

Demand global warming legislation

FRANK CHURCH INSTITUTE FORUM

The Frank Church Institute day-long forum Monday on global warming is sponsored by Boise State University.

Former Vice President Al Gore will give the keynote address at 7 p.m., but that event is sold out. Other forum events are free to the public.

Speeches and discussions are from 8:30 a.m. to 4 p.m. in the Jordan Ballroom. Mary Christina Wood is part of a panel discussion that begins at about 10 a.m.

ON INSIGHT 4

Are polar bears a global warming casualty?

COMING MONDAY

Sen. Larry Craig writes on global warming.

BY MARY CHRISTINA WOOD

This month, a new federal Congress will look at budget issues. More urgent, however, is an accounting of nature's budget. Scientists warn that Earth is dangerously heating from greenhouse gasses emissions. Unchecked, global warming will unravel our social and economic systems through food scarcity, droughts, decreased water supplies, flooding, intense natural disasters and massive environmental displacement. These facts are not born out of fear tactics. They simply flow from the ledger sheet of remaining natural capital.

We face an unprecedented environmental deficit. Leading climate scientists still hope that we can stave off a disastrous climate temperature rise — but only if government acts now. The new Congress should immediately pass legislation in line with several European nations to achieve a 70 percent re-

duction of greenhouse gas emissions by 2050. Protection of natural resources for present and future generations has remained, since ancient times, the most fundamental duty of any government. The United States is responsible for 30 percent of the world's greenhouse gas emissions. Yet our U.S. Environmental Protection Agency (EPA) refuses to regulate. A company president who failed to address colossal losses of financial stock would be fired. What explains our government's clear dereliction of duty?

Oddly enough, the answer might rest in our system of environmental law. Statutes give agency officials ample authority to protect natural assets. But these laws also give discretion to permit damage. The permit systems were never intended to subvert statutory goals. Most agencies, however, elevate their

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institutionalize damage to the trust, in contravention of the court's words that the trust "is for the benefit of the people, and not for the benefit of private individuals as distinguished from the public good."

To rebuild natural wealth, government must halt further

own political well-being over the public's interest. They rarely say no to pollution.

Our third branch of government — the judiciary — is supposed to ensure that agencies carry out the law. But courts have been indifferent to-

wards the politicization of agencies. They often defer to agency decisions on a false premise of neutrality. A compromised judicial check skews the constitutional balance of power over the environment.

These dynamics drive global warming policy. Scientists warn that we have less than 10 years to reverse the trajectory of global greenhouse gas emissions. Yet in a pending Supreme Court case, EPA — the only federal agency charged by Congress to control air pollution — proclaims discretion to do nothing. By wasting precious time in court, EPA is closing the last window of opportunity.

damage to land and resources.

By squandering time, government has narrowed its options. Inevitably, some will argue that regulation unfairly restricts private property rights.

To the contrary, private property rights depend foremost on natural infrastructure. Property deeds didn't account for much during Hurricane Katrina.

Citizens should not trust a government that puts their fu-

Environmental law was not supposed to work this way. It is now painfully obvious that the statutes passed in the 1970s vested far too much discretion in the agencies. The good news is that this vast bureaucracy holds the tools and funding to halt much environmental destruction, and do so quickly. But agencies remain paralyzed. Citizens can steer the political system to serve the public once again — by clearly voicing their property rights.

Americans hold a property right to an enduring natural trust. A trust is a legal concept whereby someone manages property for the benefit of another. Nature's trust consists of air, waters, streambeds, wildlife, fisheries, and other crucial elements. The beneficiaries of this trust are all generations of citizens. Government is trustee with a duty to defend the trust against injury and restore it where it has been damaged. These principles are embedded

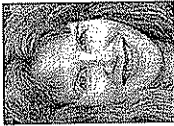
in original Supreme Court jurisprudence.

The moral imperative behind the trust speaks universally to all ages, cultures, and nations. The Philippines Supreme Court invoked the trust to halt deforestation, stating, "(T)he day would not be too far when all else would be lost not only for the present generation, but also for those to come — generations which stand to inherit nothing but parched Earth incapable of sustaining life."

Today, young people across America are confronting their parents over the impoverishment of natural resources that are rightly theirs. They have every reason to be angry. Their property rights are being ignored. The trust is supposed to secure their natural inheritance.

Yet legislators and agency officials continue to use their public offices and budgets to

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Mary Christina Wood

ture in jeopardy. They should demand global warming legislation as a first step in restoring the trust that matters most.

Mary Christina Wood is the Philip H. Knight Professor of Law and Morse Center for Law and Politics resident scholar, University of Oregon School of Law. She is currently writing a book titled, *Nature's Trust*.