

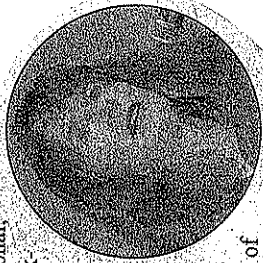
Discretion or Obligation

How should government view a looming catastrophe?

Stories about rising temperatures on planet Earth are ubiquitous, and yet a sense of public urgency has not emerged. Instead of mobilizing resources to save our environment, our national, state and local governments are taking us in the wrong direction by allowing discretion in permitting pollution, according to Mary Wood, a professor in the environmental law program at UO.

"We have to reverse what is now still a climbing trajectory of greenhouse gas emissions and bring it down within 10 years at most, then reduce it 80 percent by 2050," said Wood in her talk to City Club of Eugene on May 4. "You can think of these requirements as nature's mandate."

Global heating is "leagues beyond what civilization has ever faced before," she said. "We are locked into a temperature rise of at least 2 F. This alone will have impacts for generations to come, but if we continue business as usual, [scientists] predict Earth will warm as much as 10.4 F, which will leave as many as 600 million people in the world facing starva-



Mary Wood

tion and 3.2 billion people suffering water shortages; it will convert the Amazon rainforest into savannah and trigger the kind of mass extinction that hasn't occurred on Earth for 55 million years."

Wood sees the need for a mass mobilization. "The attack on Pearl Harbor galvanized America in a way that we desperately need today," she said. "Almost overnight, the private business sector began retooling and overhauling production lines. The automobile industry scaled down car sales and channeled its workers and materials into the production of defense vehicles. The financial world sold war bonds. Communities planted victory gardens to grow food locally so that the commercial food supplies could be sent to the military. Consumers made do with the bare minimum. States lowered their speed limits to conserve gas. A volunteer speakers' bureau rallied support for the war effort in every community, she added.

This model could work to slow global heating, she believes, but public attitudes need to change. "Intelligent as we are, it's hard for us to take seriously any threat that is not immediate. In other words, we'd be better off being invaded by Martians," she said. She also sees global warming being presented by the press as an environmental issue. "Americans are fundamentally confused about government's role towards our environment, and that confusion operates as a deadweight against decisive action."

She also blames government at all levels. Instead of defending our atmosphere, she said, "our government is driving this country towards runaway greenhouse gas emissions. County commissioners are approving trophy home subdivisions and destination resorts as if

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global warming didn't exist. State environmental agencies are approving air permits as if global warming didn't exist. The Forest Service is approving timber sales as if global warming didn't exist. And the electric power industry is racing to build more than 150 new coal-fired power plants across the U.S., banking on federal approval as if global warming didn't exist."

How did our atmosphere get caught in Wood calls a "legal death spiral?" Wood said hundreds of environmental statutes and regulations have been passed since the 1970s to protect our natural resources. But, "had environmental law worked, we would not have this ecological crisis on our hands. The heart of the problem is this: While the purpose of every local, state and federal environmental law is to protect natural resources, nearly every law authorizes the agencies to permit the very pollution or damage that the statutes were designed to prevent."

Woods said the permit systems were never intended to subvert the goals of environmental statutes, but most agencies today spend nearly

all of their resources to permit rather than prohibit environmental destruction. "Most officials are good, dedicated individuals, but as a group, they dread saying no to permits. Essentially, our agencies have taken the discretion in the law and have used it to destroy nature, including its atmosphere."

Instead of operating in a framework of discretion, Wood said government agencies need a framework of obligation. "The reframing I suggest draws on Supreme Court jurisprudence that has been around since the beginning of this country," she said. "It characterizes all of the resources essential to human survival — including the waters, wildlife, and air — as being packaged together in a legal endowment which I call Nature's Trust. Our imperiled atmosphere is one of the assets in that trust."

Wood praised Eugene Mayor Kitty Piercy for her leadership in tackling global heating on the local level, but she also warned against small steps leading to complacency.

Wood concluded her talk saying that global heating "dwafes any threat we have known in the history of humankind. Giving our government political discretion to allow further damage to our atmosphere puts the future of this nation and the rest of the world in grave danger."

She said if Americans "take the lead to reframe our government's purpose as a trust duty to safeguard the commonly held atmosphere we may soon find every other nation in the world engaged with us, not against us, in a massive, urgent defense effort to secure the systems of life on Earth for all generations to come."

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