

ENVIRONMENT and the PRIVATE SECTOR

Environmental Governance and Market Opportunities in the Private Sector
(Class satisfies the MELP Environmental Economics core requirement)

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Textbook: None – materials will be posted on TWEN; I do suggest that printing out the materials for classroom discussion may be helpful.

This class examines how environmental laws and policies and public opinion interact with business and private sector behavior in adopting environmental friendly policies and pursuing business opportunities related to environmental markets. In particular, the class will examine business sustainability drivers and practice, and the emerging private markets in environmental and natural resource amenities.

Students will examine 1) the genesis and theoretical bases for environmental laws; 2) emerging corporate and private sector behavior in response to these laws, financial disclosure laws, and public opinion; and 3) the use of markets in environmental compliance and emerging business opportunities in these markets.

Students will prepare 1) a short in “in house” email memo (less than 5 pages) addressing a particular issue related to environmental governance or markets, and 2) undertake a practical exercise in drafting either an environmental amenity contract, a corporate financial disclosure statement relating to environmental or climate risks, or a corporate sustainability plan [including explanations]

Grades will be based on both the in house email memo (40%) (due Monday, July 15 at beginning of class) and the draft and explanation of one of the above practical document drafting exercise (60%) (due on Sunday, July 21, by 5:00 P.M. E.D.T. by email to vflatt@central.uh.edu).

From VLS Faculty manual:

VLS has a recommended average grade of B in required courses, sectioned courses, and courses with an enrollment over 40.

Students may consult with each other on practical document drafting ideas.

July 8 “How do we do good by the environment and make money?”

- I. Introduction to property, environmental law, environmental externalities, market based solutions and objections

Assignments: – Paul Sullivan, *Wealth Matters, Making it Easier to See your Money's Halo*, N.Y. Times, May 4, 2019, at <https://www.nytimes.com/2019/05/03/your-money/impact-investing-standards.html>

E&E News, “Market Systems to Protect Forests: Can Trading save the Amazon,” May 2016;

Garrett Hardin, *Tragedy of the Commons* (excerpt);

Adam Sulkowski, *Beyond Sustainability Reporting*, 10 *Univ. of St. Thomas L. J.* 1060 (2013) [excerpt]

(all on TWEN)

DISCUSSION OF CLASS, ASSIGNMENTS AND GRADING

July 9

- II. Corporate Disclosure Requirements
- III. The Elements of a Corporate Sustainability Plan

Assignment - **Bring with you a printed version of a Fortune 500 Corporate Sustainability Plan (your choice);**
Measuring Intangibles ROBECOSAM'S CORPORATE SUSTAINABILITY ASSESSMENT METHODOLOGY (on TWEN)

IN CLASS EXERCISE – EXAMINATION OF CALPERS HOLDING AND APPLICATION OF IRIS, at <https://iris.thegiin.org> [please bring laptop to class]

July 10

- IV. Financial Disclosure Requirements Related to the Environment (Practice and Critique)

Assignment –

Jill E. Fisch, *Making Sustainability Reporting Sustainable*, 107 *Geo. L. J.* 923 (2019) [excerpt];

Rissman and Kearny, *Rise of the Shadow ESG Regulators*, 49 *Envtl. L. Rep. News & Analysis* 10155 (2019) [excerpt]

(both on TWEN)

July 11

- V. Markets and Environmental Regulations- Are Markets Moral?
- VI. Commodity Trading Primer

Assignment: E&E News, “Carbon Markets: The Epic Journey of a Modest Proposal,” May 2016;
Victor B. Flatt, *Chapter on Environmental Markets*
Craig Pirrong, *The Efficient Scope of Private Transactions- Cost Reducing Institutions: The Successes and Failures of Commodity Exchanges*, 34 J. Legal Stud. 229 (1995) [excerpt]

(all on TWEN)

DISCUSSION OF FIRST ASSIGNMENT

July 15

5 PAGE INTERNAL MEMO ASSIGNMENT DUE AT BEGINNING OF CLASS

IN CLASS WORKSHOP ON DOCUMENT DRAFTING AND EXPLANATIONS (second assignment) [please bring laptop]

July 16

- VII. Problems with Environmental Markets (standardizing the commodity; irreversible loss)

Assignment: Flatt and Pappas, “The Costs of Commodification,” 9 U.C. Irvine L. Rev. 731 (2019);
Womble and Doyle, *The Geography of Trading Ecosystem Services: A Case Study of Wetland and Stream Compensatory Mitigation Markets*, 36 Harv. Envtl. L. Rev. 229 (2012) [excerpt]

July 17

- VIII. Environmental markets examples- GHGs; Nutrient Trading in Water Pollution; Wetlands Trading; Habitat Markets; Ecosystem Services

Assignment: Flatt, UHLC and Duke, *Federal Carbon Pricing: A Snapshot from February 2018*;
Victor Flatt, *C(r)ap and Trade . . .* 52 Hou. L. Rev. 321 (2014) [excerpt];
David Takacs, *Are Koalas Fungible? Biodiversity Offsetting and the Law*, 26 N.Y.U. Envtl. L. J. 161 (2018) [excerpt]

(all in TWEN)

July 18

IX. Use of Environmental Markets in the Private Sector

Assignment: Sarah Light, *The New Insider Trading: Environmental Markets Within the Firm*, 34 Stan. Env'tl. L. J. 1 (2015) (excerpt)

(in TWEN)

SECOND ASSIGNMENT DUE by 5 PM EDT on Sunday, July 21, by email to vflatt@central.uh.edu