

January 13, 2016

Syllabus

New Frontiers in Environmental Policy

ENV 5346

Spring 2016, 2 credit seminar

Mondays, 3:35-5:15 PM

Oakes 210

Professor Melissa Scanlan

Offices: Environmental Law Center, Debevoise Hall 214

Office Hours: Please don't hesitate to email me to set up an appointment. I look forward to meeting with you. mscanlan@vermontlaw.edu

I. Overview

This seminar explores the proposition that successfully coping with today's environmental threats requires deeper challenges to our prevailing system of political economy than mainstream environmentalism in the United States has been willing to mount. It develops the idea that a new American environmentalism is needed and with it new environmental policy and law that go beyond the traditional realm of environmental affairs. The nature of the modern corporation and its role in politics and in an increasingly globalized marketplace; consumerism and commercialism and the lifestyles they offer; the overriding priority routinely accorded economic growth; social injustice and its links to environmental prospects; the anthropocentric, materialistic and contempocentric values that currently dominate in American culture; and the prospects for a new environmental politics are among the topics that will be examined. The question will be raised whether it is desirable and possible to transition to a new economic model where the priority is to sustain human and natural communities, and, if so, what new policies and politics might promote such a transition.

II. Learning Objectives

- Explore areas that are mostly now outside the scope of environmental law and policy, but which are likely to be increasingly important to environmental outcomes.
- Demonstrate substantial knowledge of how to transform the market, corporations, consumerism, and measurements of wellbeing, to support environmental protections.
- Deepen understanding of how economic and political systems impact environmental conditions.

- Hone essential professional skills of complex law/policy interpretation, problem solving, oral presentation, and analytical and persuasive writing.

III. Readings

Required Texts

- 1) Speth, *America the Possible* (Yale, 2012)
- 2) Klein, *This Changes Everything* (Simon & Schuster, 2014)

Optional Texts

- 1) Speth, *The Bridge at the Edge of the World* (Yale, 2008)
- 2) Bailey, *The End of Doom* (St. Martin's Press, 2015)

Other required and optional readings are posted on TWEN (look for “optional reading” folder in course materials) or a link is provided here. Optional readings are for those who have the inclination to learn more about the topic. I will not expect you to have read the materials labeled “optional” before class discussion, but you’re welcome to reference these or any other supplemental resources you may have during class discussion. Another resource for you is our New Economy Law Center [website](#).

I. The Crisis of the Old Order

Week 1 – What’s the Problem, and How Bad Can It Get? (1/13/16)

Judging from real-world conditions and trends, current national and international approaches to environmental protection are not working well. Our seminar begins this week with a look at the data and trends.

Readings:

1. Speth, *America the Possible*, pp. 52-65.
2. Klein, *This Changes Everything*, pp. 1-26
3. Will Steffen, et al., “Planetary boundaries: Guiding human development on a changing planet,” 347 *Science Magazine* issue 6223 (2015) (TWEN)

Optional reading:

1. Speth, *The Bridge at the Edge of the World* (Yale, 2008), pp. ix-6, 17-42, 72-78.
2. Gillis, “Bipartisan Report Tallies High Toll on Economy From Global Warming,” *New York Times*, June 24, 2014
http://www.nytimes.com/2014/06/24/science/report-tallies-toll-on-economy-from-global-warming.html?_r=0
3. Sumner, “No Stopping the Collapse of West Antarctic Ice Sheet,” *Science*, May 16, 2014
4. Hertsgaard, “Giving Up Fossil Fuels to Save the Climate: The \$28 Trillion Writedown,” *Bloomberg Businessweek*, June 26, 2014
<http://www.businessweek.com/articles/2014-06-26/climate-change-and-the-two-thirds-imperative>
5. Klein, “America Will Fail on Climate Change,” *Vox.com*, June 5, 2014

<http://www.commondreams.org/views/2014/06/05/america-will-fail-climate-change>

Week 2 – What’s Behind the Problem? (1/25/16) Guest Lecture by Gus Speth

If destructive trends are to be reversed, it is important to understand the underlying drivers of environmental deterioration. Exploring these forces and the shortcomings of existing efforts to cope with them is the subject of this week’s seminar.

Readings:

1. Speth, *America the Possible*, pp. ix-17.
2. Klein, *This Changes Everything*, pp. 64-95.

Optional reading:

1. Speth, *The Bridge at the Edge of the World*, pp. 46-86 [except 72-78].
2. “Time to Face the Depth of the Systemic Crisis We Confront”
3. Park, “10 Supreme Court Rulings—Before Hobby Lobby—That Turned Corporations Into People,” *Mother Jones*, July 10, 2014
<http://www.motherjones.com/politics/2014/07/how-supreme-court-turned-corporations-people-200-year-saga>
4. Grumbine, “China at Crossroads: Balancing the Economy and Environment,” *Yale Environment* 360, (Nov. 14, 2013)
http://e360.yale.edu/feature/china_at_crossroads_balancing_the_economy_and_environment/2710/
5. Kaiser, “How Republicans lost their mind, Democrats lost their soul and Washington lost its appeal,” *The Washington Post*, February 28, 2014
http://www.washingtonpost.com/opinions/how-republicans-lost-their-mind-democrats-lost-their-soul-and-washington-lost-its-appeal/2014/02/28/2ef5429c-9d89-11e3-9ba6-800d1192d08b_story.html

II. Dreaming Up Something New

Week 3 – New Frame, New Economy (2/6/16)

The failure of today’s environmentalism to successfully turn the tide for the environment has spurred some to urge a new environmentalism including a reframing of the environmental issue in terms that look beyond regulation and traditional approaches to the need for a new economy and a new economics.

Note: final paper topics due today!

Readings:

1. Alperovitz, “The New-Economy Movement,” *The Nation*, June 13, 2011,
www.thenation.com/article/160949/new-economy-movement.

2. Cavanagh and Broad, "It's the New Economy, Stupid," *The Nation*, November 28, 2012, www.thenation.com/article/171502/its-new-economy-stupid.
3. Speth, "Getting to the Next System: Guideposts on the way to the Next Political System," Next System Project, 2015, pp. 13-32.
4. See www.neweconomy.net.

Optional reading:

1. "National People's Action: Long-Term Agenda to the New Economy" http://npa-us.org/files/long_term_agenda_0.pdf
2. "What is New Economics?," *NEF*, April 2, 2014
3. Speth, "For Rio+20: A Charter for a New Economy," www.thesolutionsjournal.com/node/1106.

III. Law and Policy for a New Environmentalism

Week 4 – New Paths (2/8/16)

Current levels of dissatisfaction with environmental progress nationally and globally run high, and that has spurred a search for new ways forward. This week we start examining some of the proposals offered for new approaches within environmental law.

Readings:

1. Salzman, *Teaching Policy Instrument Choice in Environmental Law* (TWEN).
2. Orsi, *Practicing Law in the Sharing Economy*, pp. 1-20 (TWEN).
3. Burns and Bach, *Recalibrating the Laws of Humans with the Laws of Nature* (VLS 2009), pp. 60-91 (TWEN).

Optional reading: The "sharing economy" has become contested territory. On the one hand, there are those who see it like Orsi, and there are others, like Friedman, who see the concept as just another phase of commercialism.

1. Thomas Friedman, "[And Now for a Bit of Good News](#)," Op-Ed *New York Times*, July 20, 2014.
2. Costanza, "The Public Trust Doctrine," *Solutions*, June 2014 <http://www.thesolutionsjournal.com/node/237157>
3. Mary Wood, "Using Earth's Interest, Not its Principal," *Nature's Trust*, Chapter 13 (TWEN).
4. Zegart, "Want to Stop Climate Change? Take the Fossil Fuel Industry to Court," *The Nation*, April 21, 2014 <http://www.thenation.com/article/179459/want-stop-climate-change-take-fossil-fuel-industry-court>

Week 5 – The Corporation Transformed (2/15/16) **Guest Lecture by Yola Carlough, Senior Associate and Community Development Manager at B Lab**

Another dimension of change sought by the new environmentalism is transformation in the corporate sector. This goal has two expressions: one is to insist on responsible behavior and limits to corporate power and the other is to seek new business

forms, including new forms of ownership, where social and environmental performance is built into corporate incentive structure and governance.

Readings:

1. Speth, *America the Possible*, pp. 107-125.
2. Alperovitz, "Wall Street is Too Big To Regulate," *New York Times*, July 22, 2012 (TWEN).
3. Totenberg, "When Did Companies Become People? Excavating the Legal Evolution," *NPR*, July 28, 2014
<http://www.npr.org/2014/07/28/335288388/when-did-companies-become-people-excavating-the-legal-evolution>
4. "Can B Corp be the Next Fair Trade?" <http://www.theguardian.com/sustainable-business/2016/jan/07/b-corp-lead-fair-trade-certification-sustainability-lab-danone-group-black-rock-unilever>
5. Kelly, "Typology of Generative Ownership Designs,"
https://docs.google.com/document/d/1zP_hxFaucoooWDVUi6xvEaC5XIwhMbnE9vXYDN-lsRM/edit
6. Read www.asbcouncil.org, <https://bealocalist.org>, <http://benefitcorp.net/attorneys>, www.evergreencooperatives.com, www.bcorporation.net to understand more about the new types of businesses being created today.

Optional reading:

1. Speth, *The Bridge at the Edge of the World*, pp. 165-182
2. Alperovitz, "The Legacy of the Boomer Boss," *New York Times*, July 5, 2013
<http://www.nytimes.com/2013/07/06/opinion/the-legacy-of-the-boomer-boss.html>
3. de Graaf, "From the New Economy to the Cooperative Commonwealth"

Week 6 – The Market Transformed (2/22/16)

We live in a market economy, and even in proposals for far-reaching change, the market typically remains at the core of economic activity. How can the market be transformed so that it works for the environment and society rather than against it?

Readings:

1. Speth, *America the Possible*, pp. 103-107
2. Klein, *This Changes Everything*, pp. 338-366
3. Watch short talk by Robin Chase, Founder of ZipCar --
<https://vimeo.com/album/2901711/video/103922581>

Optional reading:

1. Speth, *The Bridge at the Edge of the World*, pp. 89-106.
2. Farley, J. (2015) Planetary limits, social needs and economics for the Anthropocene. *OECD Observer*, No 304, November, pp. 38-39
http://oecdobserver.org/news/fullstory.php/aid/5279/Planetary_limits,_social_needs_and_economics_for_the_Anthropocene.html
3. "Green Recovery," *Center for American Progress*, September 2008, pp. 1 - 11
http://cdn.americanprogress.org/wp-content/uploads/issues/2008/09/pdf/green_recovery.pdf
4. Barbier, "The Green Economy Post Rio+20," *Science*, November 16, 2012

Week 7 – Consumerism Transformed (2/29/16)

Mainstream environmental organizations have not stressed the links between consumerism and environmental deterioration; generally they have not emphasized the need for lifestyle changes. Should this approach give way to a challenge to consumerism?

Readings:

1. Etzioni, “America After Consumerism,” *The New Republic*, June 17, 2009, www.gwu.edu/~ccps/etzioni/documents/B508%20Spent,%20America%20after%20consumerism.pdf.
2. Frank, “Post-Consumer Prosperity,” *American Prospect*, April 2009, www.prospect.org/cs/articles?article=postconsumer_prosperity.
3. Speth, *America the Possible*, pp. 134-141.
4. Letter from Patagonia CEO, <http://www.patagonia.com/us/worn-wear>

Optional reading:

1. Speth, *The Bridge at the Edge of the World*, pp. 147-164.
2. “Analysis Report: New American Dream Survey 2014”
<http://newdream.s3.amazonaws.com/19/d9/7/3866/NewDreamPollFinalAnalysis.pdf>

Week 8 – Growth Transformed (3/14/16)

Limits to Growth got the discussion of economic growth and the environment off to a start in 1972, but it may not have been the best start. The issue is returning as many see little prospect for sustaining the environment in the face of current growth patterns and rates.

Readings:

1. Speth, *The Bridge at the Edge of the World*, pp. 107-125 (TWEN)
2. Jackson, *Prosperity Without Growth* (Earthscan, 2009), pp. 1-16, 121-142 171-185.
3. Speth, “*Five Reasons Why Prioritizing Growth is Bad Policy*,”
www.alternet.org/environment/5-reasons-why-prioritizing-growth-bad-policy.

Optional reading:

1. Daly, “Envisioning a Successful Steady State Economy,” *Solutions*, May 2014
<http://www.thesolutionsjournal.com/node/237145>
2. Hickel & Ladha, “Are Economic Growth and Social Justice Incompatible?,”
Truthout, July 3, 2014
<http://truth-out.org/news/item/24697-are-economic-growth-and-social-justice-incompatible>
3. Klein, “Capitalism vs. the Climate,” *The Nation*, November 9, 2011
<http://www.thenation.com/article/164497/capitalism-vs-climate>

Week 9 – Indicators of Well-Being and Quality of Life (3/21/16)

Stinging critiques of society's prime measure of progress today, gross domestic product (GDP), are now commonplace. We tend to get what we measure, so we'd better measure what we want.

Readings:

1. Speth, *The Bridge at the Edge of the World*, pp. 126-146 (TWEN)
2. Kubiszewski et al., "Beyond GDP: Measuring and Achieving Global Genuine Progress," *Ecological Economics* 93 (2013), pp. 57-68. (TWEN).

Optional reading:

1. Costanza et al., "A Short History of GDP: Moving Towards Better Measures of Human Well-being," *Solutions*, January 2014
2. Daly, "Our Mismeasured Economy," *New York Times*, July 6, 2014
<http://www.nytimes.com/2014/07/07/opinion/our-mismeasured-economy.html>
3. Chris Cillizza, "West Virginia is the most miserable state in the country," *Washington Post*, March 2, 2014 <http://www.washingtonpost.com/blogs/the-fix/wp/2014/03/02/west-virginia-is-the-most-miserable-state-in-the-country/>
4. Rubin, "How Ignoring Climate Change Could Sink the U.S. Economy," *The Washington Post*, July 24, 2014
http://www.washingtonpost.com/opinions/robert-rubin-how-ignoring-climate-change-could-sink-the-us-economy/2014/07/24/b7b4c00c-0df6-11e4-8341-b8072b1e7348_story.html

Week 10 –Glocalization and Social Justice (3/28/16)

Many observers see the answer to the combined challenges of environmental sustainability, strong democracy, and social equity in the revitalization of life at the local level. And at all levels of government, the degree of social justice and equity can powerfully affect environmental outcomes.

Note: draft of final paper due to Prof. Scanlan today (optional)

Readings:

1. To get a picture of community and commons-based initiatives now underway, explore each of these sites: www.community-wealth.org, <https://bealocalist.org>, www.ilsr.org, www.transitionus.org, <http://onthecommons.org>, www.neweconomyworkinggroup.org, www.newdream.org.
2. Speth, *America the Possible*, pp. 21-39, 141-145, 125-131.

Optional reading:

1. Orr, "The Oberlin Project," *Solutions Journal*, May 2014
http://www.thesolutionsjournal.org/node/237134?page=2&quicktabs_1=2
2. Alperovitz, "The Latest Trends in Sustainable Communities," *Solutions Journal*, May 2014
<http://www.thesolutionsjournal.com/node/237148>

3. Reich, "How to Shrink Inequality," *The Nation*, May 6, 2014
<http://www.thenation.com/article/179715/how-shrink-inequality>
4. Campbell, "America the Undertaxed," *Foreign Affairs*, September 2012

Week 11 – The International Context of Change (4/4/16)

What new policies and approaches should be pursued within the context of U.S. foreign policy and diplomacy in order to (1) dramatically improve international environmental performance and (2) provide a more favorable international context for the pursuit of new economic policies and goals in the United States, as covered in previous classes.

Readings:

1. Speth, *America the Possible*, pp. 40-51, 145-152.
2. Engelhardt, "Why Washington Can't Stop: The Coming Era of Tiny Wars and Micro-Conflicts," www.tomdispatch.com/dialogs/print/?id=175763.

Optional reading:

1. Gerst, Raskin, & Rockstrom, "Contours of a Resilient Global Future," *Sustainability*, December 23, 2013
<http://www.mdpi.com/2071-1050/6/1/123>

IV. New Movement

Week 12 – A New Politics (4/11/16) Guest Lecture by Paul Burns, VPIRG

American politics as we know it today cannot deliver well the incremental approaches of today's environmentalism, much less systemic, transformative change. How do we fix a broken politics?

Readings:

1. Lizza, "As the World Burns," *The New Yorker*, online at www.newyorker.com/reporting/2010/10/11/101011fa_fact_lizza.
2. Speth, *America the Possible*, pp. 153-198.
3. Review the strategy of the League of Conservation Voters, <http://www.lcv.org/about/mission/>.
4. Watch video of [Tom Steyer's Commencement](#) Address at VLS, May 16, 2014, and note comments regarding political strategy.

Optional reading:

1. "The American Anti-Corruption Act Summary of Provisions" <http://anticorruptionact.org/>
2. McKibben, "The Fossil Fuel Resistance," *Rolling Stone*, April 11, 2013
<http://www.rollingstone.com/politics/news/the-fossil-fuel-resistance-20130411>

Week 13 – Furthering Transformation in Values and Culture (4/18/16)

Most mainstream environmentalism assumes it can succeed working within the framework of current values and habits of thought – the dominant culture. For many others, this is a highly doubtful proposition.

Readings:

1. Speth, *America the Possible*, pp. 67-87.
2. Kellert and Speth eds., *The Coming Transformation: Values To Sustain Human and Natural Communities* (Yale School of Forestry and Environmental Studies, 2009), pp. 86-109 (chapter by Brown), 180-204 (chapter by Kasser), <http://environment.research.yale.edu/publication-series/5952>.

Optional reading:

1. Frantz, “Tapping into Core Social Motives to Drive Sustainability Transformation,” *Solutions Journal*, May 2014
<http://thesolutionsjournal.org/node/237146?page=19%2C0%2C0%2C0%2C0%2C3>
2. Solnit, “Tomgram: Rebecca Solnit, What Comes After Hope,” *TomDispatch.com*, May 19, 2013
http://www.tomdispatch.com/blog/175701/tomgram%3A_rebecca_solnit,_what_comes_after_hope/

Week 14 – Speculations and Scenarios (4/25/16)

This will be a great in-class debate to wrap up the semester. We will assign roles one week ahead of time.

Readings:

1. Raskin et al., *Great Transition* (Tellus Institute, 2002),
http://tellus.org/publications/files/Great_Transitions.pdf.