaluate the economic and environmental arguments for and against the development of wind power facilities in the State of Maine;**
7. **Demonstrate, through research, a presentation, and a term paper, a reasonable knowledge of two proposals for a national energy policy;**
8. **Present and defend ideas both verbally and in writing;**
9. **Critically listen, think “on one’s feet,” and respond reasonably and persuasively to other arguments.**

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| **Grading:** | Prelim  PowerPoint CNEP  Presentation | 15%  15% |  |
|  | Term Paper | 35% |  |
|  | Written Homework (6) | 15% |  |
|  | Class Participation  (discussion and exercises) | 20% |  |
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**Energy Advisory Committee Role-Play/ Term Paper Project**

**Note: this course, and this project, is an adventure in energy policy-making that should be approached in a spirit of discovery, creative engagement and fun. I am hoping for your commitment to make this an enlightening experience, and I reciprocate with my commitment to evaluate your work with fair and realistic expectations.**

A portion of classroom work, and the term paper in this course, will stem from the following semester-long role-play project:

After a somewhat challenging first two years in office, President Donald Trump is getting down to work. One of his first priorities is development of a Coordinated National Energy Policy (CNEP). He has conscripted each of you to play a pivotal role in the development of that policy. You are members of his Energy Advisory Council (EAC). He assures you that he now has an “open mind” about climate change. His tentative change of heart was inspired by a record setting hurricane, named “Stormy,” which completely destroyed his beloved “Winter White House,” Mar a Lago.

The President has listed three goals for his CNEP:

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1. To ensure the nation’s energy security, for now and in the future.
2. To minimize adverse (non-climate) environmental impacts of energy exploration, production, and utilization.
3. To adopt domestic and to promote global carbon mitigation strategies which together will ensure that global carbon emissions will be stabilized below current levels.

**Caucuses**

Early in the course, you will be asked to sign up for one of three “caucuses,” **Carbon Reduction, Clean Environment,** and **Energy Security.** These correspond to the three goals for the CNEP. Each caucus gives priority to the goal with which it is identified, over the other two goals. For example, a nominee to the EAC proposed by the oil and gas industry might tend to favor goal 1 over the others, and elect to join the Energy Security caucus. An advocate for low and moderate income Americans and lower energy costs might also elect to join the Energy Security caucus.

Your choice of caucus does not need to reflect your personal priorities, and you are encouraged to choose a role “outside the box” of your current viewpoints and concerns. I may need to reassign caucus roles to ensure a roughly even distribution. You are encouraged to choose a “persona,” a person in real life, or representative of a real organization, with whom you identify in the role-play sessions. For example, in previous years we enjoyed the participation of both former Governor Schwarzenegger and environmental activist Erin Brockovich. Rachel Carson has shown up posthumously as well.

You will be working with your caucus in two different ways: **(1) analysis and discussion of issues raised by the three major case studies in the course; (2) responding to proposals for the President’s CNEP, in three scheduled EAC workshops.** You will not be required to meet outside of class with your caucus to complete any of the work in the class, but I do not discourage such meetings.

1. Each major case study (Amazon oil development, natural gas/fracking, and wind) will conclude with an EAC meeting, where you will meet for the first portion of class with your caucus, and then nominate **two** members to present the caucus’s recommended position for the CNEP on this case study.
2. During the three EAC workshops for purposes of reviewing student proposals for the CNEP, you will be encouraged to give feedback based on your caucus’ perspective.

**Note: your caucus assignment has no impact on your term paper assignment; your term paper CNEP proposals do not need to support the priorities of your assigned caucus. And in general class discussion, you are always welcomed to present your personal viewpoints, independent of your caucus assignment.**

**Competition: the most effective caucus will receive an award at the end of the semester. This will be based both on the quality of the presentations of the caucus, and the quality of comments and questions posed by caucus members to others’ presentations.**

**An excellent tip on managing caucus work, from 2017 Caucus Chair Ben Woodman:**

“I know I found great benefit in the caucus meetings. That might be a biased statement, having been the chair. However, all members were engaged and motivated to win. Almost everyone contributed to our arguments. I organized a Google Doc for each case study and made it so each person could contribute to the arguments of the three presenters each time. It made studying and organizing important information simpler.”

**Term paper**

The term paper assignment in this course is to present to the President two proposals for measures to be included in his CNEP.

Each proposal should involve development of a law: international treaty, or domestic statute or regulation, or a domestic litigation/enforcement strategy under existing laws. A variety, by no means comprehensive, list of possible proposals suggested by materials in your Bosselman Casebook, as well as other suggestions based on Trump Administration actions, are posted under “term paper resources” in Blackboard. Your term paper may advocate for or against any of these suggested policies.

This law may include imposing or repealing subsidies, taxes, or other incentives. If your proposed change of law is new subsidies, via tax breaks or grants, etc., for renewable clean energy or other technologies, you should state the ballpark dollar cost to the U.S. Treasury of those proposed subsidies, AND state where the money to fund this subsidy should come from: From reduction of what other governmental activities or subsidies? Or from new taxes on what?

The proposals will be presented on a form provided for this purpose, requiring narrative responses to various questions.

One of your CNEP two proposals should **stem from one of the three case studies** we will do in class, i.e. be related to national policies regarding oil development in developing countries, regarding development of natural gas resources through “fracking,” or regarding wind power development. For that proposal, you should not have to do much research. The assigned and optional readings in the case studies, and the case study PowerPoints for fracking and wind, will provide many resources to develop your proposal. **It is highly recommended that you work on that proposal during or shortly after class work on that case study.**

The other CNEP proposal should focus on issues not directly addressed in class, and will involve extra research.

**While there are abundant materials available on the internet to assist you in this assignment, a primary resource for this assignment could be your Bosselman casebook, and in particular sections of the case book not covered in class. You do not need to buy this book; the casebook will be placed on reserve for in-library use.**

While I am not picky about citation style, appropriate citations to all opinions and facts not “common knowledge” in accordance with the University’s plagiarism policy (further discussed in the syllabus) is essential. Citations should be provided in text, either footnote style, or ALA style with parens at the end of sentence (author,date), corresponding to a resource list at the end of the paper. **Where your resource is on the internet, the full link to the resource used must be put in a footnote to the text, or with the resource listing at the end of the paper. While abundant materials will be available regarding various proposals from interest groups’ sites on the internet, it is important that you consult primary materials in supporting your proposals, which are generally more authoritative and credible. These include government reports, research in peer reviewed journals, treaties, statutes, regulations, judicial decisions. To emphasize the importance of this kind of research, I ask you to put cites to primary materials in red in your papers.**

**A model CNEP proposal submitted by a student in a previous year is posted in the documents folder; I encourage you to look at it to get a sense of what an excellent assignment would look like. Remember, however, that your term paper requires TWO such proposals.**

The CNEP proposal form will require your answers to the following questions:

1. A rough draft of what your law would say, or a description of your litigation strategy (who would be sued, under what laws, with what remedy sought).
2. A “Basis Statement” giving the reason that this proposal should be part of the CNEP, including a description of the impact of your proposal on EACH of the President’s three goals. **This should be well documented with appropriately supported data.**
3. Identification of any scientific or technical issues that need to be resolved to implement your proposal.
4. Identification of any related legal issues that need to be resolved to implement your proposal.
5. What ethical considerations and principles support the proposal? What might be used to oppose it? **This should demonstrate a familiarity with several (not all) of the ethical principles we have studied as you discuss how they argue for, or against, your proposal.**
6. What constituencies are likely to support this proposal?
7. What constituencies are likely to oppose this proposal, and what are their strongest arguments?
8. What bullet points do you suggest to “sell” this proposal to the American people in the President’s State of the Union address? **These should be presented in bullet point form.**

**Term papers should be electronically submitted to me on Blackboard on the due date specified in the schedule of readings and assignments. Drafts should also be submitted electronically on Blackboard as provided (see below).**

**Students can get up to 4 points extra credit on their term paper by submitting with their term paper two proposed tweets to President Trump on the subject of climate change, each containing at least one fact with appropriate citation. A model tweet submission is posted in “term paper resources” on Blackboard.**

**Competition: Students submitting the two best term papers will receive the “Golden Cool Globe” award.**

**Draft review & comment; late paper policy:**

Voluntary submissions of term paper drafts for comment are welcomed, but must be submitted on Blackboard 1 week before the due date. **Late papers will be accepted, but graded down one grade for every 24 hours or part thereof that they are late.** Excuses may be given for documented serious illness or crisis; every effort should be made to contact me in advance of due date regarding these circumstances.

**EAC workshops and PowerPoint presentations.**

Each student will present a PowerPoint (or other comparable slide show format) of one of his or her proposals at one of three EAC workshops scheduled during the semester. The presentation will be followed by feedback and discussion by the rest of the class. The purpose of these sessions will be to share, develop, and refine ideas for the CNEP proposals**. The presentations should relate to your proposal which is *not* covered in the in-class case studies. While it is expected that there may be coincidental duplication of term paper proposals, proposals which simply piggyback on another student’s class presentation without significant original analysis are not acceptable.**

**Sources for graphics, tables, and other facts used in your PowerPoint should be identified on the slide. See plagiarism policy below. Notes and other factual material used in your oral presentation but not on a slide should be put on the “notes page” of the slide show.**

**This will assist me in grading the presentation and offering suggestions for your term paper.**

**A model PowerPoint presentation is posted on Blackboard.**

**The PowerPoint presentation should be submitted on Blackboard under Power Point Assignment, etc.**

**Exam:**

The Prelim exam is open book and notes, and laptops are permitted in exams solely for accessing answer drafts, class notes, and class readings. The format of the exam will be short essays, of which you will be able to choose from various options. All short essay topics are posted on Blackboard, and will correspond to topics covered in class readings and discussions.

**Class Participation:**

Class participation is important; unexcused absences from class will hurt your grade. Students should e-mail me to explain class absences. Following the “Socratic Method” adopted in law schools, I will sometimes call on students to respond to questions whether or not they have raised their hand. Being unprepared (or absent without excuse) when called upon to participate in a class exercise or answer questions about the day’s readings will adversely affect your class participation grade.

In addition to their PowerPoint presentation, all students are expected to make at least one classroom presentation, either on a scheduled advocacy exercise, or a presentation on behalf of their caucus.

Participation will be graded based on an evaluation of preparation and performance on class discussion topics, including the extent to which the student actively volunteers to participate in class discussions and is prepared when called upon by the professor, caucus position presentations, and participation in assigned in-class advocacy exercises. The presentation of the student's Energy Plan slide show is separately graded.

**Homework:**

No late homework will be accepted for credit. Homework answers should be submitted on Blackboard before the beginning of class. **Homeworks represent the work exclusively of each individual student and students should not work together in completing the homeworks**.

**Academic honesty (plagiarism, etc.):**

Academic dishonesty includes cheating, plagiarism and all forms of misrepresentation in academic work, and is unacceptable at The University of Maine. As stated in the University of Maine’s online undergraduate “Student Handbook,” plagiarism (the submission of another’s work without appropriate attribution) and cheating are violations of The University of Maine Student Conduct Code. An instructor who has probable cause or reason to believe a student has cheated may act upon such evidence, and should report the case to the supervising faculty member or the Department Chair for appropriate action.

To use another’s words and ideas with no acknowledgment is theft – plagiarism. Unintentional or intentional plagiarism is prohibited, and is grounds for failure in the course and possible expulsion from the University. In addition to a “works cited” page at the end of the term paper, appropriate citations must be incorporated in the body of the text. In addition to citing direct quotations, “you must also cite any ideas borrowed from a source: an author’s original insights, any information summarized or paraphrased from the text, and statistics or other specific facts. The only exception is common knowledge---general information that your readers may know or could easily locate.” Diana Hacker, A Pocket Style Manual, Fourth Edition, p. 115. It is my interpretation that the fact that you found information on the internet does not qualify it as “common knowledge.” Citations are required. My practice regarding a first plagiarism offense is to give the assignment a 0 and to report to the Office of Community Standards, Rights and Responsibilities.

**Final grades:**

Final grades will be assigned as follows: A (93 to 100 percent); A- (90-92.9); B+ (87-89.9); B (82-86.9); B- (80-81.9); C+ (77-79.9); C (72-76.9); C- (70-71.9); D+ (64-69.9); D (57-63.9); D- (50-56.9); F (49.9 or less).

**University of Maine administrative policy statements**

Academic Honesty:

Academic honesty is very important. It is dishonest to cheat on exams, to copy term papers, to submit papers written by another person, to fake experimental results, or to copy or reword parts of books or articles into your own papers without appropriately citing the source. Students committing or aiding in any of these violations may be given failing grades for an assignment or for an entire course, at the discretion of the instructor. In addition to any academic action taken by an instructor, these violations are also subject to action under the University of Maine Student Conduct Code. The maximum possible sanction under the student conduct code is dismissal from the University.

Disability:

If you have a disability for which you may be requesting an accommodation, please contact Accessibility Services, 121 East Annex, 581-2319, as early as possible in the term.

Course Schedule Disclaimer:

In the event of an extended disruption of normal classroom activities, the format for this course may be modified to enable its completion within its programmed time frame. In that event, you will be provided an addendum to the syllabus that will supersede this version.

Sexual Discrimination Reporting:

The University of Maine is committed to making campus a safe place for students. Because of this commitment, if you tell a teacher about an experience of sexual assault, sexual harassment, stalking, relationship abuse (dating violence and domestic violence), sexual misconduct or any form of gender discrimination involving members of the campus, your teacher is required to report this information to the campus Office of Sexual Assault & Violence Prevention or the Office of Equal Opportunity.

If you want to talk in confidence to someone about an experience of sexual discrimination, please contact these resources:

For *confidential resources on campus*: Counseling Center: 207-581-1392 or Cutler Health Center: at 207-581-4000.

For *confidential resources off campus*: Rape Response Services: 1-800-310-0000 or Spruce Run: 1-800-863-9909.

Other resources: The resources listed below can offer support but may have to report the incident to others who can help:

For *support services on campus*: Office of Sexual Assault & Violence Prevention: 207-581-1406, Office of Community Standards: 207-581-1409, University of Maine Police: 207-581-4040 or 911. Or see the OSAVP website for a complete list of services at <http://www.umaine.edu/osavp/>