THE PIRACY OF AMERICA
Profiteering in the Public Domain

edited by
Judith Scherff

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DEDICATION

This collection is dedicated to my family, biological and extended, human and nonhuman.

APPRECIATION

I am grateful not only for the chapters written herein by various authors, but most especially for their determination to spend their lives seeking justice for the issue about which they’ve written. I appreciate, also, the careers and determination of those writers who submitted material but were not selected for this publication. They, too, have given a good portion of their lives to specific issues in which they believe.

We can all be thankful for:
• the elected officials who doggedly support “the general welfare” against the pressure of special interests;
• members of the press who go against popular pressure to present the whole story;
• those scientists who risk careers reporting scientific data as it really is, unconvoluted, as they have discovered it to be;
• the clergy, who continue to remind us of Christian teachings in spite of secular and financial pressure within their congregations;
• and to Clarity Press for printing testimony to the fact that the environment, democracy, civil society and the economy are intertwined and therefore environmental issues are now very much human rights issues.
political disenfranchisement into a broad reactionary political force. Although often uncomfortable, the alliance of these two forces has proved remarkably effective, yielding impressive results in the electoral and policy arenas, as well as in mass mobilization and institution building.

The right-wing ecumenical character of wise use leadership is apparent at the movement's conferences, where speakers have declared their opposition to D.C. statehood and compared the struggle against "radical preservationists" to the cold war fight against communism, labeling environmentalists as "watermelons — green on the outside and red on the inside."

One speaker at the 1993 Wise Use Leadership Conference censured his colleagues for openly expressing their GOP sympathies, remarking that Republicans had done as much as Democrats to lead the country down the road towards socialism. Other speakers have implicated environmentalists in a global conspiracy to drastically reduce world population by indirectly attacking food supplies, through the banning of pesticides (e.g. DDT) and coolants used in refrigeration (e.g. CFCs). Bigoted remarks about Native Americans are not uncommonly made from the podium. At conference literature tables, in addition to The Wise Use Agenda and the late Dixie Lee Ray's Trashing the Planet, one can find such titles as From My Cold Dead Fingers: Why America Needs Guns!, and the works of W. Cleon Skousen.

Multiple factions of the right wing have participated in the wise use movement since its inception, and through its various organizing campaigns, publications, leaders and groups the movement has encompassed a broad spectrum of the right. Among the right-wing groups involved in the Movement's founding was the National Center for Constitutional Studies. Formerly the Freeman Institute, the NCCS seeks, among other things, to institute biblical law in the United States. The organization and its director, W. Cleon Skousen, have been supported by the Unification Church through its CAUSA group, which has paid for hundreds of state lawmakers to attend Skousen's constitutional seminars. Skousen is an apologist for slavery and also advances international conspiracy theories akin to those of the John Birch Society. These theories implicate international bankers, presidents Nixon and Eisenhower and other objectionable tactics. Closely aligned with the NCCS, and also involved in the early days of the wise use movement, is the National Federal Lands Conference. The organization principally responsible for advancing the Movement's "county" strategy, the NFLC, also promotes the Militia of Montana and openly endorses the formation of armed citizens militia groups. NFLC literature identifies Ron Arnold and several of his close associates as advisors to the group.

Also listed in Arnold's 1989 "Index of the Wise Use Movement," a list of what he calls movement "founders," is the American Freedom Coalition. Arnold and his employer, right-wing direct mail wiz Alan Gottlieb, once served as directors of the Washington Chapter of the AFC, a Moon-funded group started in collaboration with Robert Grant of Christian Voice. Arnold and other wise use leaders participated in the AFC's Environmental Task Force, the objectives of which included oil development in Alaska's Arctic National Wildlife Refuge and accelerated harvests on Alaska's Tongass National Forest. Following exposure of wise use ties to Moon, Arnold initially denied, and later admitted his involvement with the Moon group. As the "Moon connection" became a political liability for both Arnold and the broader wise use movement, Arnold came to portray the Washington AFC, of which he was president, as autonomous from the national organization, and his own involvement with the group as brief and inconsequential. The Washington AFC, once housed in Alan Gottlieb's commercial property, moved its address essentially next door. One lasting legacy of this controversy has been the reluctance of some movement activists and groups to be associated with Arnold or even with the term "wise use" (which Arnold coined for the movement), now compromised by its association with Arnold and, by extension, Moon. Some groups instead use "multiple use," while others identify as "property rights" organizations.

Other groups in Arnold's index of movement founders include: Accuracy in Academia, which in the 1980s promised to use students to monitor Marxist influences in U.S. classrooms; California Farm Bureau Federation, which, like the national Farm Bureau Federation, has a broad right-wing political agenda that includes anti-labor, anti-women and anti-environmental positions; Center for the Defense of Free Enterprise, Arnold and Gottlieb's group and the sponsor of the 1988 Multiple Use Strategy Conference; Mountain States Legal Foundation, formerly headed by James Watt and currently under the leadership of New Right activist Perry Pendley; National Inholders Association, headed by Charles Cushman, who, among other things, has been an active participant in organized efforts involving white supremacists and others to undermine the sovereignty and treaty rights of Native American nations; National Rifle Association; and the Northwest Legal Foundation and the Pacific Legal Foundation, which have provided legal service to right-wing activists on a variety of issues.

The growing influence of the wise use movement has attracted other right-wing factions, including the John Birch Society and followers of neo-fascist Lyndon LaRouche. In fact, some wise use themes were developed earlier by LaRouche and his organizations, and today LaRouchians play an active role in wise use domestically and in Europe. In the early 1980s, the LaRouchians attacked the anti-nuclear Clamshell Alliance as terrorist front. This tactic resurfaced later in the wise use movement. Rogeho Maduro, associate editor of 21st Century, Science and Technology magazine and a contributor to Executive Intelligence Review, both LaRouchian publications, has teamed up with private investigator and wise use activist Barry Clausen to publish Ecoterrorism Watch, a newsletter devoted to
exposing alleged environmental terrorism.47 (Ironically, the support of some Wise Users for "state's rights" has led LaRouchians to denounce the wise use and environmental movements as twin elements of a Royal British conspiracy to undermine the United States by weakening its strong central government.48) Maduro won wise use acclaim for having authored a factually erroneous article about the Convention on Biological Diversity that helped to kill the legislation in Congress.49

As Arnold’s American Freedom Coalition experience indicates, wise use ties to the hard right are viewed within the movement as little more than public relations problems. For most of these individuals and organizations, the fight against environmental protection is part of a larger struggle against what they view as an unduly liberal or even leftist, tyrannical government, and includes anti-labor, anti-feminist, and anti-civil rights fronts. Environmentalism, in the words of Alan Gottlieb, has simply become "the perfect bogeyman" for society’s ills.50

Wise Use and the Far Right: Cross-Pollination at the Grassroots

As has been shown, various factions of the U.S. Right have been involved with the wise use movement since its inception. Evidence of cross-pollination between wise use and the hard right is most abundant in two wise use sub-movements: county rule (also known as county supremacy), and private property rights.

The County Rule Movement

The county rule wing of the wise use movement is largely orchestrated by the Utah-based National Federal Lands Conference. One of the founding organizations of the wise use movement, the NFLC promotes its county rule campaign through seminars conducted around the West and the nation. Titled "The Power and Authority of County Government," the seminars frequently are held in conjunction with larger wise use conferences, or are sponsored by local Farm Bureau chapters or timber companies seeking to increase their access to public resources.51 The cornerstone of the county rule effort is model ordinances sold by the NFLC that promise to confer upon counties authority over federal lands within their boundaries. More than two dozen counties have wholly or partly adopted the ordinances, which the NFLC continues to sell, even though they’ve been ruled unconstitutional by an Idaho district court.52

The NFLC ordinances were originally drafted by Cheyenne, Wyoming attorney and wise use leader Karen Budd-Falen for Catron County, New Mexico ranchers seeking to circumvent federal environmental laws. The "power and authority" of these ordinances are derived from Budd’s dubious legal interpretations of national environmental laws. For instance, the National Environmental Policy Act requires that federal managers preserve "important historic, cultural, and natural aspects of our national

heritage" wherever possible.53 Budd expands greatly on this NEPA provision, asserting that:

[local governments have the opportunity to protect their local tax bases through the protection of custom and culture. Consider those rural communities that, for several decades, have depended upon the "customs" of livestock grazing, mining or timber production for their economic livelihoods. Those customs and cultures, passed through the generations should be "preserved" as required by NEPA.54

From NEPA’s supposed requirement for the preservation of cultural aspects of the U.S. national heritage, Budd derives "custom and culture" as an inviolable but undefined category — an empty vessel to be filled with the wishes of her clients. The federal government, she argues, is required to preserve whatever a county government determines to be its local custom and culture. The county rule strategy has counties create a series of committees charged with establishing the "custom and culture" of the county as they pertain to the exploitation of natural resources, and to specify the practices of the various resource interests (mining, timber, ranching, etc.) to be protected by county ordinance.55

In addition to the NEPA "culture" clause, Budd claims to find support for county rule in a variety of federal regulations that call for agency consultation and coordination with existing local land use plans. However, she makes novel interpretations of such provisions. In a handout that Budd regularly distributes at NFLC events, she offers legal citations that suggest that federal agencies such as the Forest Service are required to "coordinate" procedures with county government, and adds the following notation:

Coordinate is defined as "equal, of the same rank, order, degree or importance; not subordinate." Black's Law Dictionary 303 (5th ed. 1979).56

With this note, Budd implies that county and federal governments have equal authority over the management of public lands. Elsewhere, Budd argues that "agency regulations require that Bureau of Land Management land use plans be consistent with county land use plans and policies," suggesting, yet again, that county plans will drive federal planning.57 In May 1992, Budd told a Montana audience that, "According to their own rules, if there is any way the federal agencies can comply with the county plan, they must."58 That Budd’s county rule strategy claims to deliver to counties nothing less than primary authority over public lands within their boundaries also is indicated in the following statement made by Budd in a 1991 speech to the Idaho Falls Soil Conservation Service: "I have a lot of clients that are just waiting for the Forest Service to come in, so they can see them in jail under criminal sanctions."59

The assertion of county "rights" over federal powers provides an ideological bridge between wise use and the far right, and by the summer of 1993, the overlap between wise use and far right organizing had become
The Privacy of America: Forging in the Public Domain

Order re: Plaintiffs’ Motion for Summary Judgement and Defendants’ Motion to Dismiss” in the case of Boundary Backpackers, et al, vs. Boundary County, case no. CV 93-9955, Judge James R. Michaud presiding, p.18.


5° Karen Budd, supra endnote 57.

5° Staff, “Garfield residents meet to counter feds,” Great Falls Tribune, 12 July 1993.


5° Id.

5° Id.

5° National Federal Lands Conference brochure. According to Arnold’s Center for the Defense of Free Enterprise, Hage heads the group’s Legal Defense Fund, and Pollot’s Boise-based Stewards of the Range is a division of the CFDE.

5° See, for instance, James Ridgeway and Jeffrey St. Clair, “Where the Buffalo Roam: The Wise Use Movement Plays on Every Western Fear,” Village Voice, 11 July 1995. While Arnold repudiates the tactics of Nye County, Nevada commissioner Dick Carver, he dissociates himself from, but does not go as far as to condemn, the National Federal Lands Conference.

5° USA Today, 24 April 1995.


5° Id.


5° Carver address to Snohomish County Property Rights Alliance and Everett Freedom Forum, 30 March 1995.


5° For an excellent analysis of takings case law, see Glenn P. Sugameli, “Takings Issues In light of Lucas V. South Carolina Coastal CouncthA Decision Full of Sound and Fury Signifying Nothing,” Virginia Environmental Law Journal, vol.12, p.439. A number of resource books on takings law and legislation have been produced by environmental organizations. One of the most useful of these is the “Takings Briefing Book” produced by the National Wildlife Federation, February 1994.

5° The regulatory takings movement appears to have its origins in the libertarian school of legal thought associated with the University of Chicago and epitomized by professor Richard Epstein. Epstein’s 1985 book, Takings: Private Property and the Power of Eminent Domain, provided the impetus for regulatory takings as a legal/legislative strategy. It is useful to examine Epstein’s writings, for although proponents of regulatory takings legislation frequently argue that the scope of such laws would be finite, Epstein openly asserts that his position on regulatory takings “invalidates much of the twentieth century legislation,” including: civil rights legislation; the National Labor Relations Act; Social Security; minimum wage laws; and virtually all government entitlement programs. In fact, Epstein proposes to challenge the entire New Deal as “inconsistent with the principles of limited government and with the constitutional provisions designed to secure that end.” Richard Epstein, Takings: Private Property and the Power of Eminent Domain, Harvard University Press, Cambridge, Mass., 1985.


5° Id.

5° See Tarso Luiz Ramos, The Wise Use Movement in Washington State, Western States Center,