

# RURAL LANDOWNERS: An Endangered Species?

by Steve Berwick



The battle of the slogans over property rights has reached exaggerated absoluteness and has acquired "near

mythic status in our legal tradition."<sup>1</sup>

This impasse is a consequence of unrecognized cultural differences.

As the immigration of aliens balkanized cities, so the post-industrial evolution of work did to the countryside. In place of language barriers, today's cultures find social and economic barriers. Most Oregonians are in a west-slope, "knowledge-worker", urbanized culture far removed from traditional Oregon pastoralism.

The environmental community uses legislation laden with mandates and penalties—the Endangered

**NO COMPROMISE IN DEFENSE  
OF MOTHER EARTH**

Species Act (ESA) is often called the 400 pound gorilla of environmental laws—that often backfire. A West Texas rancher exhibited several thousand bands taken from protected eagles. Dead wolves are turning up in Montana and Idaho. Land owners and grazing permittees could easily eliminate species such as the Bruneau Snail. After an extinction, catching defiant property owners would constitute a Pyrrhic victory.

**Land owners could easily  
eliminate species.**

Cattle have been overgrazing in the Great Basin of Northern California and Nevada since before the turn of the century. The disappearing aspen breaks once supported over 800 songbirds per square mile but now sustain only 400. With them

go the sights and sounds of the high desert ecosystem. Plus, the range loses productivity. Hence, in 1978, the Bureau of Land Management tried to reduce grazing leases by over 50 percent.

As the ecology declined, rural culture dislocated. Cutting permits reduced the numbers of cattle—by 40 percent—and of family ranches—most bought by large corporations. A large Utah ranch family could labor every day of the year to net about

**The Wise Use Agenda calls  
for property rights  
über alles.**

\$10,000. Yet for the quality of life, and out of tradition, they stayed. One whose permit was being cut back had deep roots; his father had been killed in a nearby Indian massacre.

During the 1970s permit cuts, government vehicles were being shot full of holes. A few years later, two wildlife conservation officers were murdered. A local restaurant still keeps a table set for their killer.

Superintendent Barbee of Yellowstone National Park met the people who live off the land at a hearing on the coordinated plan for the Greater Yellowstone Ecosystem.<sup>2</sup> He described his experience:

I went to a meeting in Bozeman. There were 700 people there. You can't imagine the virulence of the outcry. I was Saddam Hussein, a Communist, everything else you could think of. One lady got up, jaw quivering, [she] used her time to say the Pledge of Allegiance, then looked at me and called me a Nazi.

In 1988, reacting to the environmental revolution of the 1970's, survivalists, sagebrush rebels, all-terrain vehicle users, and others convened in Reno to write the *Wise Use Agenda* (published the following year). It calls for property rights *über alles*—the right to do anything on one's own property—and the unfettered use of natural

resources, tied to populist pro-jobs appeals. From the convention emerged about 200 organizations and a movement that continues to spin off new groups.

Decades ago, the phrase Wise Use was coined by Gifford Pinchot, first Chief of the Forest Service and philosophical foil of preservationist John Muir, founder of the Sierra Club. The phrase was borrowed by Ron Arnold, a former

**Put people first**

public relations consultant to industry, now "theologian of outrage" and executive vice president of the Center for the Defense of Free Enterprise. Washington's Alan Gottlieb is the president and a direct mail fund-raiser. In *Logging Management*, 1979-1980, Ron Arnold attacked the environmental movement and advised the timber industry that citizen activism would be key to prevailing over anti-logging groups.

In 1989, Wise Use organizer Barbara Grannell, Richard Butrick of Associated Oregon Industries, Representative Bob Smith, and Senator Bob Packwood addressed a crowd protesting the injunction against logging in spotted owl habitat. That rally started the Oregon Project and a number of new citizens' groups such as

**A rancher sued the US for  
allowing elk on his leased  
Forest Service land.**

TREES (Timber Resources Equal Economic Stability), WOOD (Workers of Oregon Development), and PINE (Protect Industries Now Endangered). Funded by industry (Oregon Wheat Commission, Beef Council, and Farm Bureau, and others), citizens groups linked school budgets and county programs to logging revenues (a quarter of every federal timber sale), and produced teaching materials adopted by their local schools.



These groups evolved into the Oregon Lands Coalition (OLC). With 80,000 members and over 60 chapters linked to farming, ranching, and logging,<sup>3</sup> they were able to marshal 10,000 to rally at the Clinton Forest summit. Alan Gottlieb claims the policies and appointments of the Clinton Administration have led to a 40 percent revenue increase for the Center for the Defense of Free Enterprise.

### With Oregon's population increasing at twice the national average, the pressure on property rights increases.

Five years ago, a Nevada rancher sued the US government for allowing elk to graze on his leased Forest Service land. While habitat can be privately held, its wildlife is held in trust for citizens by the government. However, state and federal agencies can not simply manage wildlife alone; they must consider the owners of the habitats, too.

About 43 percent of Oregon is privately owned. Of approximately 640 species of native fish and vertebrate wildlife, 24 percent are on some official list denoting rarity and concern. About half are on government land, and about half on private land. The Willamette Valley is 96 percent private. The borders of streams and rivers (largely in private ownership) represent less than 5 percent of Oregon's landscape while it provides habitat for 66 percent of its reptiles, 40 percent of its birds, and 47 percent of its mammals.

The Fifth Amendment of the US

### COWS GALORE IN '94

Constitution states, in part, "nor shall private property be taken for public use, without just compensation." When it takes private property for a public purpose, such as a road or park, our government must compensate the owner. Under the requirements of the Endangered Species Act (ESA), rare species constrain private land uses. The ESA defines the illegal "taking" of listed animals as diminishing the quantity or quality of their habitat through such actions as logging,

grazing, and irrigation withdrawals. When the government reduces property's value by restricting pollutants, or protecting wetlands and rare species, it is less clear

if a "taking" has occurred and compensation is required. The Supreme Court has held that rights of a property owner are constrained to uses of the property that do not harm the public.

"Regulatory takings" often enhance regional or neighboring property values and public health. They prevent downstream flooding or pollution, or maintain the biota that has provided over one-third of our medicines or \$20 billion of annual sportfishing revenue in America. The costs of regulations on private uses and local economies can be significant. The listing of the spotted owl led to a 75 percent reduction in timber harvests. Attempts to list the Bruneau Hot Springs Snail as endangered have been underway for about 15 years.

With Oregon's population increasing at twice the national average, the pressure on property rights increases. One article noted

### The Wise Use movement has been able to paint environmentalists as social Darwinists.

that a grizzly bear population to become genetically viable, it would need to occupy over half of the state of Washington, implying that people will have to go. Referring to such hyperbole, the Wise Use movement has been able to paint environmentalists as social Darwinists engaged in cruel social and economic triage and to frame a jobs versus environment debate, galvanizing small communities hit hard by economic transitions from resource extraction. Brick says:

Environmentalists tend to scoff at these grassroots groups, charging that they are merely paid puppets of industry, and not true grassroots movements. But doing so seriously underestimates the rage on the range and the potential power of committed Wise Use activists to torpedo environmental progress in the West.<sup>4</sup> While it has some overlap with corporate land users, Christian Coalition, libertarians, and patriot militias, the special message of

Wise Use movement resonates with much of the rural American West Brick continues:

### cattle free in '93

American environmentalists have never really come to terms with the contradictions of class and ideas within its ranks... The idea of wilderness has always been advanced by those who can afford it, not by those who live in it ... mak[ing] most environmental groups outsiders in rural America, it pits the interests of urban, upper-middle class aesthetes against rural working-class livelihoods... the Movement became more and more removed from the grass roots, focusing its energies in Washington, D.C.

Jim Baca, former Director of the BLM believes that

Quite bluntly, the environmental movement has, for all practical purposes, abandoned the grass roots and let them atrophy... The agenda of the mainstream environmental movement is not inclusive enough. It must make strategic alliances across class and ethnic barriers to thrive and revive... environmentalists do sometimes come off as elitist... national environmental groups should begin to assess their relationship to the grassroots in hopes of achieving a greater symmetry between the grassroots and centralized administration and lobbying.<sup>5</sup>

When we were a rural and developing country, one individual often held competing conservation strategies. America's first wildlife and ecosystem ecologist, Aldo Leopold, described an ecosystem-based land ethic that also allowed him to enjoy a hunt. With the proliferation of new types of work in post-industrial America, and increasingly reductionist professional

### Environmentalists seriously underestimate the rage on the range.

training in universities, ecologists now specialize. Foresters devote themselves exclusively to Gypsy Moths or the genetics of a coniferous subspecies. These narrow specialties diminish the synthetic aspect of ecology and limit our ability to reach mutual understandings. Modern resource managers, deciding to use predator control for enhancing game populations instead of



the ecosystem approach which admits the role of predators in the system, differ from their predecessors.

The environmental impasses of the 70's and early 80's led to amending the ESA and to the creation of the Habitat Conservation Plan. An HCP can permit a legal taking through habitat modification, so if a program of monitoring and mitigation assures that no species will be lost, economic development can proceed. The Blue Mountains house 380 vertebrates of which twenty to thirty percent may be listed. To prevent the need to void an HCP every time a new species is listed, the Natural Community Conservation Plan was crafted to address not single but multiple species and their habitats (the "ecosystem approach").

Though science may eventually catch up to the problem, the fundamental cultural

**Though science may eventually catch up to the problem, the fundamental cultural issues remain ignored.**

issues remain ignored. Agencies depend upon access to wildlife for the source of their livelihood and would like to consult and inform the public. However, they are loath to relinquish any power or prerogatives through such processes as shared planning with landowners. The Oregon Department of Fish and Wildlife, for example, has a Wildlife Diversity (a.k.a. non-game) Plan (1993). Under the heading of "Socio-Political Problems", ODFW lists inadequate program funds, informing the public, wildlife viewing opportunities, and animal damage assessment and control. It misses the less tractable but fundamental issues of cultural differences and alienation.

Professor Glendon tells us that there exists

A large legal profession, whose most visible members habitually engage in strategic exaggeration and overstatement. But we are not only the most lawyer-ridden society in the world, we are also the country in which the lawyer's role is most adversarial. The rhetoric of absoluteness increases the likelihood of conflict and inhibits the sort of dialogue that is increasingly necessary in a pluralistic society. In the

common enterprise of ordering our lives together, much depends on communication, reason giving, and mutual understanding... Absoluteness is an illusion and hardly a harmless one.<sup>6</sup>

**Absoluteness is an illusion and hardly a harmless one.**

With opportunities increasingly available through crop subsidies, amendments to the ESA, and incentives such as tax easements, the largest impediment to moderating the property owners' angst lies in the apparent inability to communicate with them. Agencies have not tried to systematically identify, nurture, and reward those people with the special gift of communicating difficult information to rural property owners. In an area largely driven by lawyers, lobbyists, and managers, legal and agency mandates offer the only guidance. Often missing from the recipe are the technical skills to foster innovative, credible solutions. Yet such skills are crucial; witness the first HCP near San Francisco.

When I delivered some sobering news to a group of ranchers (clients) engaged in an ESA dispute, one mentioned that the usual result of their meetings was to enrage each other while they discussed their frustrations and the enemy-of-the-day's latest maneuvers. Then, the ranchers would charge out looking for a tall tree and a candidate with an environmental bumper sticker. The rancher mentioned that it was good to have someone to slap them around and keep them focused on solutions. Such facilitation should be easier to come by. Most rural property owners want a say in the disposition of resources on their properties, to avoid repugnant legal skirmishes, and to be counted on the side of the natural landscape.

A forest, range, and wildlife ecologist, Steve Berwick runs Wild Systems, based in the Portland area. He serves as a national and international expert on land use planning.

1 Glendon, in J. Echeverria and R.B. Eby (Eds.), *Let the People Judge* (Washington, D.C.: Island Press, 1995).

2 Lewis, *ibid.*

3 Ramos, *ibid.*

4 Brick, *ibid.*

5 Baca, *ibid.*

6 Glendon, *ibid.*

Other sources:

Steve Berwick, "Dry-Gulched by Policy", *The New York Times*, (December 1978).

Oregon Department of Fish and Wildlife, *Oregon Wildlife Diversity Plan* (Portland, 1993).

## Endangered Salmon

*Continued from page 25*

audit to determine why it failed to achieve its promised results and what future productive role it can play. Because some runs of salmon are dependent on supplements from hatcheries, the shift to a greater reliance on natural or wild spawning salmon will be gradual and indexed to improvement in natural production and habitat. Performance measures need to account for the negative impact of hatchery operations on natural production. Additionally, there is a need for public education programs on the true costs and benefits of artificial propagation of salmon.

**Salmon can recover. Our role is to not interfere in the recovery process.**

**Hydroelectric system.** Hydroelectric production and water use in general are the source of the greatest conflict between the natural and industrial economies, especially in the more developed basins such as the Columbia. Modification of the hydrosystem must be based on scientifically sound experiments carried out in an adaptive format. A single institution or agency should be in charge of directing and overseeing those changes and its administrator held accountable.

Actions must begin now and progress must be tracked through clearly defined and measurable milestones. Specific measures must be continuously evaluated for effectiveness and efficiency in order to ensure a healthy natural environment and a healthy economy.

Jim Lichtowich is a fishery biologist consultant at 182 Dory Road, Sequim, WA 98382.

Duncan Wyse is Executive Director, Oregon Business Council, 1100 SW 6th Avenue, Suite 1608, Portland, OR 97201.

The Oregon Business Council is interested in your thoughts and ideas on the new vision for Pacific salmon. A copy of the full report, *A New Vision for Pacific Salmon*, can be obtained by calling the OBC office, 503-220-0691. Read the report and let the Council know what you think.

### INTERN POSITIONS AVAILABLE!

Oregon's Future has a few internships available for each issue.

Internships would last through the three-month editorial cycle of an issue.