

Dirty Air, Dirty Water, Dirty Money - Welcome to Earth Day (Bisbee Observer) (27 April 2023)

Fifty-three years ago, 22 April 1970, the first Earth Day: awareness, alarm, concerns, resolve, demands, hopes, even confidence. Millions of people marching in protest. The image of earth seen from the moon focusing attention on what Buckminster Fuller famously called Spaceship Earth.

Fish kills, oil spills, rivers on fire, forests clearcut, jungles and croplands herbicided, people poisoned by the air they breathe. Rachel Carson's *Silent Spring* (1962) riling up the nation about the horrors of better living through organochlorine chemistry, best known then in the form of DDT (Agent Orange, PCBs, thalidomide and the rest not yet publicly recognized as coming from the same cauldron).

But if we could make the moon shot, what couldn't we do?

The states, the default jurisdiction since the Civil War for protecting the public's environmental rights, by the end of the 60s were widely seen as derelict in that duty, as they had been in protecting civil rights. Time for federal action.

- 1964 The Wilderness Act
- 1966 The Freedom of Information Act
- 1968 The Wild and Scenic Rivers Act and National Trails System Act
- 1970 The National Environmental Policy Act (the Environmental Protection Agency, January) and Clean Air Act (December)
- 1971 The Occupational Safety and Health Act (workplace hazards)
- 1972 The Clean Water Act, Marine Mammal Protection Act, Federal Advisory Committee Act, Consumer Product Safety Act and Federal Environmental Pesticide Control Act
- 1973 The Endangered Species Act
- 1976 The National Forest Management Act (USDA/USFS), the Federal Land Policy and Management Act (USDI/BLM), the Magnuson Act (fisheries), the Resource Conservation and Recovery Act (solid and hazardous wastes), the Toxics Substances Control Act
- 1980 The Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).

So much good energy, so many good intentions, so many trees ending up in so many pages of statutes, regulations and court cases. To what end?

Ring in the 21st century: unprecedented heat waves, hurricanes, cyclones, tornadoes, rainbombs, atmospheric rivers, wildfires, pandemics, glaciers and polar icecaps melting, shorelines rapidly receding, species extinction (pollinator insects most prominently), deforestation, desertification, greenwashing, plastic continents afloat on the oceans, microplastics in everyone's blood, dead coral reefs, freshwater disappearing, mass migration, climate refugees, population eight billion and counting.

How can this be? with all the time and effort, fifty-plus years of warnings from science, environmental laws and international agreements?

One big reason of course can be summed up in the phrase business as usual. Not just in the sense of people going on about their lives, making a living, no time to get involved. But rather, business as usual in the primary sense of the commercial system, the political economy behind our global civilization stuck in the rut of acquisition ideology, the mindset informing Coolidge's quip that "the business of America is business," an unquestioning faith so devout it might better be called a theology. Earth Day transmogrified from a day of protest calling for fundamental change to a corporate-sponsored celebration of Mother Nature, a shopping day for eco-this and green-that.

Yes, there have been improvements: DDT, Agent Orange and other nasties banned or restricted. The Cuyahoga and Chicago Rivers no longer burning. Lower levels of lead in children's blood nationwide. Edible fish again in Chesapeake Bay and the Great Lakes. Toxic emissions from this smelter and that power plant stifled. This endangered bird and that threatened butterfly making headway. And some local jurisdictions as well as a few nations encoding environmental rights as human rights, and rights of nature itself equal and complementary to our own.

But business as usual. More solar, wind and thermal as long as they're profitable, more electric cars and fewer gas stoves as long as stocks show dividends. Less acid rain but more greenhouse gases. More community gardens, but more monoculture chemical megafarms too; more paperless billing but forests pulped for junkmail. More National Monuments and other protected areas but more fracking, coal mining, oil drilling, ocean dumping and toxic train wrecks as well; more world-class wars fought for and by means of fossil fuels and arms merchant subsidies. Consumers recycling plastic bags while manufacturers annually produce and dump millions of tons of plastic and toxic wastes.

What went wrong? Why haven't all those environmental laws worked? One very clear reason, to my mind likely the main reason, is pinpointed (and remedies proposed) in the work of two contemporary women, one a legal scholar, the other a biologist.

Mary Christina Wood in numerous law journals and textbooks and in some detail in her *Nature's Trust: Environmental Law for a New Ecological Age* (Cambridge University Press, 2014) documents how our outdated commercial ideology in which everything, even people, are seen as commodities has overpowered the commonwealth ideals that led to our environmental laws. How private interests given the right to exist not to benefit the communities they exist in but solely for stockholder profits, have captured the legislative, judicial and executive branches of government so that most laws and regulations are written, interpreted and adjudicated to the advantage of private commercial interests to the detriment of ecological sustainability and environmental democracy.

The captivity shows up, for instance, in ostensibly fair procedures like stakeholder input where agency decisions typically are weighted against minority opinion (as in easily-outvoted "token" representation) and against options that value benefits like beauty, ecosystem integrity and

cultural continuity that are difficult or impossible to justify in cash terms. The no-action alternative often preferred by communities and environmentalists, for instance, is routinely given short shrift and long-term catastrophic risks (like planned depletion of aquifers or radioactive waste leaking during the requisite million-year confinement) automatically discounted. Two-column bias stacks the deck. As Wood points out, rather than being trustees protecting the public's birthright, government agencies have allowed laws to be perverted into mechanisms for permitting pollution, depletion, degradation and environmental injustice.

Or consider Little Bit Syndrome. Under the de facto thumb of private interests, government agencies come to see their primary role as permitting rather than prohibiting environmental harm, to see as clients the companies they are supposed to regulate. Cowed by boondoggles of environmental law created by company lawyers, they buy into the corrupt notion that chemicals are innocent until proved guilty. Swayed by demands for local jobs, tourism and taxes, they regularly license individual facilities and operations to allow "minimal" environmental insults (defined by industry's "best" practices or technologies) and "acceptable" risks (according to standards set by industry scientists). Despite the long sad history of our finding out later that those risks multiplied by hundreds of facilities and operations are far from minimal or acceptable. Case in point: Forever Chemicals everywhere today (many of them organofluorines, first cousins to organochlorines like DDT).

Over two centuries ago, Adam Smith said, "People of the same trade seldom meet together . . . but the conversation ends in a conspiracy against the public." Today that holds even more true in regard to environment. The main topic for both governments and businessmen all too often is not protection but how to cut up the pork. Deals cut at the expense of the environment.

Robin Wall Kimmerer, in her best-selling book *Braiding Sweetgrass: Indigenous Wisdom, Scientific Knowledge, and the Teachings of Plants* (Milkweed Editions, 2013) and in many podcasts and videos since the book's publication, presents a viewpoint that can be seen as an indigenous vision of what Wood refers to as public trust doctrine. Drawing on her own Potawatomi and other Native American traditions like the Seventh Generation Principle, Kimmerer, like Wood, emphasizes human dependence upon and embeddedness in the ecological matrix, the web of life.

Again like Wood but in a vocabulary that tends more toward the moral and sociocultural than legal and political, Kimmerer calls for a familial and participatory stance toward nature, a way of life favoring kinship, obligation, cooperation, reciprocity and gratitude rather than envy, consumption, competition, acquisition and private property.

Both see that the very possibility of human life, maybe all life, continuing requires an immediate top-to-bottom paradigm shift from our short-sighted anthropocentric project of global exploitation, extraction and accumulation, from a business as usual society in which nature is seen merely in terms of commodities and investor profit, to an ecocentric way of life that focuses not on wealth and power but on health and welfare of the commons, the commonwealth, the natural community, we depend on.