



**COURSE OUTLINE**

**POLI 222**

**NORTHERN RESOURCES AND ENVIRONMENTAL LAW**

**45 HOURS  
3 CREDITS**

PREPARED BY:

DATE:

APPROVED BY:

DATE:

APPROVED BY ACADEMIC COUNCIL: (date)

RENEWED BY ACADEMIC COUNCIL: (date)

## NORTHERN RESOURCES AND ENVIRONMENTAL LAW

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**INSTRUCTOR:** Teri Cherkewich, B.Sc., L.L.B.

**OFFICE HOURS:** 30 minutes before each class or by appointment

**OFFICE LOCATION:** TBD

**CLASSROOM:** A2103

**EMAIL:** [teri.cherkewich@gov.yk.ca](mailto:teri.cherkewich@gov.yk.ca)

**TIME:** 6:00 - 9:00 p.m.

**TELEPHONE:** (867) 668 8770 Liberal Arts Office

**DATES:** Mondays

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### COURSE DESCRIPTION

An introduction to the policies and laws related to the environment and natural resources in Canada and Yukon.

### DETAILED COURSE DESCRIPTION

POLI 222 introduces the fundamental principles and concepts of environmental and natural resource law in Canada and Yukon. This course explores how environmental and natural resource policy has evolved over the last few decades and been translated into enforceable laws. The roles of the courts, First Nations, municipalities and the public in making such policies and laws is also explored.

### PREREQUISITES

Second-year standing in School of Liberal Arts

### EQUIVALENCY OR TRANSFERABILITY

CAMO PSC 200 lev (3)

KWAN POLI 2000 lev (3)

OC POLI 2xx (3)

SFU POL 1FIELD (3)

TRU POLI 2xx0 (3)

TRU-OL POLI 2xx1 (3)

TWU POLS 100 lev (3)

UBC POLI 2<sup>nd</sup> (3)

UFV POSC 1xx (3)

UNBC POLS 2xx (3)

UVIC POLI 200 lev (1.5)

VIU POLI 2<sup>nd</sup> (3)

UAF NRM Elec (3)

UR PSCI200L (3)

UAS Elective (3)

### LEARNING OUTCOMES

The success of achieving the learning outcomes will greatly depend upon the student's willingness to challenge themselves through participation in class

discussions and through a commitment to complete the assigned readings before each class. With conscientious application in this course, students will:

- Develop a basic understanding of the Canadian legal system as it relates to environmental and natural resource policy and law in Canada and Yukon.
- Develop basic knowledge of federal and territorial laws that regulate the environment and natural resources in Canada and Yukon.
- Develop a basic ability to undertake legal research.

## **COURSE FORMAT**

The course will be delivered using a combination of interactive lectures, readings and assignments.

Learners will have the opportunity to practice and develop the following skills: critical analysis, legal research and oral presentations.

### **Attendance and Participation**

No marks will be given for attendance although students will benefit greatly from active participation. This class is designed to allow students to challenge themselves by way of critical thinking and debate. A student's willingness to advance his/her ideas on class topics and provide support for his/her ideas will provide that student with the best possible learning experience.

Any discussions undertaken always require the utmost respect and etiquette from class colleagues.

### **Assignments**

There will be 2 assignments for the course. These assignments are designed to provide opportunities for development of practical skills such as legal research and oral presentation.

### **Examinations**

There will be a mid-term exam and a final exam.

## **EVALUATION**

Assignment 1	10%
Assignment 2	20%
Midterm Exam	25%
Final Exam	45%
Total	100%

## **REQUIRED TEXTBOOKS AND MATERIALS**

Muldoon et al., *An Introduction to Environmental Law and Policy in Canada*, 2<sup>nd</sup> Edition (Toronto: Edmond Montgomery Publications Ltd., 2015) (“MD”).

## **LORENE ROBERTSON WRITING CENTRE**

All students are encouraged to make the Lorene Robertson Writing Centre a regular part of the writing process for coursework. Located in C2231 (adjacent the College Library), the Writing Centre offers half-hour writing coaching sessions to students of all writing abilities. Coaching sessions are available in person and through distance technologies (e.g., email plus Skype or phone). For further information or to book an appointment, visit the Centre’s website: [dl1.yukoncollege.yk.ca/writingcentre](http://dl1.yukoncollege.yk.ca/writingcentre)

## **ACADEMIC AND STUDENT CONDUCT**

Information on academic standing and student rights and responsibilities can be found in the Academic Regulations:  
[http://www.yukoncollege.yk.ca//downloads/Yukon\\_College\\_Academic\\_Regulations\\_and\\_Procedures\\_-\\_August\\_2013\\_final\\_v1.pdf](http://www.yukoncollege.yk.ca//downloads/Yukon_College_Academic_Regulations_and_Procedures_-_August_2013_final_v1.pdf)

## **PLAGIARISM**

Plagiarism is a serious academic offence. Plagiarism occurs when students present the words of someone else as their own. Plagiarism can be the deliberate use of a whole piece of another person’s writing, but more frequently it occurs when students fail to acknowledge and document sources from which they have taken material. Whenever the words, research or ideas of others are directly quoted or paraphrased, they must be documented according to an accepted manuscript style (e.g., APA, CSE, MLA, etc.). Resubmitting a paper which has previously received credit is also considered plagiarism. Students who plagiarize material for assignments will receive a mark of zero (F) on the assignment and may fail the course. Plagiarism may also result in dismissal from a program of study or the College.

## **YUKON FIRST NATIONS CORE COMPETENCY**

Yukon College recognizes that a greater understanding and awareness of Yukon First Nations history, culture and journey towards self-determination will help to build positive relationships among all Yukon citizens. As a result, to graduate from ANY Yukon College program, you will be required to achieve core competency in knowledge of Yukon First Nations. For details, please see [www.yukoncollege.yk.ca/yfnccr](http://www.yukoncollege.yk.ca/yfnccr).

## ACADEMIC ACCOMMODATION

Reasonable accommodations are available for students requiring an academic accommodation to fully participate in this class. These accommodations are available for students with a documented disability, chronic condition or any other grounds specified in section 8.0 of the Yukon College Academic Regulations (available on the Yukon College website). It is the student's responsibility to seek these accommodations. If a student requires an academic accommodation, he/she should contact the Learning Assistance Centre (LAC) at (867) 668-8785 or [lassist@yukoncollege.yk.ca](mailto:lassist@yukoncollege.yk.ca).

**POLI 222: NORTHERN RESOURCES AND ENVIRONMENTAL LAW  
CLASS OUTLINE**

<b>Class # Date</b>	<b>SUBJECT MATTER</b>	<b>Assigned Reading</b>
Class 1 Sept 14	<p><b>INTRODUCTION</b></p> <ul style="list-style-type: none"> <li>• Review of Class Outline</li> <li>• Instructor’s expectations</li> </ul> <p><b>UNDERSTANDING THE DIFFERENCES BETWEEN LAW AND POLICY</b></p> <ul style="list-style-type: none"> <li>• What is law?</li> <li>• What is policy?</li> <li>• How do law and policy differ; how do law and policy relate?</li> </ul>	None
Class 2 Sept 21	<p><b>UNDERSTANDING ENVIRONMENTAL AND NATURAL RESOURCE LAW AS A CATEGORY OF LAWS BASED UPON CERTAIN POLICIES</b></p> <p><b>What is environmental law? What are the main policies behind it?</b></p> <p><b>What is natural resources law? What are the main policies behind it?</b></p> <p><b>What are the main challenges for the making of environmental policy and law?</b></p> <ul style="list-style-type: none"> <li>• Complexity</li> <li>• Sustainability</li> <li>• Precautionary principle</li> </ul>	Chs. 1, 3 and pg. 252 MD
Class 3 Sept 28	<p><b>UNDERSTANDING ENVIRONMENTAL AND NATURAL RESOURCE LAW THROUGH THE CANADIAN LEGAL STRUCTURE</b></p> <p><b>Canada as a constitutional democracy</b></p> <ul style="list-style-type: none"> <li>• <i>Constitution Act, 1867</i> (“BNA Act”)</li> <li>• <i>Constitution Act, 1982</i> (“CA 1982”)</li> <li>• “Constitution” is the supreme law of Canada (section 52 of BNA Act)</li> </ul> <p><b>Division of government powers in respect of law making</b></p> <ul style="list-style-type: none"> <li>• Sections 91 and 92 of BNA Act 1867 <ul style="list-style-type: none"> <li>○ Who gets to do what?</li> <li>○ What about the “environment”?</li> </ul> </li> <li>• What is legislation?</li> </ul>	Chs. 2 and 4 of MD

	<ul style="list-style-type: none"> <li>• Concepts of “jurisdiction”, “discretionary decision making” and “liability”</li> <li>• How laws are made? <ul style="list-style-type: none"> <li>○ What is a statute?</li> <li>○ What is a regulation?</li> </ul> </li> <li>• Law making in respect of the environment</li> </ul> <p><b>Role of the courts and tribunals in Canadian legal structure</b></p>	
Class 4 Oct 5	<p><b>UNDERSTANDING ENVIRONMENTAL AND NATURAL RESOURCE LAW AND POLICY THROUGH THE YUKON’S LEGAL STRUCTURE</b></p> <p><b>What is Yukon’s constitutional status?</b></p> <ul style="list-style-type: none"> <li>• Before and after 1979</li> <li>• Before and after 2002</li> </ul> <p><b>What is Yukon’s authority over natural resources and the environment?</b></p> <ul style="list-style-type: none"> <li>• <i>Yukon Act</i>, 2002</li> <li>• The Devolution Transfer Agreement (2003) (“DTA”)</li> </ul> <p><b>What is international law and why does it matter?</b></p> <p><b>Review of hierarchy of laws in Canada and Yukon</b></p> <p><b>(ENCS 352 - paper topic must be confirmed with instructor)</b></p>	Ch. 6 MD
October 12	<b>No class - Thanksgiving</b>	
Class 5 Oct 19	<p><b>UNDERSTANDING ENVIRONMENTAL AND NATURAL RESOURCE LEGISLATIVE REGIMES</b></p> <p><b>What is the structure of the legislative regimes that regulate the environment and natural resources?</b></p> <ul style="list-style-type: none"> <li>• Command and control regimes <ul style="list-style-type: none"> <li>○ Command: setting standards</li> <li>○ Control: enforcement and compliance</li> <li>○ Sectoral regulatory regimes</li> </ul> </li> </ul> <p><b>What is administrative law and why does it matter?</b></p> <ul style="list-style-type: none"> <li>• Rules of administrative law</li> </ul>	Chs. 7, 8, 9 and 14 MD
Class 6 Oct 26	<b>READING LEGISLATION AND UNDERTAKING LEGAL RESEARCH</b>	Assigned readings

	<p><b>How do I find the law?</b></p> <ul style="list-style-type: none"> <li>• Review of the difference between legislation and common law (role of the Legislature / Parliament versus the role of the judiciary) <ul style="list-style-type: none"> <li>○ What is the common law?</li> </ul> </li> <li>• Structure of the judicial system <ul style="list-style-type: none"> <li>○ Anatomy of a judgment</li> </ul> </li> <li>• Introduction to legal research methods</li> </ul> <p><b>How do I read the Law?</b></p> <ul style="list-style-type: none"> <li>• What written law can (and can't) do</li> <li>• What to look for in legislation</li> <li>• What do the words mean? <ul style="list-style-type: none"> <li>○ "Rules" of interpretation</li> <li>○ Our friend the <i>Interpretation Act</i></li> </ul> </li> </ul> <p><b>Assignment #1 handed out - Undertaking legal research (10% of final mark)</b></p>	
Class 7 Nov 5	<p><b>FIRST NATIONS ROLE IN MAKING ENVIRONMENTAL AND NATURAL RESOURCE LAWS</b></p> <p><b>Evolution of aboriginal law in Canada and Yukon</b></p> <ul style="list-style-type: none"> <li>• Traditional knowledge and laws</li> <li>• Section 91(24) of the <i>Constitution, 1867</i></li> <li>• Section 35 of <i>Constitution, 1982</i></li> </ul> <p><b>Evolution of aboriginal law in Yukon</b></p> <ul style="list-style-type: none"> <li>• The Umbrella Final Agreement (Chapters 5, 6, 14 and 16)</li> <li>• Settled versus Unsettled First Nations in Yukon</li> <li>• First Nation resource legislation <ul style="list-style-type: none"> <li>○ Powers to make laws under a self-government agreement</li> </ul> </li> </ul>	Ch. 5 MD
Class 8 Nov 9	<p><b>MIDTERM EXAMINATION</b> (25% of final mark - content up to November 5)</p> <p><b>MUNICIPALITIES ROLE IN MAKING ENVIRONMENTAL PROTECTION LAWS</b></p> <ul style="list-style-type: none"> <li>• <i>Municipal Act</i></li> <li>• <i>Spraytec Case</i></li> </ul> <p><b>Assignment #2 handed out - mock hearing</b></p>	Pgs. 141 and 203 MD
Class 9	<b>CANADIAN AND YUKON ENVIRONMENTAL PROTECTION</b>	Assigned

Nov 16	<p><b>LEGISLATION</b></p> <p><b>Federal legislation</b></p> <ul style="list-style-type: none"> <li>• <i>Canadian Environment Protection Act</i></li> <li>• <i>Fisheries Act</i></li> <li>• <i>National Parks Act</i></li> <li>• <i>Species at Risk Act</i></li> </ul> <p><b>Territorial legislation</b></p> <ul style="list-style-type: none"> <li>• <i>Environment Act</i></li> <li>• <i>Waters Act</i></li> <li>• <i>Parks and Land Certainty Act</i></li> </ul> <p><b>Assignment #1 due</b></p>	readings
Class 10 Nov 23	<p><b>YUKON'S NATURAL RESOURCE LEGISLATION</b></p> <p><b>Surface and Subsurface Lands, and Oil and Gas</b></p> <ul style="list-style-type: none"> <li>• <i>Oil and Gas Act</i></li> <li>• <i>Territorial Lands (Yukon) Act</i></li> <li>• <i>Quartz Mining Act</i></li> <li>• <i>Placer Mining Act</i></li> </ul> <p><b>Water and Forests</b></p> <ul style="list-style-type: none"> <li>• <i>Waters Act</i></li> <li>• <i>Forest Resources Act</i></li> <li>• The process of developing “successor legislation” under the DTA</li> </ul> <p><b>ENVIRONMENTAL ASSESSMENT LEGISLATION IN YUKON</b></p> <p><b>What is EA legislation meant to do?</b></p> <p><b>How does it do it in Yukon?</b></p> <ul style="list-style-type: none"> <li>• <i>Yukon Environmental and Socio-economic Assessment Act (“YESAA”)</i></li> </ul>	Ch. 10
Class 11 Nov 30	<p><b>Assignment #2: Mock Hearing in Lecture Hall (20% of final grade)</b></p>	None
Class 12 Dec 7	<p><b>THE ROLE OF THE PUBLIC IN PROTECTING THE ENVIRONMENT</b></p> <p><b>What is public interest advocacy?</b></p> <p><b>Use of the courts</b></p> <ul style="list-style-type: none"> <li>• Private ‘causes of action’ and damages</li> <li>• Interventions</li> <li>• Parts 1 and 2 of <i>Environment Act</i></li> </ul>	Ch. 13 and 14 MD

	<p><b>Use of administrative decision-making processes</b></p> <ul style="list-style-type: none"> <li>• Discretionary decisions under legislation</li> <li>• Water Board</li> </ul> <p><b>Other tools</b></p> <ul style="list-style-type: none"> <li>• <i>Access to Information and Protection of Privacy Act</i></li> </ul>	
Class 13 Dec 14	<b>Final exam</b> (40 % of final mark)	None