



Endangered Property Rights

The citizens of John Day, a small logging community in eastern Oregon, are fighting a desperate battle against Marxism. So too, are millions of other Americans in both rural and urban communities. Unfortunately, most of these combatants are unaware of the nature of the adversarial forces with which they are dealing. Popular wisdom, as dispensed by the anointed pundits, academics, and politicians, declares that America and the West “won the Cold War.” For nigh onto a decade now, we have smugly congratulated ourselves on our supposed triumph over the Evil Empire and the “collapse of Communism.”

However, as in so many other areas, the popular wisdom is wrong. Dead wrong. The celebrating and champagne cork-popping have been decidedly premature. In fact, if we measure the global political landscape according to the prime directive of Karl Marx, it is impossible to escape the disturbing truth that it is we who are collapsing — into a socialist quagmire. Go ahead, consult the *Communist Manifesto*. There, in Marx’s infamous revolutionary screed, we find that “the theory of the Communists may be summed up in the single sentence: abolition of private property.” In the same subversive text, Comrade Marx qualified his prescription, stating: “The distinguishing feature of Communism is not the abolition of private property generally, but the abolition of bourgeois property.”

Watermelon Marxism

Yes, it is the property of the bourgeois — the middle class — that is the principal target of Marx and his present-day disciples. And each day that passes sees more members of the middle class taxed and regulated off of their property, in accordance with Marxian dictates. Federal, state, and local government property already accounts for 42 percent of the total land area of the United States, but that is not enough, it seems. According to the watermelon Marxists (green on the outside, pink on the inside), government — especially the federal government — must assume ownership of more and more property in order to protect the environment from rapacious exploitation by private interests. And whatever land the government doesn’t own outright it must regulate and control in draconian fashion, say the eco-extremists.

“Amen,” says the Green Team at the White House. In the time that it has left, the Clinton-Gore administration is expected — through executive orders and other means — to attempt to lock up huge chunks of federal lands as wilderness, national parks, and other designations. And, since the beginning of the year, it has been pushing its Lands Legacy Initiative to set up a multi-billion dollar slush fund to buy up still more private property. Eager to demonstrate their own “green” bona-fides, the Republicans have responded with bills in the House (H.R. 701) and Senate (S. 25) which would provide around \$1 billion annually for federal purchases of private property. This is especially alarming to people in the Western states — where federal agencies such as the Forest Service, the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service already own vast areas of land, and where federal land-control policies are strangling many communities. In Nevada, for instance, the federal landlord owns 83 percent of the state. In Utah, the feds own 64 percent; in Idaho, 62 percent; in Oregon, 60 percent.

And how are the federal eco-saviors performing? The truth is chilling. They have created ecological disasters of near-apocalyptic proportions. Tens of millions of acres of once-beautiful forestland have been transformed into charred moonscapes and dying, bug-infested, overgrown tinderboxes set to explode into blazing infernos. Likewise, millions of acres of verdant grasslands have been ravaged by



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wildfires and turned into weed-choked wastelands. Wildlife habitats and watersheds have been destroyed on a massive scale, while the economic, aesthetic, and recreational values of vast areas of the West have been devastated.

Lost Livelihoods

Just how devastating federal negligence and mismanagement have been to people and the ecosystem was the subject of a July 10 congressional hearing in John Day, Oregon. Nearly 500 local residents turned out for the hearing of the House Resource Subcommittee on Forests and Forest Health chaired by Representative Helen Chenoweth (R-Idaho). Tom Partin, the mayor of John Day, testified that due to Forest Service policies, his small community of 2,000 people is facing record-high unemployment, empty storefronts, bankruptcies, and plummeting property values. "We are in trouble," he said, "because our National Forests that have been a partner with us since their formation have managers that are turning their backs on rural America. This is happening not by accident, but rather by design of our current administration." Mayor Partin is also a partner in the local Malheur Lumber Company, which employs 100 people in its mill and another 75 in the woods and related trucking jobs. In 1983 his company invested \$15 million to build the mill, based on the Malheur National Forest Plan that called for 210 million board feet of annual timber harvest. But that harvest has been arbitrarily cut to less than 50 million board feet annually, even though the Malheur National Forest, like virtually all of the federal western forests, is overstocked and badly in need of thinning.

"Our county has only two industries, timber and cattle," Ralph Goodwin, president/CEO of the Grant-Baker Federal Credit Union in John Day, told the subcommittee. "When someone loses their job in the county, they cannot go down the street and pick up a job in some sort of emerging industry. During 1997 and 1998, Grant County had the unfortunate distinction of having the highest unemployment in the state for 14 of those 24 months.... Why are our mills desperate for saw logs? We are in the middle of one of the largest stands of ponderosa pine in the world and yet our three mills are on the verge of closing. The people of this county are hard-working people who are not looking for handouts, only the opportunity to remain here and raise their families."

The availability of logs is not in dispute. According to a detailed report issued by the U.S. General Accounting Office (GAO) this past April, entitled *Catastrophic Wildfire Threats*, "39 million acres on national forests in the interior West are at high risk of catastrophic wildfire" due to unnatural and excessive tree density, massive buildup of undergrowth, disease and insect infestation. Don Johnson, the scrappy owner and president of Prairie Wood Products and Grant Western Lumber Company, couldn't understand why he should be lacking logs when, by the Forest Service's own figures, the Malheur Forest alone was experiencing tree "mortality at over 200 million board feet per year." "That is more than 50,000 truckloads of trees dying on this Forest every year," he told the subcommittee. "These roughly 60 million dollars worth of trees constitute enough material to build 20,000 average-size homes." The Malheur National Forest's 1996 "Summit Fire" killed 300 million board feet of timber, but the Forest Service has dithered and delayed salvage for three years, rendering the dead timber virtually worthless. Instead of using timber from his own backyard, Johnson said he is now hauling logs from Washington and British Columbia, as much as 500 miles away.

Ah — "the Children"!

And what about "the Children"? Bill Clinton's heart, we know, is ever beating and bleeding for *the Children*. But he is not listening to Robert Batty, superintendent of the Grant County Education Service District. Because the federal government owns so much of the land in the western states, there is a



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much smaller property tax base to support government schools. Thus, school districts in these areas depend greatly on revenues from timber sales in the national forests. "Because it took so long to bring a small portion of the Summit to salvage, blue stain and insects took a dreadful toll," Mr. Batty testified. "Instead of an estimated \$300 per thousand board feet, the sales brought only \$44."

As a result, the schoolchildren of Grant County have been severely impacted. The district has been forced to cut back to a four-day school week and to drop educational activities. The school district has joined with a coalition of organizations and individuals who are suing the Forest Service for negligence and mismanagement.

The Federal Envirocrats

"Everyone has a stake in this matter," Grant County Judge Dennis Reynolds, who is representing Grant County in the suit, told *The New American*. "Gross mismanagement and the lack of management by Forest Service officials will have lasting negative effects on threatened and endangered species for generations. Lack of action by officials also threatens recreation, water quality and the local economy that is already struggling under unprecedented high unemployment triggered by Forest Service decision-makers."

Joining as plaintiffs in the suit are Charlie and Jan O'Rorke, who claim their private land has been harmed by the Forest Service's willful negligence. Mr. O'Rorke told *The New American* that for two years following the Summit Fire he tried to convince the Forest Service to cut its dead, bug-infested trees which were bordering on his 40 acres of timberland. When the infestation spread to his own stands of timber, the O'Rorkes were forced to cut 158 trees, and may have to cut still more. "We didn't want to cut those trees," Mr. O'Rorke says. "We wanted to let them grow for many more years." The premature cutting represents an economic and aesthetic loss. "The Forest Service entomologist now admits that the beetle infestation is at an epidemic level. We told him that two years ago."

Ken Holliday has an even larger chunk of timberland at stake. But he has other worries as well from the federal bureaucrats. He runs 2,500 to 5,000 head of cattle on his 35,000-acre ranch. He has been informed by officials that a wolf released in Idaho had crossed over the Snake River and has been seen on his property. But it is illegal for him to shoot the wolf even if it is killing his calves. On top of that, he says, environmentalist "neighbors" have moved onto adjoining property with "pet" purebred wolves and mixed-breed wolves. "It's the eco-trendy thing to do for these urban doctors and other affluent professionals who move up here to rural areas," Holliday told *The New American*. "They see us as country bubbas who don't appreciate the environment, but we were taking care of the ecology long before they 'discovered' it. They go up on the mountain with their expensive wine and celebrate turning loose their wolves, but that represents a real threat to me and my family and our livelihood. Raising cattle is around-the-clock business, and many times we're up all night nursing calves. We can't afford to lose any."

Like most other western ranchers, the Hollidays depend on their grazing rights on the Forest Service and BLM lands, in addition to their own private land. But proposed new listings of endangered species jeopardize their ranching existence. "Eighty percent of our cattle ranching is family-owned," Oregon State Senator Ted Ferrioli explained to *The New American*, "and they are struggling to make ends meet and to provide healthy, grass-fed beef — not injected, feed-lot cattle — to the American public. But they're under real attack by the environmentalists. The slogan adopted by the radical enviros in 1990 was 'Cattle Free in '93,' by which they meant they were going to run the cattlemen off the range — through regulation and litigation — by 1993. Well, they haven't succeeded completely, but they did



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cause quite a few ranchers to go under, and they're trying to get the rest of them. Loggers and ranchers are both targeted for extinction by these people."

Ferrioli notes that the Endangered Species Act is one of their weapons. The Canadian lynx, sage hen, bull trout, cut throat trout, red band trout, and a host of other "endangered" creatures could choke off cattlemen's access to water and pasture. The proposed bull trout listing is an especially aggravating example of federal malpractice to many Oregon residents. For a number of years, federal and state authorities were poisoning the bull trout, trying to get rid of it. Now they have decided that it is endangered and in need of protection.

As if the ever-changing mandates of state and federal envirocrats are not sufficiently onerous for the harried ranchers and timbermen, the well-funded eco-activists are always ready to up the ante with lawsuits. A recent example is *Friends of the Wild Swan vs. U.S. EPA* filed in Montana. The suit seeks to force the Environmental Protection Agency to conduct Endangered Species Act (ESA) consultation with the U.S. Fish and Wildlife Service when EPA approves Montana's list of water quality-impaired streams pursuant to the Clean Water Act. This could result in severe restrictions on landowners' rights to manage their property.

"Put simply, this is a direct attack on the agricultural and logging industries in Montana," said Jake Cummins, executive vice president of the Montana Farm Bureau. "Linking the Endangered Species Act with the Clean Water Act means every other waterway in Montana could become restricted no matter how clean the water." The Farm Bureau noted that, if the court rules in favor of the plaintiffs, federal agencies could second-guess every state water quality decision under the guise of an ESA consultation.

Ecological Carnage

Are farmers, ranchers, loggers, and other rural residents who are tied directly and indirectly to these enterprises exaggerating the threat to their livelihoods and way of life? Not at all. Admissions of intent to eradicate these resource-based occupations are plentiful in environmentalist literature. For instance, the May-June 1999 issue of *The Salmon-Selway Defender*, the newsletter of the Friends of the Clearwater, published in Moscow, Idaho, states: "Several years ago the membership of the Sierra Club voted to endorse ending commercial logging on our national forests.... We view ending commercial logging as a way to revitalize the economies of rural Idaho and the state in general. The timber industry had its day, but that day is gone and it is time to move on."

It is that view, as implemented by federal officials, that is responsible for the horrendous condition of our national forests today. The previously mentioned GAO report, *Catastrophic Wildfire Threats*, notes:

The most extensive and serious problem related to the health of national forests in the interior West is the over-accumulation of vegetation, which has caused an increasing number of large, intense, uncontrollable, and catastrophically destructive wildfires. According to the Forest Service, 39 million acres on national forests in the interior West are at high risk of catastrophic wildfire. Past management practices, especially the Forest Service's decades-old policy of putting out wildfires on the national forests, disrupted the historical occurrence of frequent low-intensity fires, which had periodically removed flammable undergrowth without significantly damaging larger trees. Because this normal cycle of fire was disrupted, vegetation has accumulated, creating high levels of fuels for catastrophic wildfires and transforming much of the region into a tinderbox.

Forest fires in recent years are unlike anything we have experienced previously. The fuel buildup in many cases is so enormous that a mere spark can start a supernova inferno that is impossible to put out



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by any amount of human effort. These incredibly hot conflagrations actually sterilize the soil, destroying micro-organisms and minerals essential for reforestation. “Outside experts and Forest Service officials generally agree that increased fire suppression efforts will not be successful,” says the GAO report, “because such inevitable, large, intense wildfires are generally impossible for firefighters to stop and are only extinguishable by rainfall or when there is no more material to burn. They are concerned that, in the future, *such fires ... will likely damage soils, habitat, and watershed functioning for many generations or even permanently.*” (Emphasis added.)

The 1988 Yellowstone National Park fire provided a frightening look into one of these supernovas. Massive fuel buildup and an irresponsible, early decision to “let it burn” left an area larger than the state of Delaware — over one-third of this crown jewel of the park system — blackened and smoldering. When officials finally did decide to fight the blaze, it was too late; even with 25,000 firefighters the \$120 million suppression effort could not contain the inferno. It burned for months until finally doused by rain.

“After declining fairly steadily for 75 years,” the GAO reported, “the average number of acres burned by wildfires annually on national forests began to rise over the last decade, nearly quadrupling to about three-quarters of a million acres per year. Virtually all of this rise is attributable to the increasing number of very large fires.” Dr. Victor Kaczynski, a fresh water biologist working on salmon recovery, avers: “No single forest practice — not timber harvesting, nor road building — can compare with the damage wildfires are inflicting on fish and fish habitat.” Yet the federal bureaucrats and enviromaniacs most responsible for this ecological carnage claim to be banishing loggers and cows from the range in the name of protecting our “endangered” finned friends.

Fruits of Central Planning

So what are the fedgov ecocrats actually doing to rectify their years of mismanagement? In 1997, the Forest Service announced its goal to improve forest health by resolving the problems of massive fuel buildup and uncontrollable wildfires on national forests — by the end of fiscal year 2015! The GAO estimates that the cost to the Forest Service to reduce fuels on the 39 million acres at high risk could be as much as \$12 billion. Has the Forest Service done anything besides announce its goals? No. In fact, according to the GAO, the agency “has not yet devised a cohesive strategy” to tackle the problem. Even worse, it found that Forest Service managers actually have perverse incentives that are adding to the already appalling conditions. The managers “are rewarded for the number of acres on which they reduce fuels, not for reducing fuels on the lands with the highest fire hazards. Because reducing fuels in areas with greater fire hazards is often more expensive — meaning that fewer acres can be completed with the same funding level — managers have an incentive not to undertake efforts on such lands.”

In a summation worthy of a Dilbert comic strip, the GAO reports: “The agency agrees that it has not advanced a cohesive strategy to treat all 39 million acres of national forestlands at risk of catastrophic fire *but says that it is committed to developing one in a timely manner....*” (Emphasis added.) A timely manner? As defined by the Forest Service? Then the Tahoe National Forest will soon join the Malheur, Plumas, Shasta-Trinity, and other national forests in flame and ruin.

In an important new study, “Forests: Do We Get What We Pay For?” Holly Lippke Fretwell points out that in the Shasta-Trinity National Forest in Northern California “root disease and bark beetles have reached epidemic proportions, resulting in tree mortality as high as 80 percent in heavily infested areas.” Discussions, debates, and assessments concerning how best to respond to the insect and disease epidemics have dragged on for a decade. Meanwhile, the problem has grown into a real crisis that now



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threatens the entire system.

The Fretwell study, published earlier this year by the Political Economy Research Center of Bozeman, Montana, has proven to be tragically prophetic. Uncontrolled wildfires in July, August, and September have consumed 100,000 acres of the Shasta-Trinity Forest — and are still burning as we write. In the Plumas National Forest in California's Sierra Nevada Mountains, fires have ravaged 50,000 acres and are still blazing. Much of the once-beautiful Tahoe National Forest surrounding the famously clear waters of Lake Tahoe has turned an ugly brown and is almost certain to go up in flames — if not this year, then sometime soon. Bark beetles and disease have killed more than 80 percent of the trees over large swaths of the forest. When this precious watershed is destroyed, Lake Tahoe's mythical, azure waters will be turned to mud.

What is desperately needed is thinning of the forests through selective logging, followed by light, controlled burns. It is worse than absurd to attempt "controlled burns" in unhealthy forests superstocked with dead trees and dense undergrowth, as many of the eco-wackos are now advocating. In fact, thousands of acres (and dozens of homes) in the Shasta-Trinity Forest were victims of a "controlled burn" by the BLM that got out of hand on July 2 of this year.

Millions of acres of our federally controlled forests, parks, wilderness areas, wetlands, and wildlife reserves are in deadly peril. However, as the Fretwell study demonstrates with photographic, side-by-side comparisons of federal lands with state, local, and private-run lands, the omniscient wizards in Washington do *not* know everything. Central planning and political control from the Potomac is not beneficial to people *or* the environment.

That much, at least, we should have learned from the wretched environmental record of the Soviet Union and other Communist governments of Eastern Europe. As the Iron Curtain lifted in the early 1990s, the rest of the world began to get a glimpse of the massive environmental destruction that is an inescapable feature of collectivism. But not even ecological horror stories of apocalyptic proportions, as related in *Ecocide in the USSR*, by Murray Feshbach and Alfred Friendly Jr., or the mind-boggling environmental desolation photographically recorded in "East Europe's Dark Dawn," in the June 1991 issue of *National Geographic*, could disabuse eco-socialists in the West of their romantic and misguided notions of enviro-statism.

Heedless of the sorry lessons of environmental history in these socialist lands and of the abysmal ecological results of centralized planning in our own country, the eco-totalitarians shamelessly push for more and more enviro controls from Washington. They cheered when President Clinton signed his "Invasive Species" executive order on April 3 of this year. An embryonic cousin of the Endangered Species Act, this executive order (No. 13112) directs the federal green constabulary to direct its regulator gaze at plant and animal species not "indigenous" to North America. Anyone who thinks this directive may be aimed at eradicating the yellow star thistle and other noxious weeds obviously has no idea how the environmental game is played.

Green Gestapo

Professor David Schoenbrod of the New York Law School is one who definitely knows how this insidious game is played. In an important confessional essay in the March 1999 *PERC Reports*, entitled "Legislating Ideals," Dr. Schoenbrod admits his own role as an early apostle of environmental statism.

"Around 1970, the government began to go beyond enforcing society's norms and began imposing intellectually generated ideals on society," says Schoenbrod. "As a graduate of Yale Law School in 1968,



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I was a part of this process. My contemporaries and I were instrumental in helping to launch the [governmental] Environmental Protection Agency, as well as the [private] Natural Resources Defense Council and other 'public interest' environmental groups. We felt entitled to remake society. We wanted new kinds of statutes that would force agencies to bend society to our ideals on a timetable. One of the first of the kind of statutes we wanted was the 1970 Clean Air Act. It became the prototype for many statutes regulating both the environment and other fields."

"As my generation of petulant young elitists came to understand the ways of power, we learned the trick of using the magic wand of idealism to obtain power," Schoenbrod explains. "The trick was to put off the hard choices to another time or place. Thus, the 1970 Clean Air Act could be enacted because neither clean air nor the laws needed to produce it would have to be produced now. The deadline was instead, 1977..." The enviro activists knew, of course, that the standards and the deadline would be impossible to attain. That was part of the plan. "So, in the Clean Air Act of 1977, the EPA and its allies allowed the 1977 deadline to be eased to 1982 for some pollutants and 1987 for others, in exchange for vast increases in the EPA's power." Good trick, no? Those deadlines, too, proved impossible to meet, so the EPA permitted extensions to the deadlines to stretch out as far as 2010 "in exchange for still greater increases in power." Under this scheme, the EPA will hold the power to determine on a case-by-case basis whether cities and states will get more time to comply with its dictates. "Thus, the EPA and the president will have tremendous leverage on governors and mayors."

"The growth in the EPA's power," notes the professor, "can be roughly gauged by the growth in the length of the Clean Air Act — from 8 double-spaced typed pages in 1965, to 76 pages in 1970, to 272 pages in 1977, to 718 pages in 1990." "The Clean Air Act, and many other statutes modeled on it," says Schoenbrod, "allow a federal agency to run major segments of civil society on quasi-military lines running from Congress down through the EPA to states and ultimately the regulated entities. Operating this chain of command entails compiling a great mountain of statutes, regulations, guidance documents, plans, permits, and reports." Yes, the federal leviathan is becoming a Green Gestapo.

Dr. Schoenbrod realizes full well that environmental idealism is a cover for more ulterior motives. "The point of this system is power, not environmental quality," he states. Thank you, professor; we have been saying that for decades.

How do we stop this power grab? Deny further encroachments by the government envirocrats — federal, state, and local — on private property, and roll back the already dangerous and stifling levels of government ownership and control. "Let the people have property," observed Noah Webster, "and they will have power — a power that will forever be exerted to prevent the restriction of the press, the abolition of trial by jury, or the abridgement of any other privilege." This was a principle well understood by America's Founding Fathers, and by the coercive utopians who would steal our freedoms.

Justice Joseph Story, who was appointed to the Supreme Court by President James Madison and became one of America's most revered jurists, put it this way: "That government can scarcely be deemed to be free, where the rights of property are left solely dependent upon the will of a legislative body without any restraint. The fundamental maxims of a free government seem to require the rights of personal liberty and private property should be held sacred."



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