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The Snail Darter Case: Environmentalism and Power in the United States.

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The media keep sending alarming messages on the condition of the planet but so far, environmentalists in the U.S. have not seized significant portions of power, nor have they brought about radical changes in the way the industrial society functions and responds to the environmental crisis. In other words, although American environmental organizations have been active for more than two decades, with significant support from the media, they have not gained seats in the U.S. Congress, they have not capitalized on popular support to invest Capitol Hill. There are cultural reasons for this, but the basic cause seems to be American society's extraordinary capacity to absorb nearly any dissenting political force that may jeopardize established powers. Another question is to know how American environmentalists wield clout, not so much to assess its importance in terms of power, which is hardly possible to determine precisely, but rather to assess the potential effects of global eco-awareness today.

While American environmentalism laid much emphasis on human rights to a healthy environment in the 1960s and 1970s, today, the central debate focuses on the rights of nature. The shift from natural rights to the rights of nature exemplifies the existence of two major currents. Mainstream or reform environmentalists actually support the prevailing social order and push for reforms to keep the environment clean for the sake of human health in what is utterly an anthropocentric approach of problems. They have emerged as a new lobby in the political arena since 1970, when they were granted political recognition, especially by President Nixon who, in his January 22, 1970 State of the Union address defined "the great question of the seventies" as how to secure an unpolluted environment as "the birthright of every American." In the same manner, former Senator Gaylord Nelson, the originator of Earth Day (April 22, 1970), called for a constitutional amendment guaranteeing every American "an inalienable right to a decent environment."¹

¹. Roderick Nash, *The Rights of Nature : A History of Environmental Ethics* (Madison, Wisconsin: The University of Wisconsin Press, 1989), p. 125.

The other major trend in American environmentalism covers a wide range of attitudes. Radical environmentalists — often, but wrongly called "deep ecologists" — revere nature for its own, intrinsic value to the extent of using violence to have the rights of all life-forms, including rivers and mountains, recognized.² Their world view may be defined as biocentric. Politically, some of them support the idea of a revolution to put an end to man's domination over the earth. Others, those who could truly be called deep ecologists, believe "Change will be brought on an individual basis by those who continue to search for new ways to 'liberate the ecological consciousness'."³

Environmentalism and the religious perspective

Liberating the ecological consciousness is all the more difficult because environmentalism runs counter to the American religious tradition. One of the major factors that deadened the Western man's ecological consciousness is the biblical vindication of man's power over the natural elements. It accounts for the persistence of the anthropocentric approach in Western mentality. This specially applies to America and its lingering puritanism. In "The Historical Roots of our Ecologic Crisis,"⁴ medieval historian Lynn White, has investigated the religious origins of the Western man's remorseless exploitation of nature. The obvious reason for the dichotomy between man and nature is to be found in the Judeo-Christian tradition. Men, unlike animals, were created in the likeness of God. Most important, they possess a soul, which qualifies them for salvation and eternal life in the other world. Otherwise creation exists solely to serve human needs. It is a divine command for man to "be fruitful and multiply, and fill the earth and subdue it, and have dominion over the fish of the sea and over the birds of the air and over every living thing that moves upon the earth."⁵ It is interesting to note that man is thus placed at the top of a hierarchy. Jesus himself was "only" the son of God. Such a notion has been deeply questioned in recent years by social ecologists who support the concept of interrelatedness in nature, in which man is just part of the whole.⁶ The Transcendentalists, Thoreau especially, had already led the way by enlarging the concept of nature, and developing the doctrine of self-reliance and the disregard of external authority.

2. This kind of action is referred to as 'ecotage.'

3. John Young, *Post Environmentalism* (London: Belhaven Press, 1990), p. 151.

4. The modern discussion of the resistance of Western religion to environmental ethics crystallized around a 1967 essay by the medieval historian Lynn White, "The Historical Roots of our Ecologic Crisis."

5. *Genesis*, 1 : 28.

6. Murray Bookchin, who describes himself as an "eco-anarchist", founded Social Ecology which is averse to centralized governance. It prefers communal cooperation to competition. It supports radically decentralized and nonhierarchical social formations.

The concept of salvation, along with that of eternal life, may have been instrumental in the ruthless exploitation of nature. A Christian's final destination is the other world, not this one, which is doomed to a final apocalypse. Environmental preoccupation is thus pointless. This deep-seated tradition and its impact on the resistance to environmentalism was clearly felt during the Reagan years, when former Secretary of the Interior James Watt suggested that "'running out of resources' need not be a concern because the biblical Armageddon will come soon enough to make such concern irrelevant."⁷

Environmentalism runs counter to the frontier tradition

Other major factors that deadened ecological consciousness and respect of nature are to be found in American history. Right at the beginning, the Puritans soon realized that the wilderness was not a new paradise on earth but a cursed land. The forest was the home of the Devil. Little rain and long winters brought Plymouth Plantation on the verge of famine and extinction.⁸ The nature element amounted clearly then to a hostile world to be conquered.

Later on, the pioneers and later the big companies that followed them could indulge in the plunder of the West away from the main centers of political powers, while enjoying absolute freedom in the wilderness. The Ordinance of 1787 had organized Westward expansion and brought a solution to the political problems posed by the Northwest Territory. The Frontier experience, which was to shape the American character as Frederick Jackson Turner showed, soon defined dominant American attitudes to their environment. The first step in this conquest was ownership of a plot of land. Unlike the Indian nomads who showed a different relationship to nature, unable to understand how one could "own" a river or a mountain, the white farmer and rancher needed to feel the land was his before exploiting it. This process led to an ambivalent if not contradictory American attitude to the wilderness in which the exhilaration of the conquest was followed by nostalgia in the reminiscence of its pristine innocence and beauty. Similarly, Daniel Boone would lead long convoys of pioneers to the "blue-grass country" across the Cumberland Pass but wanted to move west when he could smell another's woodsmoke.

Unlike the Indians, the white man wielded power over nature through high pressure mechanization. Meanwhile, Americans always showed a fascina-

7. Henry P. Caulfield, "The Conservation and Environmental Movements: An Historical Analysis" in *Environmental Politics and Policy*, ed. by James P. Lester, (Durham, North Carolina: Duke University Press, 1989), p. 19.

8. "L'apparente richesse d'une végétation foisonnante en été, contraste avec les rigueurs de l'hiver et impose des défis renouvelés à la nature. Celle-ci menace de reconquérir son terrain si le colon relâche ses efforts." Daniel Royot, "Pasteurs et Colons, Aspects du Prosélytisme dans la Nouvelle Angleterre Coloniale", in *Le Puritanisme en Nouvelle Angleterre*, J. Rougé (ed.), (Paris: Presses de la Sorbonne, 1989), p. 51.

tion for technological advances, producing some of the most striking inventions of the nineteenth century to help conquer the wilderness. Westward expansion and the very notion of frontier also implied the assumption that natural resources were inexhaustible, ready for looting, transformation, and the market. The wilderness awed the earlier settlers more than it aroused a sense of beauty. The machine in the garden therefore contributed to inspire confidence. Nature was there to be tamed, dominated, and ultimately exploited, a view that stands in sharp contrast to the Native Americans' approach of nature.

The conservation movement headed by Pinchot⁹ later sought to manage land resources in a more rational, but still utilitarian, anthropocentric way. In contrast, preservationists, the other environmental trend at the time, and their leader John Muir (1838-1914) wanted nature to be left in its pristine beauty, anticipating the biocentric approach of today's deep ecologists. The question that arises here is to know how Americans will adapt to a situation in which the deliberate exploitation of natural resources, or at least the exploitation of natural resources no longer inexhaustible, violently contradicts centuries of frontier tradition.

The single most important factor in the energy crisis is philosophical. Americans are committed to producing and consuming at fantastic rates. As our incomes rise, it is incumbent on us to spend more on such items as freezers, automobiles, and travel. All gulp energy. This consumption-production habit is an obsession, a more-than-three-hundred-year-old commitment dating from the time our ancestors set their eyes on the purple mountains' majesty and began to conquer that great frontier.¹⁰

Lynton K. Caldwell, the main architect of the National Environmental Policy Act,¹¹ noted that resistance came from large sections of the American population:

NEPA's precepts refute the long-standing assumptions and residual values from the pioneer era. The coonskin cap is still a pervasive, though declining, symbol of U.S. attitudes toward land use, animal rights, natural resource exploitation, and public planning. Despite the often counter productive or factually false assumptions

⁹. The conservation movement owed much of its influence to Gifford Pinchot (1865-1946) father of the U.S. Forest Service, and close associate of Theodore Roosevelt. At a time of rapid economic growth, Pinchot claimed that "the alliance between business and politics is the most dangerous thing in [Americans'] political life." Although mostly middle-class hunting and fishing enthusiasts, conservationists thus opposed "the interests" of corporate America, whereas reform environmentalists today often seek compromise with big business.

¹⁰. Robert L. Sansom, *The New American Dream Machine* (Garden City, New York: Anchor Press/Doubleday, 1976), p. 94.

¹¹. In October 1970 the Environmental Protection Agency (EPA) was created by President Nixon, with William Ruckelshaus as its director, through an executive order: the National Environmental Policy Act (NEPA).

underlying these attitudes, they persist and provide soil in which the roots of anti-environmentalism [...] are nourished.¹²

Thus environmentalism has been dismissed as anti-American, and at times Marxist, by infuriated industrialists and developers. Opposition to environmental ideas is unsurprisingly strong in the West, where frontier attitudes were revived in the Reagan years.¹³ Westerners still claim free access to the land and its natural resources. Biocentrism and the earth-worship that it implies are seen as the Eastern elite's latest encroachment on their rights.

In retrospect, Darwinism itself had a special appeal to those who exploited the wilderness in which species competed fiercely for survival. Such was the condition of progress. "Civilized humans had a duty to conquer and control the other species that, left alone, would constantly try to pull humans down and take their place."¹⁴ William James reached similar conclusions in "The Moral Equivalent of War" (1910), urging American youth to become "part of the army enlisted against Nature."¹⁵ Interestingly, and quite differently, Darwin believed "mutual aid" within species had direct survival value and hence was naturally selected.

The role of the Judeo-Christian tradition and the Frontier heritage largely accounts for American reluctance to embrace environmentalism and its far-reaching implications, but the main reason for the absence of a green party, and the very essence of environmentalism in the United States must be found elsewhere. In the dissenting 1960s, it appeared as one of the many subversive movements questioning the traditional American Way of Life. But rapidly the new trend became part of the American political arena. First it was given respectability by the many societies for the protection of the wilderness that joined it. New institutions and laws were created to care for the now popular environmental concern. The early radical environmentalist leaders were now eager to join the halls of power, either as experts in the environmental lobby in Washington, D.C., or as officials in the newly created agencies.

The anthropocentric approach to environmental issues.

There was a time when the executive power and the so-called conservationists worked together on friendly terms. President Teddy Roosevelt, a

12. Lynton K. Caldwell, "Twenty Years with NEPA," *Environment*, December 89, p. 11. In October 1970 the Environmental Protection Agency (EPA) was created by President Nixon, with Ruckelhaus as its director, through an executive order: the National Environmental Policy Act. (NEPA)

13. See Catherine Pouzoulet, "1991 ou La Nouvelle Bataille des Terres Vierges," *Revue Française d'Etudes Américaines*, Avril-Juillet 1991, p. 209.

14. Nash, *Ibid.*, p. 43.

15. William James in "The Moral Equivalent of War" (1910), as quoted by Roderick F. Nash, *Ibid.*, p. 43.

staunch promoter of conservation, helped to develop the national park system.¹⁶ Yellowstone was established in 1872, the Adirondacks in 1885 and Yosemite in 1890. The parks did not meet any environmental concerns as defined today, but were created for recreation, pleasure, water and game supply, all utilitarian and anthropocentric purposes.¹⁷ With his Chief Forester Gifford Pinchot, Teddy Roosevelt succeeded in making the new idea a keystone of progressive politics by 1909. Their well-publicized governors' conference on the conservation of natural resources, held at the White House, took place the same year.¹⁸ In fact, the aim of conservation was not merely to preserve the wilderness in its pristine beauty and integrity, but to exploit it without depleting it, as a natural resource. Conservationists were naturally a majority at a time when economic growth and capitalism were at their peak, but, somewhat unexpectedly, Pinchot claimed that "the alliance between business and politics is the most dangerous thing in [Americans'] political life."¹⁹ Conservationists, mostly middle-class hunting and fishing enthusiasts, thus opposed "the interests" of corporate America, whereas even reform environmentalists today often seek compromise with big business.

It is generally held that the environmentalists' arch-enemy is business, factories allegedly being responsible for most pollution. Yet one should not oversimplify the case. Even in the early days of conservation and preservation, corporations and some of the most prominent American tycoons significantly contributed to the development of American environmentalism. John D. Rockefeller spent vast sums to advance the protection of scenic areas. The railroad tycoon E. H. Harriman helped his friend John Muir win legislative approval for Yosemite National Park. The list could go on and would include archcapitalists like Jay Gould and J. Pierpont Morgan. These people were not active in organized conservation groups but acting on their own. They did use their enormous wealth and influence to further conservation.²⁰ It would take some decades and a best-seller, *Silent Spring*, to move from "conservation" to "ecology," from cooperation to confrontation.

However positive the achievements of preservationists and conservationists may have been, they did not respond to any wide public concern for nature. It was in the 1960s that environmentalism emerged as a potentially important political force, after the rise of public realization of ecological realities in the 1950s and 1960s. One of the most prominent agents of this new awareness was Rachel Carson's celebrated book, *Silent Spring* (1962). Because

16. Jerry Hagstrom, "The Mountain States" in *Beyond Reagan*, first edition, (New York: Norton, 1988) p. 85.

17. Nash, *Ibid.*, p. 35.

18. Nash, *Ibid.*, p. 63.

19. Gifford Pinchot as quoted in "Environmentalism as a Mass Movement", *Radical America*, 17, No 2 & 3 (1983), p. 9.

20. See Jim O'Brien, *Ibid.*, p. 10.

of the economic and political implications of its huge success, the book launched a heated, national controversy.

[Rachel Carson] was most intensely vilified by persons, corporations, and government agencies engaged in agriculture. These parties assumed that they would lose economically by limiting pesticides and resented any extension of the ethical circle that promoted this end. Agribusiness was unsympathetic to Carson's proposals for biological controls [...] as inconvenient and untested.²¹

Silent Spring exposed the far-reaching implications of a truly ecological perception of problems and publicized the concept of ecology. But, in terms of economy, *Silent Spring* was also a potential time-bomb. The impact of the American Way of Life on nature as well as on human health was exposed and it was clear that some form of action had to be taken to control man's careless use of his environment. The various confronted parties – federal agencies specializing in agriculture, industrialists selling pesticides, farmers, and the public at large – would have to come to some kind of confrontation. Which one would prevail? The power of industrialists, concern for public health, or the quality of the whole environment? In the 1960s, a series of acts was passed to protect air and water quality. Later, concern for public health, along with new trends and attitudes, translated into new institutions.

This process started when the Federal executive tried to capture the growing political power of environmentalism in the late 1960s and eventually organized the movement. The Vietnam War was getting more and more unpopular in the late 1960s so that during the presidential campaign, Nixon's advisers sought to focus more interest on environmental issues. They hoped to capitalize on this new, rapidly growing interest to attract votes. In his January 22, 1970 State of the Union address President Nixon defined "the great question of the seventies" as how to secure an unpolluted environment as "the birthright of every American." Earth Day followed on April 22, 1970. Millions left their homes to participate in clean-ups, marches and teach-ins. A surge of student interest on college campuses supported the whole movement. Environmentalism was now recognized as a powerful force in the political arena.

In October 1970 the Environmental Protection Agency was created by President Nixon through an executive order: the National Environmental Policy Act (NEPA). It also created the Council on Environmental Quality (CEQ). More acts were added in the same year and later, thus giving environmentalists the necessary tools for litigation.²² Not only was the power of en-

²¹. Nash, *Ibid.*, p. 82.

²². Water Quality Improvement Act (1970); Clean Air Act (1970); Federal Water Pollution Control Act Amendments (1972); Clean Water Act (1972); Pesticide Control Act (1972); Noise control Act (1972); Coastal Management (1972); Marine mammal protection Act (1972); Endangered Species Act (1973); Safe Drinking Water Act (1974); Federal Land Policy and Management Act (1976); Toxic Substances Control Act (1976); The

environmentalists recognized, but it was being institutionalized. If institutions are considered as the custodians of power, such a promotion on the political scene can be regarded as the sure sign that environmentalism should by no means be taken for a passing fad in America. Yet, how was institutionalized environmentalism to relate with the other forces of the Establishment? Representing a powerful trend in public opinion, environmentalists chose to wield pressure as a lobby instead of merely appealing to the public as before. It was clear also that mainstream environmentalism had chosen reform, instead of using popular support to call for an agonizing reappraisal of society's relationships to nature — as suggested by Senator Gaylord's speech on Earth Day — and also demanded by radical environmentalists. Being thus given political recognition, the environmental leadership had changed its attitudes and strategies. Because it had opted for lobbying in Washington, D.C., it was cut off from grass-roots activism and radicalism. Very rapidly, it was integrated and absorbed into the other components of power, a process which made it unlikely to challenge the foundations of the system. Michael McCloskey, a former executive director of the Sierra Club, a leading organization in mainstream environmentalism, has given an interesting analysis of this change:

What I have emphasized has been a serious approach towards achieving our ends. I thought that we were not here just to bear witness or to pledge allegiance to the faith, but in fact we were here to bring faith into reality [...] That means we could not rest content with having said the right things, or having made our convictions known, but we also had to plan to achieve them. We had to know how the political system worked, how to identify the decision makers and how their minds worked. We had to have people concerned with all the practical details of getting our programs accomplished.²³

Obviously, environmentalists were seeking to transmute counter culture activism into "Real politics" for the sake of the environmental ideology. Professionals were taking over while grass-roots commitment to a cause seemed to belong more and more to the romantic days of Earth Day, 1970. Environmental issues were being codified into law, requiring more administration, and litigation, than local activities. More and more environmental organizations chose lawyers for leaders. "Experts" with the necessary financial and managerial skills were recruited to run what was more and more in the nature of a business. Professionalism and entrepreneurship were the marks of this new trend in reform environmentalism. It reinforced the integration of the

Federal Resource Conservation and Recovery Act (1976); Alaskan Lands Act (1980); Used Oil Recycling Act (1980); Comprehensive Environmental Response, Compensation, and Recovery Act, better known as 'Superfund' (1980).

²³. Michael McCloskey as quoted in Helen M. Ingram and Dean E. Mann, "Interest Groups and Environmental Policy" in *Environmental Politics and Policy*, ed. by James P. Lester, (Durham, North Carolina: Duke University Press, 1989), p. 144.

environmental movement so far as the new entrepreneurs were trying to act within and with the system, not against it, acting as communicators between grass-roots membership and top-officials.

The vast increase in the number of interest groups during the last two decades attests to this entrepreneurial spirit in that most of these membership organizations required exceptional inputs of energy by individuals who were able to secure the external funding, communicate with the appropriate attentive public...²⁴

Many observers argued that environmental groups had become just another lobby. The 1987 National Journal list of organizations with best access to the nation's capital's decision makers included The National Wildlife Federation, The Wilderness Society, and the Sierra Club. They were active through lobbying efforts, congressional hearings, and legislative digests. Environmentalism had indeed resulted in just another business. Finally, as professionals, environmentalist leaders no longer fought for a cause, but sought accommodation and compromise with corporate interests. Compromise with industry was supported by the National Association of Environmental Professionals, formed in 1977. The environmental mediation movement supported the efforts of groups like Resolve, the Center of Environmental Conflict Resolution. In that field too, environmentalism after being institutionalized and integrated into the system had to learn moderation.

The 1970s were also the time when environmental professionals realized that government needed more and more environmental administrators. Many leading environmentalists were appointed to be staff members in the Environmental Protection Agency (EPA), in the Department of Interior, and in the Justice Department, which emphasized national recognition, integration and institutionalization of environmentalism. It largely contributed to the moderation policy. If they wanted to be appointed, environmental leaders with ambition had to avoid extreme stands and claims. The Roadless Area Review and Evaluation episode in the late 1970s provides a significant instance of this policy of moderation and compromise by environmentalists who openly sought appointment as high ranking officials. Rupert Cutler, former executive at The Wilderness Society, was urged by his associates to apply for assistant secretary of agriculture in the Carter administration. The powerful timber industry lobby could easily block Cutler's appointment. Cutler and representatives of the timber industry met near O'Hare Airport, and the officials explained how the timber industry had difficulty in exploiting some unprotected areas in the wilderness because of grass-roots environmentalism activity. Cutler happened to be appointed later in 1977. He initiated an inventory of all national forests eligible for wilderness. This was the second Roadless Area Review and Eva-

²⁴. Frohlich and al., 1971, as mentioned in Helen M. Ingram and Dean E. Mann, *Ibid.*, p. 149.

luation, or RARE II. The major groups among the national environmental organizations reached a consensus and requested a modest one third of the roadless areas be designated wilderness. The Forest Service claimed protection for about 24 % of the total. Finally, the Carter administration accepted the Forest Service's proposal. Grass-roots activists wanted to challenge RARE II in court, but the larger environmental organizations did nothing.²⁵ Environmental power was in Washington D.C., compromising with federal power, not at local or state level. The national consensus about the American system was shared by mainstream environmental leaders all the more as they had been given access to the political machinery instead of being ignored or discarded: they had become the self-regulatory device of a political force that could have been a threat to the whole system. The movement had been institutionalized and integrated into the American system as another business.

The snail darter episode (1973-1979) exemplifies the workings of American institutions in environmental issues, especially how litigation can help support the environmental cause and how the environmental lobby can only play the game by its rules. The snail darter, an obscure, nongame three-inch minnow was absolutely unknown until 1973. In 1975 it was added to the itemized list under the protection of the Endangered Species Act (1973). The conflict with political and industrial interests was unavoidable as the snail darter lived in the area of the Tennessee Valley Authority's nearly completed Tellico dam. "Under section 7 of the Endangered Species Act, environmentalists filed a suit to prevent completion of the \$116 million dam. After extensive legal battles, on June 15, 1978, the U. S. Supreme Court ruled in favor to the fish."²⁶ As a reaction, Congress decided to introduce more "flexibility" into the Endangered Species Act so as to take economic interests into account. Representative John Duncan of Tennessee claimed that 3,000 people who worked on the Tellico project were unemployed because of the Supreme Court decision. As a result, a seven-member committee of high-ranking federal officials were given the right to grant exemptions to the Endangered Species Act. The so-called "God Committee", immediately ruled in the snail darter controversy, saved the fish and killed the dam project on January 23, 1979. Later in June, Duncan retaliated in a bright and brisk move on Capitol Hill. In forty-two seconds and a voice vote, he offered a short rider to the annual energy and water-development bill that exempted the Tellico project from the requirements of the Endangered Species Act. Senator Howard Baker of Tennessee first failed to have a similar measure voted in the Senate, but on September 11, he forced a four-vote victory. A presidential decision in favor of

²⁵. Christopher Manes, *Green Rage* (Boston: Little, Brown and Company, 1990), pp. 62-63.

²⁶. Nash, *Ibid.*, p. 178.

the minnow was the environmentalists' last hope, but political pressures proved to be strong enough to stop President Carter's veto.²⁷

The Snail Darter episode truly exemplifies how economic interests usually take precedence over environmental issues, but it also provides ample evidence that environmental concern has been built into the legal and legislative functioning of the nation, so that due process of law can regulate conflicts.²⁸ The machinery of democracy, be it its executive, legislative or judiciary branches, makes it possible for all parties to have their claims looked into. As for environmentalists, they can resort to a significant body of laws to use litigation as a means to have their voices heard, just as any other professionals.

The Scientists predicament

Interestingly, litigation, which environmentalists most often resort to, is another reason why they have not gained more power in the U.S. When final decisions result in huge losses in terms of profits, the parties implied in the case will call experts who hardly ever agree. In other words, scientists most of the time fail to be objective and disinterested advisers, thus weakening their cause and raising doubt about the plausibility of contentions.

Ecology has made it crystal clear that "Everything is connected to everything else!"²⁹ Providing accurate, extensive and reliable data on any environmental problem is an endless task. Whatever the conclusions of an environmental impact study may be, they can not be but partial. As an example, the widely publicized green-house effect is highly controversial. Here are two different opinions by equally respectable experts. In the summer of 1988, Dr. James Hansen, director of NASA's Goddard Institute for Space Studies, told Congress that :

The earth is warmer in 1988 than at any time in the history of instrumental measurements [...] the four warmest years [...] have all been in the 1980s [...]. In

²⁷. Nash, *Ibid.*, p. 178.

²⁸. Other cases prove that environmental considerations may finally prevail. Walt Disney Enterprises' plans for a massive ski resort in the Mineral King was finally abandoned in 1978 after much work by the Sierra Club to protect the site, in spite of a 1972 Supreme Court decision that rejected a Sierra Club appeal. The cost of long delays had discouraged Walt Disney Enterprises. More clearly, in 1978-1979, in Hawaii, a bird, the palila, sued for protection of its only habitat. The Sierra Club Legal Defense Fund and the Hawaiian Audubon Society represented the bird, but the case was recorded as *Palila vs. Hawaii*. The bird won.

²⁹. Commoner's first law. An environmental scientist, Barry Commoner listed these basic ecological laws: 1- Everything is connected to everything else. 2- Everything must go somewhere. 3- Nature knows best. 4- There is no such thing as a free lunch.

my opinion, [...] the greenhouse effect has been detected, and it is changing our climate now.

Conversely, Richard Lindzen of M. I. T.'s Department of Earth, Atmospheric and Planetary Sciences says, "the data as we have it does not support a warming."³⁰ The complexities of environmental issues thus lead to endless conflicts between experts, with effects litigation, even regulation and implementation.

When required to act as experts, scientists may be biased because of their loyalties to those industries or institutions which finance their research, consequently offering different interpretations of the same scientific work. This was so obvious that "the National Academy of Sciences had to exclude from its review committees scientists who were stockholders in either the companies for which they worked or those who financed activities those committees were asked to review."³¹

Such limitations and weaknesses in scientific expertise have also curbed environmentalists' action in the field of industrial regulation. Industries defend themselves by arguing that since scientific reports are inconclusive, higher levels of proof must be established before regulation. Industrialists support the scientists who demand high levels of proof of harm, bring them to the courts and put pressure on those who support preventive action even if level of proof is low so that by the early 1980s fewer and fewer scientists were willing to take similar public position.³² Environmental action, credibility and power thus seem to be questioned for lack of scientific evidence, but the flaw cuts both ways. If industrialists argue things should not be changed for lack of proof, ecologists claim things must be changed before it is too late. What should be noted here is not the inability of scientists to provide clear or unbiased answers. The question is to assess the implication of this absence of certainty in terms of manipulation by environmentalists, "The Insurance Policy Ruse" as Robert James Bidinotto calls it.³³

According to that interpretation, environmentalists claim that even though we can not have reliable scientific evidence in environmental issues, we must act while it is still time as though the worst environmental catastrophes were in sight. If we don't, the planet is doomed to some kind of environmental winter. They say drastic political and economic measures should be taken and if necessary forced upon reluctant citizens now, even if the most pessimistic scenario never materializes. This is especially true of deep ecologists who have

³⁰. Mentioned in Robert James Bidinotto, "Environmentalism: Freedom's Foe for the '90s", *The Freeman*, November 1990, p. 416.

³¹. Samuel P. Hays, *Beauty, Health, and Permanence: Environmental Politics in the United States, 1955-1985*, (New York: Cambridge University Press, 1987), p. 356.

³². Hays, *ibid.*, p. 338-60.

³³. Robert James Bidinotto, *Ibid.*, p. 417.

refused moderation and compromise with the system. Although they may not be very active within the political arena, their significant influence in academic circles and the media is easily translated into public sympathy for the cause. For example Earth First!, the most famous action group of deep ecologists, has been more and more vocal, even though its former ecoteur leader Dave Foreman was arrested by the FBI for conspiring to sabotage nuclear plants. Greenpeace is famous and popular worldwide and many of its commercials aired on the cable music network, VH-1, involved Hollywood celebrities. Tapping this reservoir of sympathy, deep ecologists could logically argue that since only coercion can prevent a major environmental catastrophe, it takes strong political power to impose such decisions upon the world's population, as environmental problems are global. Eco-hysteria, maintained and magnified by the media, could be paving the road to eco-fascism. But this is another story...