

Climate change and tomorrow's lawyer

By Channing L. Dutton*

"One thing leads to another" seems to be the pattern of every interesting thing in my life. That explains how I became committed to working on behalf of future generations of Iowans by campaigning for action today to address climate change.

Several years ago I decided to lose weight, and I started riding my bike. Some people swim, some people run, but for me it was the bike. As I peddled away on bike trails, I entered the era of earbuds and podcasts.

On one ride I heard the well-respected climate author, Lester Brown, talking about Saudi Arabia issuing an edict to stop using the country's fresh water to grow wheat. Brown made a strong case for the connection between dwindling freshwater availability worldwide and global warming. He explained that by fundamentally altering the climate of the planet, humans have placed the world in peril to regional conflict over essentials to life such as water, food and security.

Brown also explained that because the Saudi's felt vulnerable to food embargoes from the West, that nation used its drilling technology to harvest its freshwater aquifers to grow wheat. Those aquifers were ancient and could have sustained the Saudi people for centuries if properly controlled.

As an Iowa lawyer I had no idea that Saudi Arabia was growing wheat. Could this possibly be true? Were they running out of water for their own people? Did the Saudis actually restrict the growing of wheat on Jan. 1, 2008?

I got off my bike and started searching for answers to these questions about water, food production and the crisis that global warming has brought to the planet. Sure

Channing (left) holds one of his banners along with Dr. Aravind Menon, of Kerala, India at the February 2013 climate action event in Washington, D.C.



enough, the Saudi's did give up the production of wheat. What seemed like a neat idea in the 70's, 80's and 90's was proven a disaster by 2007 due to the lack of fresh water for the Saudi population.

Next, I read Lester Brown's book, *Plan B 4.0*, and learned that our changed climate is likely to destabilize almost everything we believe is essential to our way of life. I would urge you to pick up a copy of his book. It is scientifically accurate and insightful. It certainly changed my priorities and my view of where our society is headed.

I also recommend Iowa attorney Rob Hogg's book, *America's Climate Century*, which he completed in the spring of 2013. Rob is an Iowa state senator from Cedar Rapids and the one person I know in leadership who fully understands where we are headed. It is a great book.

Like all lawyers, I liberally borrow quotes that describe issues better than I can do on

my own: "Republican or Democrat, liberal or conservative, young or old, climate change is going to whack us all the same."

Unfortunately, I believe this is true for the practice of law as well.

In July 2013 ISBA President Guy Cook wrote about the challenges facing tomor-

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row's lawyer. His theme was technology and advancements in society will change the tools used to practice law, but the core values essential to good representation should be protected and cherished. From his article comes this article.

Once you put away the petty political bickering about global warming, I believe people of reason will conclude global warming (better described as climate disruption) will fundamentally transform the future practice of law in Iowa and beyond. These future changes will come in the form of necessary changes in our laws in order to deal with climate catastrophes. And, these changes will pose immense problems to attorneys and to a court system already working with restricted budgets

We are already seeing these climate catastrophes. With the recent pattern of intense spring rainfall, followed by floods, and then by sustained summer/fall drought, Iowa has already experienced a substantial alteration in the stability of farming, businesses and communities. When communities are destabilized by flood or drought, legal problems follow close behind.

What happens when an entire residential subdivision is flooded by a climate event that is supposed to happen once in 500 years? The first time it occurs (think Des Moines 1993) everyone marvels at the force of nature. The second time it occurs (think Cedar Rapids 2008) attitudes are different, and people begin to examine their legal rights and call lawyers.

In the beginning climate disruption can be a boon for legal practice but too much climate disruption will also disrupt the structure of our system of laws and the court system. As the staggering losses caused by climactic events continue to mount with each passing storm, sooner or later the legislature will get involved. Do you see why?

Water issues are not limited to the Middle East. The southeast portion of the United States has already been hit by major drought events causing water shortages. In particular, Georgia, Alabama, and Florida have been hit hard and each state is looking for water resources while eyeing the water consumption of neighboring states.

In the fall of 2013 the state of Florida announced its intention to commence an original action in the United States Supreme Court against the state of Georgia over access to fresh water. As a result of this litigation, we may see a decision fundamentally transforming individual and state rights (including property, mineral, resource and life-sustaining rights) to fresh water. If the decision is unpopular in one of these states, trouble will follow.

You doubt this? On July 16, 2009, the Georgia governor vowed to "fight to the death" to use the water he believes the people of Georgia are entitled to use.

Consider one last local example. What happens to a state heavily invested in agriculture when government can no longer afford crop insurance bailouts to cover losses sustained by cold springs, deluge rain or extended drought? If you don't think it is possible, consider the \$70 billion our government already spent to rehab a small portion of New Jersey after tropical storm Sandy. It is mathematically certain we cannot afford to bail out every future climate catastrophe, especially when these events are scientifically certain to grow larger and thus more damaging over time.

How many Iowa farmers will lose their livelihood? What will the effect be on Iowa laws? What changes will occur when the certainty of increasing climate catastrophe is understood by the people, understood by the legislature and understood by the courts?

This is the starkest challenge waiting for tomorrow's lawyers and judges. This is

why I tell every law student I meet that they should focus their training and expertise on issues such as water, energy and achieving fundamental fairness in the era of mounting climate catastrophes.

In 2014 I speak to as many people as possible about the need to start acting now in order to lessen the future effects of our changed climate. A young attorney with three small children recently said to me, "Channing, I hope 20 years from now you and I can laugh about how wrong you were with your concern over the atmosphere."

But I do not think his hope is going to come true. The laws of physics will not bend for wishful thinking. I believe 20 years from now his adult children will be wondering why no action was taken in 2014 despite the scientific information showing the need for action now.

We can no longer afford to sit back and hope for a better tomorrow for our children based on the expectation of salvation from a technology genie. It is a scientific fact the atmosphere will not be better tomorrow. Just ask the 158 college science faculty members from all corners of Iowa who signed a joint statement in October of 2013 demanding climate action now to lessen the harm to Iowa agriculture.

Some of you will say, "Ok, but what can I do?" The answer is to get off your bike, read Brown and Hogg, and once you understand where we are headed, roll up your sleeves, speak out, and start working for climate action today. But, if nothing else, call me and share ideas. We can all do more for the future.

**Channing Dutton 1982 Channing Dutton has practiced work comp and personal injury law in West Des Moines, Iowa with partners Jim Lawyer and Dave Drake since 1982. He's still riding his bike and spreading the message about climate action every chance he gets. You can reach Channing at 800-890-4544, or www.ddd.net*

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