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# Letters

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*We welcome letters from readers, particularly commentaries that reflect upon or take issue with material we have published. The writer's name, affiliation, address, and telephone number should be included. Because of space limitations, letters are subject to abridgment.*

## **Enviro-Capitalism vs. Environmental Statism**

It may be true that "We are all environmentalists now," as Michael Kellogg claimed in his article "After Environmentalism," (*Regulation*, 1994 Number 1) but it is not true that you have to accept command and control to be an environmentalist. Nonetheless, for mainstream environmentalists the litmus test of "greenness" is the acceptance of more government to achieve environmental ends. They typically call for more environmental regulation and more government ownership of land, ad nauseam. But the message from free-market environmentalism is that more government is not necessary to improve environmental quality and may even be inimical to that end.

Those who wave the banner of environmental statism cling to the notion that the stick is better than the carrot when it comes to the rights of private property owners. They ignore the enormous growth over the last decade in recreational markets, especially for fee hunting and fishing, that have led landowners such as International Paper Company, a major industrial forest owner, to nurture its environmental assets. Instead, their first line of defense against landowners always seems to be regulation. No wonder private landowners see endangered species and wetlands as liabilities instead of valuable assets. Not surprisingly, ranchers in northwest Montana, for the sake of their own financial survival, say in private that the remedy for grizzly bears or wolves on their property is "to

shoot, shovel, and shut up." Meanwhile, the clamor goes on for more restrictive legislation, more lawsuits, more government intrusion.

Management of Yellowstone National Park, the crown jewel of our park system, demonstrates governmental control of amenities has run amok. Independent scientists provide strong evidence that the park's policy of letting nature regulate park wildlife has thrown the ecology of the park into a tailspin. Aspen and willow are being devoured by populations of hungry elk that exceed carrying capacity. Beaver, a species dependent on aspen and willow, has all but disappeared from the park. Add to that Yellowstone's "enlightened" fire management policy that supplanted 70 years of fire suppression and an enormous buildup in fuels with an incredible "let it burn" policy. It was only a matter of time before fires like those in 1988 burned over half the park's pristine forests. Today, Yellowstone's managers still fumble with their dual mission of protecting park assets and providing the public with *carte blanche* access. Meanwhile, throngs of people that visit the park trample paths along pristine streams, crowd the deteriorating highways, and continually come into conflict with wildlife. Similar, if not worse, problems throughout the national park system have been aptly described by park officials as "greenlock." In short, the record of political control of natural resources and the environment has not been stellar, to say the least.

In light of the many failures, we must ask why so many environmentalists consider policies based on command and control to be the litmus test for greenness. Our answer is that only those coercive powers allow environmentalists to remain pure in a fantasy land of zero costs where others bear the costs of purity. Put this in the context of oil development in pristine areas such

as the Arctic National Wildlife Refuge. True environmentalists "just say no." No oil is worth desecration of the environment; "costing the environment" is irrelevant because it implies a willingness to make tradeoffs.

Trading off some environmental disturbance for oil revenues even if those revenues can be used for other environmental causes is not pure enough. This explains why many members of the National Audubon Society are not proud of the fact that the Society condones oil and gas development on some of its private preserves while opposing development on federal lands.

One exception to total command and control that recently has gained acceptance in the environmental community is market-based solutions such as tradeable pollution permits. Those are accorded at least a light shade of green from mainstream environmentalists because they still "let the government steer." But market-based solutions really have little to do with markets; they are simply ways of making command and control more efficient. Such market-based solutions have been advocated for some time by economists pointing out that those solutions improve efficiency. Under a system of tradeable permits, a party holding a permit will have an incentive to reduce his pollution and sell the permit if he can do so at a profit. That will reduce the cost of meeting pollution standards by encouraging those with the lowest cost of reducing pollution to do so.

Unlike a market, however, the level of pollution is not determined by willing buyers and willing sellers, but by command and control. A market for pollution would have the polluter paying the receptor in a voluntary transaction. If the polluter is willing to pay the receptor more than the cost the receptor bears, more effluent will be emitted. That requires a system of well-specified property rights and a system of common-law torts that forces a polluter to pay for any damages he generates. Market-based solutions, on the other hand, establish the level of pollution through a political process with little if any compensation paid to those who receive the pollution. It is true that market-based solutions can make the process of meeting governmentally imposed pollution allowances more efficient, and free-market environ-

mentalists applaud such efficiency gains. But there should be no mistaking the fact that the process of determining the level of pollution ought to be a market process.

The alternative to environmental statism is free-market environmentalism. As Kellogg notes, free-market environmentalism seems "like an oxymoron" but only because it does not depend on the coercive hand of government to steer the boat. Instead, free-market environmentalism depends on property rights and the law of contracts and torts, wherein willing buyers and sellers determine the course through their bargaining over the exchange of property rights. In the context of free-market environmentalism, pollution is not pollution as long as those who receive the byproducts are compensated for taking on what is unwanted by others. Hence the sign on the garbage truck that reads, "It may be garbage to you, but it's our bread and butter."

Free-market environmentalism is based on two premises, the first of which is that free markets provide the higher incomes that in turn increase the demand for environmental quality. Few would deny that the demand for environmental quality has increased dramatically in the past 25 years, and there is growing consensus that the cause of that increased demand is rising incomes. New studies show that the relationship between per capita income and environmental quality follows a "J-curve" pattern. At very low levels of income, environmental quality may be high because no effluent is produced. As incomes rise above some minimum, pollutants increase and the environment deteriorates. But then at per capita incomes of approximately \$5,000 per year, environmental quality begins to become a luxury good. Above that income level, estimates by Don Coursey of Washington University in St. Louis show that for every 10 percent increase in income there is a 30 to 50 percent increase in the demand for environmental quality. We may all be environmentalists now, but the cause is not a born-again experience at Walden Pond; it is increasing wealth generated by free markets that has given us the wherewithal to afford environmental luxuries.

The second bulwark of free-market environmentalism is that mar-



kets for environmental amenities provide incentives for individuals to treat the environment as an asset rather than a liability. Kellogg acknowledges that there may be something to free-market environmentalism in that "the market can take us almost anywhere we want to go." But this misses the basic problem that the free-market environmentalism paradigm confronts: where do we want to go? Coercive environmentalists claim to know where we ought to go and use the powers of government to get us there. For them there is never enough wilderness, species should not go extinct, and pollution should not exist. That asserted, why not use command and control?

Free-market environmentalists make no claims that they know what ought to be done. That will be determined by human action revealed in voluntary transactions where prices provide incentives for willing buyers and sellers to cooperate to achieve their mutual ends. In Kellogg's words, "If someone wants to buy Yosemite and put up condos . . . , then condos there will be." Free-market environmentalists have no trouble with this conclusion, which is not to say that they necessarily prefer condos over a pristine Yosemite Valley. (Of course, a pristine valley is not what we now have under command and control so it may be that even condos would be more pristine than the overcrowding under bureaucratic

management.) Free-market environmentalists would say that if they cannot outbid the condo lovers for whatever uses they want, then preferences, constrained by budgets, have been revealed.

Here two criticisms usually are forthcoming, one raised by Kellogg and one not. The one not raised has to do with wealth distribution. Since the rich have more wealth than the poor, they will outbid the poor, it is said, in a market system. But the fact is that the rich do not always prevail. Rich people may prefer fancy cars like the Lexus over the Geo, but the latter gets produced. Indeed, Henry Ford got rich by producing for the masses, not for the elite, wealthy market. If environmental quality is demanded by lower- and middle-income consumers, suppliers will get rich supplying it. Of course, if that is not what people actually want (as opposed to what coercive environmentalists believe they should want), the market will "fail." Moreover, distributional problems as they relate to the environment are no different than with food. If there are poor people, it is surely better to give them money and let them decide whether they want wilderness areas or water parks. If they chose the latter, free-market environmentalists have no worry. Coercive environmentalists, however, generally conclude that they have the wrong preferences.

The second criticism of letting

voluntary transactions determine what environmental goods will be produced is that "some things simply should not be reduced to monetary terms. Some things are, or should be, sacred." Here the true colors of the coercive environmentalists shine through. Knowing what is sacred, they have no qualms coercing those without the correct vision into doing what is right. In the vernacular of coercive environmentalists, the environment has "intrinsic value" which Kellogg defines as "a value that is independent of the choices of particular individuals and, hence, transcends market considerations." What he really means is that intrinsic (substitute sacred, spiritual, godliness) values are infinite and therefore cannot be traded off against other values or uses. They are the trump card. Not surprisingly then, "free-market environmentalism, in its purest form, cannot" take intrinsic values into account.

Kellogg's solution is to have "a public debate in which the intrinsic value of nature can be considered by society as a whole, not simply bartered away in the private dealings of individuals." Here again sleight of hand makes everything seem fine. Who is this "society," and what is the process whereby society decides? Free-market environmentalism recognizes that society simply is a subterfuge term for political solutions wrought with at least as much failure as the "private dealing of individuals."

The Clinton administration's Timber Summit, in which the "public" voiced its intrinsic value for spotted owls and the government listened, exemplifies the political approach called for by Kellogg. In the end, seven-plus million acres of prime timber land have been removed from timber production, costing thousands of jobs in the Northwest and a proposal for a "workfare" program for misplaced workers. It was brute politics in which the environmentalists beat out the timber producers. At least the debate over alternative approaches to producing environmental amenities will be more honest if we recognize that coercive environmentalism substitutes politics with all of its shortcomings for freedom, however imperfect.

Kellogg believes that the Achilles heel of free-market environmentalism is that voluntary transactions

require property rights and that those property rights must come from the government. Here again he misses a crucial point regarding the evolution of property rights, namely that they can and do evolve through the private law of contracts and torts. Examples of the evolution of property rights through customs and private law abound in the American West. Mineral rights and water rights, for example, evolved in the mining camps and irrigation regions long before government bureaucrats established their presences in the territories or state capitals. Such property rights still form the basis for water marketing. Throughout the western states, a system of prior appropriation water rights very different from the eastern riparian tradition allows parties to move water to high-valued uses while protecting against third-party impairment. Unfortunately, many public laws such as those prohibiting the sale of water to instream amenity uses have gotten in the way of market transactions. Returning to the establishment of property rights through common-law process would help solve the property rights problem Kellogg worries about.

As Roger Meiners and Bruce Yandle document in their book *Taking the Environment Seriously*, the historical record shows that property rights can and do evolve through the common law and that those common rules did protect individuals against pollution and other environmental externalities. Government officials seldom recognize the need for property rights. Indeed, much of this evolution took place in an era when technology was far less sophisticated and when information about the potential harms from pollution was more costly to obtain. True, enforcement may require governmental coercion, but such enforcement is a far cry from the methodical creation and redistribution of property rights based on transaction costs suggested by Kellogg and falsely attributed to Nobel Laureate Ronald Coase.

Free-market environmentalism recognizes that it is enviro-capitalists who discover the market potential of defining rights to environmental amenities, and capitalize on their discoveries by establishing property rights. For example, The Nature Conservancy recently tried to purchase and retire grazing

rights on federal lands in New Mexico. Though the government may have created the grazing right on the public domain, it was the entrepreneurship of the Conservancy that attempted to create a new stick in the bundle of rights. Interestingly, an administrative law judge for the Department of the Interior disallowed the voluntary transaction designed to achieve an environmental end.

While working as a biologist for International Paper, environmental entrepreneur Tom Bourland also carved out new sticks in the bundle of property rights. By enforcing against trespass, marketing hunting rights, and renting land for recreation, Bourland was able to turn environmental amenities into assets that the company had an incentive to preserve. The list of enviro-capitalists is growing as the value of environmental amenities increases and is bounded only by the imagination of entrepreneurs.

Free-market environmentalism challenges the status quo by offering a way of "rethinking the way we think" about environmental problems. Most of us accept that food, housing, and the production of other basic necessities are best left to the marketplace. Why not the environment? Even environmental problems offer profit niches to the environmental entrepreneur who can define and enforce property rights. Political solutions may be called for in cases where the costs of establishing property rights are presently insurmountable, but there is no reason to begin with the premise that only command and control can produce environmental quality. To the contrary, free-market environmentalism points out that it is often "bureaucracy versus the environment" and that political solutions become so entrenched that they often stand in the way of innovative market solutions. Overcoming the mindset of environmental statism is no small task because this has been the dominant paradigm for environmental policy formulation for nearly a century. Moving beyond the status quo will require forming new coalitions and abandoning the anti-market mindset.

This has happened with water allocation because fiscal conservatives and environmentalists have found a common ground. Federal involvement in massive water pro-

jects designed to make the desert bloom like a rose seldom pass cost-benefit muster and generally wreak environmental havoc. Because of this, progress has been made in removing water allocation from the political agenda and turning it over to market forces. Even in the case of enhancing stream flows for environmental purposes, there is growing evidence that markets can outperform politics.

"We are all environmentalists now" because we in the United States and other wealthy western countries can afford to demand (as opposed to command) environmental quality. The basic premises of free-market environmentalism are 1) that environmental quality comes with increased wealth and 2) that free markets provide the incentive structure for increasing wealth and for producing environmental amenities. If coercive environmentalists with their elitist agendas continue to dominate environmental policy, the likelihood is that we will eventually have less wealth and fewer amenities. Of the three alternatives reviewed by Kellogg, only free-market environmentalism offers the prospect of more wealth, more amenities, and more freedom, the scarcest resource of all.

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### Second Hand Smoke vs. Pesticides

The American Council on Science and Health (ACSH) often has been accused of acting as a shill for pesticide manufacturers who help fund the organization, because ACSH defends the use of pesticides shown to cause cancer in laboratory animals. In defending itself against such charges, ACSH typically responds that it is simply interested in good science and in accurately reporting risks. The group frequently highlights the work of independent cancer expert Bruce Ames, who has challenged much of the cancer phobia propagated by environmentalists. According to Ames'

research, high-dose rat studies that show a link between a particular chemical and cancer cannot reliably suggest carcinogenicity in humans at extremely low doses. ACSH has also correctly pinpointed another weakness in the environmentalists' campaign to eliminate manmade chemical pesticides—namely, that humans ingest relatively huge amounts of natural carcinogens, without any apparent ill effects. ACSH publishes an annual Thanksgiving menu, listing all known natural carcinogens present in a typical Thanksgiving dinner, to popularize these points.

Oddly, the letter by David Burns of ACSH (*Regulation*, 1994 Number 1) bitterly attacks Huber et al. for highlighting the gross scientific uncertainties about the real risk posed by environmental tobacco smoke (ETS). Worse, Burns appears to borrow from the environmentalists' playbook in making his case that ETS is a highly dangerous substance. We don't need to know whether ETS actually causes cancer, Burns effectively says, because we can reasonably "expect" that it does. Why? Because we already know that extremely high-dose exposure to tobacco smoke by smokers can cause cancer. "The levels of ETS in the air in environments where nonsmokers are present is [sic] sufficient to expect that there would be a risk from dose response extrapolation (emphasis added)," he writes.

However, in the very same issue of *Regulation*, ACSH president Elizabeth Whelan poo-pooes this line of reasoning when it comes to pesticides. "If indeed farmers do have an increased risk . . . related to their use of chemicals on the farm, what possible relevance would that have to us and our occasional parts per billion (or less) exposure to pesticide residues in conventional food? Extrapolating from high-dose occupational exposure to minuscule intermittent exposure would be like concluding that those of us who have an annual X-ray are at risk just because radiologists, who years ago practiced their specialty daily without protection, had a higher cancer risk."

If Huber's reading of the literature is accurate, and there is no reason to doubt that it is, the scientific evidence on the risk posed by ETS is far weaker than that for many chemicals publicly defended by

ACSH. First, average exposure to ETS is extremely low. As Huber et al. note, ETS constituents in the air are so dilute that they don't "exceed any accepted standards for exposure." Second, a linear extrapolation from active to passive smoking shows the lung cancer rate from passive smoking is *indistinguishable* from background rates. Third and perhaps most importantly, even in high-dose tests, where rats are exposed to high levels of ETS over long periods of time, no carcinogenic effects were found.

If ETS had been a chemical pesticide, one could reasonably expect that ACSH would be on the forefront in pointing all this out, concluding that the science was so shaky on the risks from ETS that no dramatic action to limit exposure need be taken, all the while lamenting the hysteria that surrounded the debate.

ACSH does itself a grave disservice by appearing to apply varying standards to public health and safety issues, effectively playing into the hands of those who charge that the group is more interested in protecting its gravy train than promoting better health.

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### No Monopoly Rates for Cable

In rebutting claims by Decker Anstrom, President and CEO of the National Cable Television Association, about the prices charged by competitive cable systems, Professor Thomas Hazlett (*Letters, Regulation* Vol. 16, No. 4) misstates the results of a Federal Communications Commission (FCC) survey.

The FCC has decided to create cable television price caps based on the rates charged by cable systems that face competition, as the term is defined by law. The Commission conducted a survey of 1992 rates and concluded that competitive rates prior to regulation were about 10 percent lower than noncompetitive rates. The FCC sample that forms the basis for that conclusion consists of 110 competitive systems and 267 other systems drawn at random.

If the FCC analysis is confined to systems with more than 5,000 sub-

scribers, competitive systems have rates that are estimated actually to be slightly higher than those for other systems. Mr. Anstrom made the point—correctly—that there is no statistically significant difference between the rates of competitive systems and those of other systems. (This fact was first pointed out by our firm in research commissioned by the National Cable Television Association.) Even if cable operators with low subscriber penetration are excluded from the sample, competitive systems had prices that were not significantly different from those of other systems.

Slightly less than half of the FCC sample, including 43 competi-

tive systems and 123 other systems, had more than 5,000 subscribers.

Contrary to Hazlett's assertion that a subsample based only on systems with more than 5,000 subscribers "simply eliminates the necessary degrees of freedom to perform statistical tests of significance," the FCC price formula can be estimated with 161 degrees of freedom on this subsample, more than enough to estimate the parameter values with reasonable confidence.

Approximately 86 percent of American cable households are served by systems with more than 5,000 subscribers. For these, the

vast majority of American households, there is no statistical evidence in the FCC survey that "monopoly" systems were charging rates that were any different from those charged by "competitive" systems. Yet those households now face disruptive and distorting price regulation with high administrative costs—and consumer benefits that are uncertain at best.

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