

# PERC REPORTS

VOLUME 21 NUMBER 1 MARCH 2003



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## FROM THE EDITOR

### GRIM GOVERNMENT TALES

As free market environmentalists, we like upbeat success stories. But we also have a responsibility to record examples of overweening government control. This issue of *PERC Reports* has some eye-opening illustrations of the effects of unleashed governmental power, exercised in the name of environmental protection.

Andrew Morriss, a law professor at Case Western University and a PERC senior associate, has an eagle eye when it comes to seeing signs of government meddling. He discovered that a stately park in Cleveland is about to be mangled by federal regulations, thanks to the nation's "no net loss of wetlands" policy. Morriss also wrote our September 2001 cover story contrasting private and publicly owned hot springs in Thermopolis, Wyoming.

Nearly everyone criticizes Superfund, the program designed to clean up hazardous waste sites, but Bob Cox experienced its talons firsthand. His company was forced to pay thousands of dollars because of Superfund lawsuits, even though all his company had done was to hire a waste hauler who took some of the company's chemicals to the sites. Even though his firm contributed less than 1 percent of the total quantity of chemicals at any site, the liability buried his company.

Nor do we have cheerful news from Kenya. James Shikwati, who heads a free-market organization in Kenya, shows that control of wildlife by government bureaucrats, influenced by distant conservationists, is hurting the people of Kenya and subverting the cause of wildlife protection.

How much better are things on this side of the world? PERC's "Mid-Term Report Card" on President Bush's environmental policy gives the president barely a passing grade. A team headed by PERC senior associate Bruce Yandle evaluated in depth sixteen different areas of environmental and natural resources policy. Yandle's commentary is found on page 12. You are welcome to see the full 116-page backup report on the PERC Web site. Or, for easy reading, you may contact PERC (888-406-9532) and we will send you a copy while supplies last.

As usual, Linda Platts' column, "Greener Pastures," offers a few cheering examples of how markets are helping protect the environment. Not so Dan Benjamin's column, "Tangents," which measures the costs of the Clean Air Act. They are large.

*Jane S. Shaw*

From left: Morriss, Cox, Shikwati, Report Card "Professor."



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## REGULATORS DAMAGE A PARK

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### NO NEED FOR THIS “WETLANDS RESTORATION”

By Andrew P. Morriss

The city of Cleveland, Ohio, is adding a new runway to its airport. Unfortunately, that expansion will ruin a picturesque urban park sixteen miles away—all in the name of environmental protection.

To expand the airport, the city has to fill a ravine and drain 88 acres of wetlands located on the airport property. Because of the nation’s “no loss of wetlands” policy, the city had to obtain approvals from the U.S. Army Corps of Engineers and the Ohio Environmental Protection Agency. To persuade the regulators to approve, Cleveland came up with a plan to mitigate the loss by adding wetlands and “restoring” thousands of feet of streams and rivers elsewhere to a more environmentally sound condition. Twelve thousand of those “restored” feet will belong to the Doan Brook, a small stream that flows through Cleveland’s Rockefeller Park on its way to Lake Erie.

But Doan Brook doesn’t need restoration—at least not that kind.

Rockefeller Park is a stunning 200-acre public space, designed and built in the early 1900s. It lies in a ravine, surrounded by some of Cleveland’s poorer neighborhoods that are only now making a comeback from the riots of the 1960s. The brook’s path through the park is paralleled by a hike-and-bike trail dotted with enormous flowerbeds. It winds through a unique Cleveland institution, the Cultural Gardens.

Since early in the last century, various ethnic groups have sponsored gardens and memorials designed by prominent American and European landscape architects. These gardens—twenty-two at present—have flowers, sculptures, memorial arches, fountains, and other striking and original features. The German Garden has a statue of Goethe and Schiller; a monument in the Hungarian Garden commemorates Franz Liszt. As the brochure of the Cleveland Cultural Gardens Federation, a local nonprofit organization, explains with more than a little local pride, “The Gardens were conceived for the purpose of honoring and celebrating our cultural diversity and to symbolize peace, brotherhood and harmony among all people of all nations. . . .”

Doan Brook emerges from buried pipes and is “channelized,” or lined with vertical stone walls, through the park. The brook’s path through the park is not a straight line, but a winding channel, following Martin Luther King Jr. Drive north from the University Circle neighborhood to Lake Erie. Before reaching the lake, it flows into another buried culvert, from which it eventually reaches the lake. The walls prevent the stream from flooding and damaging the park and the road. They also contribute to the park’s atmosphere as an urban park, creating an attractive complement to the road.

Rockefeller Park is a park designed for people, not for nature. Its gardens

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*To environmental nannies, this park is simply not natural enough. The graceful stone-lined channel will be replaced with a gravel bed and trees will be removed to make room for the new, wider stream bed, which, in theory, will support fish.*



Andrew Morris

are formal in style and feeling. When we build parks today, we usually build them differently—no channelizing, no stone walls, no sign of human impact on the environment. This park, and the gardens, were built at a different time, when a stream lined by beautifully cut and shaped stone walls was a thing of beauty, not an environmental crime. Modern environmental fundamentalists have no room for such creations; they see them as evil. Preserving a mix of our heritage ought, however, to at least be an option.

To environmental nannies, this park is simply not natural enough. The graceful stone-lined channel will be replaced with a gravel bed, and trees will be removed to make room for the new, wider stream bed, which, in theory, will support fish. Five of the twenty-two cultural gardens will lose land to the “restored” brook. The value of the park as a place for celebrating humanity will be sacrificed to the ideal of a “natural” setting.

Like many public spaces, the park and the gardens have seen good times and not-so-good times, as when Cleveland’s fiscal crisis in the 1970s drastically reduced city spending on park maintenance. The gardens have benefited from the efforts of the Cleveland Cultural Gardens Federation, in addition to countless volunteer efforts by local ethnic organizations. They also enjoy strong community support. When a number of flower plantings were vandalized and stolen this past year, volunteers turned out to provide the labor and funds to replant.

This community opposes the “restoration” of Doan Brook. “The whole idea of restoring water quality and having a variety of fish swim up and down the brook is nice,” George Parras, the president of the gardens federation, told a (Cleveland) *Plain Dealer* reporter, “but they are overlooking what will happen to the park itself. What we don’t want to see is them take a highly structured park, which is very beautiful, and turn it back into a natural stream.”

The decisions were made by regulators who aren’t from Cleveland. Ohio EPA bureaucrats from Columbus and federal regulators from Washington, D.C., have dictated to the Cleveland area the terms and conditions under which the city will be allowed to expand the city-owned airport. Those bureaucrats don’t care about Rockefeller Park and



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*Our current fervor to “restore” our environment to what it was before humanity touched it has a real cost. There is more than one way to experience nature, and human-centered approaches to it can create beauty and serenity.*

the Cultural Gardens. Even if they did, they couldn't act on that concern because the statutes the agencies enforce don't make provision for anything but restoring wetlands. Whether Cleveland residents think that expanding the airport is such an environmental calamity that it should require acres and acres of mitigation is not relevant. Whether Clevelanders prefer their cultural gardens and parks as they exist now is irrelevant as well.

We can draw a few lessons from the tale of Doan Brook and the Cleveland airport. If the park were privately owned, the takings clause of the U.S. Constitution would at least make the regulators think twice before harming the property; the city would have to pay for any damage it caused. If environmental regulations were handled by appropriate local authorities, the fate of the park and the brook would be a matter for Clevelanders to decide for themselves. Federalism would improve decision making.

But perhaps a more important lesson is that our current fervor to “restore” our environment to what it was before humanity touched it has a real cost. There is more than one way to experience nature, and human-centered approaches can create beauty and serenity. Cleveland's Cultural Gardens and Rockefeller Park illustrate how communities can transform their environment to improve their lives.

Over the past century the peoples of Cleveland came together and created a unique cultural resource out of a swamp. These things may not matter in Columbus or Washington, but they matter in Cleveland. Getting a swamp back in exchange seems a poor trade indeed.

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*Andrew P. Morriss is a PERC senior associate and Galen J. Roush Professor of Business Law and Regulation at Case Western Reserve University School of Law in Cleveland. He lives in Lorain County, Ohio, just down the road from another “restored” wetland built to mitigate the airport project's impacts.*

# SUPERFUND DESTROYS A SMALL BUSINESS

## LIABLE FOR CLEANUP WHETHER GUILTY OR NOT

By Robert M. Cox, Jr.

On August 10, 1993, I turned over the keys and signed over all the papers of the Gilbert Spruance Company to the new owner, Gryphin Coatings. My twenty years of working for a company was now in tatters. My company was beaten up by the Environmental Protection Agency and the punitive wrath of the Comprehensive Environmental Resources Compensation Liability Act, also known as Superfund.

The Gilbert Spruance Company was a manufacturer of industrial coatings, primarily wood finishes, for the furniture and kitchen cabinet industries. Headquartered in Philadelphia, Spruance had been at one time a viable and very competitive manufacturer, with sales of \$7 million in 1986. I was the last remaining family member in the company (we spanned three generations).

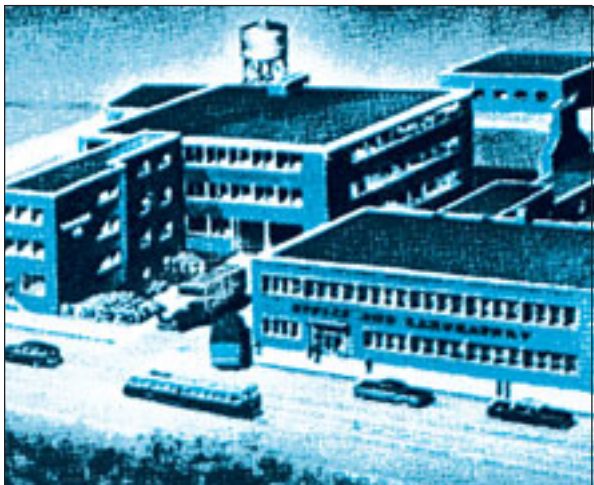
In the late 1970s, I tried to implement culture changes in the company reflecting the new wave of business leadership and management principles enunciated by authors such as Tom Peters, Robert Waterman, and Peter Drucker. I sought to instill team building, spur research and development, and break down “hierarchical walls and boundaries.” We embarked upon a program to establish good, solid environmental practices. We realized that we needed to take a proactive position with respect to our wastes and our recycling efforts and to work with customers both to establish safe and competitive products and to institute processes that were environmentally and end-user friendly. We also began developing coatings that minimized air pollutants.

But the business plan fell apart because our capital resources were drained by Superfund. Most of the capital accumulated from profits during and after 1984 went to our legal defense and to compliance-driven regulatory environmental directives.

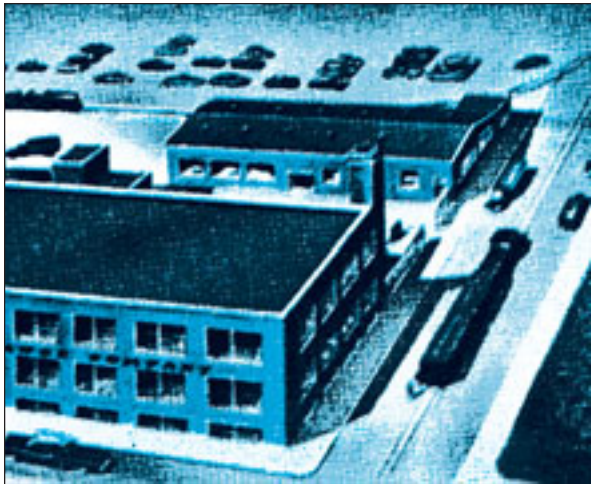
In 1984, our waste hauler, Marvin Jonas, testified before the EPA that he had hauled waste for Hercules, DuPont, the Columbia Broadcasting Company, Texaco, Chrysler, and Spruance, among others, to sites that had

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*I sought to instill team building, spur research and development, and break down “hierarchical walls and boundaries.” Our business plan fell apart because our capital resources were drained by Superfund. Most of our capital went to our legal defense and to regulatory directives.*



Gilbert Spruance Company



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*Ultimately, Spruance was involved with eleven Superfund sites. Our contributions to these sites were all under 1 percent. At one site, our waste contribution was figured to be .023 percent, yet we were asked to pay a de minimus settlement of \$150,000 to get the first phase completed.*

become Superfund sites. Jonas's incriminating testimony (offered, we were told, under implied immunity) put Spruance in a defensive position—our guilt was already assumed.

Under Superfund, joint and several liability means that companies can be held accountable and responsible for the cleanup of an entire waste site, even if their contribution was only a fraction of the total. Furthermore, actions that were legal at the time they took place are now viewed as criminal.

So, if you used a hauler and your waste was found in a site, you were a potentially responsible party (PRP). A pizza parlor might have contributed waste in a Superfund site as small and as insignificant as an old pizza box. The glue holding the pizza box together may have had formaldehyde and toluol. Since these ingredients are considered toxic, the pizza parlor could be held liable for the total cleanup of the site.

Ultimately, Spruance was involved with eleven Superfund sites. Our contributions to these sites, based on Jonas' records, were all under 1 percent (and Spruance's own records never substantiated any of our wastes going to any of the Superfund sites). At one site in New Jersey, our waste contribution was figured to be .023 percent, yet we were sued for a de minimus (minor) settlement of \$150,000 to get the first phase completed, and future liability remained open-ended. Another suit demanded that we pay as much as \$1.3 million.

The Superfund process is a game where large companies whose resources are better positioned to withstand the legal liabilities can take advantage of small companies. Once Spruance was notified that we were a potentially responsible party for a site, we were asked to be part of a liaison council. The liaison council was supposed to get all PRPs to agree on a cleanup plan. At the Lipari site in New Jersey, Rohm and Haas, a large chemical manufacturer, was deemed to be the largest contributor; Spruance was considered a de minimus contributor.

The liaison council could not come to an agreement on how much the de minimus contributors should pay. Rohm and Haas then sued us for \$200,000 (\$180,000 for cleanup

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*At Spruance we just did not have the resources to cope with the wave of regulatory suits. In addition, the media seemed to delight in reporting on how companies and people were being fined, and some people even went to jail for environmental violations. This fear created chaos and made us at Spruance feel as though the whole process was hopeless.*

and an additional \$20,000 in liaison council fees). Spruance was sued for an additional \$150,000 six years later, and the litigation over Lipari is still going on.

In 1986, our insurance company, the Pennsylvania Manufacturers Association, won a declaratory judgment in Pennsylvania allowing it to neither defend nor indemnify Spruance at any New Jersey site. And the word Superfund seemed to send lenders running for cover. In 1989 Spruance's building and land were appraised at \$1.1 million. By the middle of 1990, this appraisal was discounted by our bank to zero. We were then told our inventory of petrochemical-based raw materials could not be used for collateral. These were perfectly good raw materials, but anything that had a chemical derivative was deemed to be a potential liability. Environmental hysteria resulted in our loan being called.

After losing our insurance coverage, we spent over \$300,000 in legal fees alone and had nothing to show for the effort. In 1990, I offered to put what Spruance was spending on legal bills toward site cleanup. But this proposal, which seemed to make good business sense for all concerned, was not accepted.

I finally fired all the lawyers and took my story to Washington. I found out that no one really wanted the company; all they wanted was my money.

At Spruance we just did not have the resources to cope with the wave of regulatory suits. In addition, the media seemed to delight in reporting on how companies and people were being fined, and some people even went to jail for environmental violations. This fear created chaos and made us at Spruance feel as though the whole process was hopeless. The stress became huge and it was impossible to focus on our core business of making wood finishes for the marketplace.

In the end, I sold what was left of the company to someone who wanted a bargain-basement price and was "bottom fishing." The transaction proceeded smoothly, but my anger and frustration with the process are as vivid as that August day when the corpse of my company was buried.

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*Robert M. Cox, Jr., is the author of EPA and Superfund: A Small Business Story (Alexandria, VA: Washington House, 2002). His book can be purchased at [www.edenplaza.com](http://www.edenplaza.com).*



# HOW TO PROTECT PEOPLE AND WILDLIFE IN KENYA

## *RIGHT NOW, LOCALS ARE OUT OF THE LOOP*

*By James Shikwati*

Direct income from wildlife tourism contributes about 5 percent of Kenya's gross national product, accounting for just over a tenth of national wage employment and over a third of the nation's annual foreign exchange earnings (Emerton 1999). Yet the people who sacrifice to protect the source of this income—wildlife—receive little value from it.

All the wildlife in Kenya is owned or controlled by the government. Due to financial constraints and the conservation laws inherited at independence, the international conservation community has indirectly taken over this resource. The Kenya government's over-reliance on aid (an estimated \$150 million from the international conservation community goes to Kenya Wildlife Service) has made it insensitive to the people's plight. In addition, whites and Asians hold senior positions in the conservation organizations. Most of the expert conservationists are whites from the West (Bonner 1993). Most of the safari companies and camps are owned by multinationals—Africans are secretaries, cooks, and drivers.

Popular notions suggest that Kenyan natives are keen on exterminating wildlife. Yet conservation and consumptive utilization were part of the African culture prior to colonialism. Africans co-existed with wildlife and would only kill them for defense and when they wanted to use their skins and meat. The Kiswahili word for wild animals is "Wanyama," from "Nyama," the Kiswahili word for meat. The Africans did not put animals into parks for protection; they protected themselves from the animals by putting up thorn fences or digging trenches around their homesteads.

After the scramble for Africa that saw imperialists control the continent, it became apparent to the foreign occupying forces that the pristine environment in Africa was being destroyed. The destruction was largely due to the white hunters and white occupation of the fertile African lands. The remaining land, either poor in fertility or prone to infestation by the tsetse fly and malaria-bearing mosquitoes, experienced conflict between humans and wildlife. That conflict continues.

Wildlife has invaded farmlands, destroyed crops, and killed people. In June 2002, in the Voi region, hungry lions killed fifty-four sheep. This led an angry Voi member of parliament to threaten to mobilize the community to kill one elephant for every shamba (farm) destroyed by animals. He cited the ineffectiveness of the Kenya Wildlife Service and called for its disbanding.

The livestock and crop losses caused by wildlife impact heavily on

*All the wildlife in Kenya is owned or controlled by the government. Due to financial constraints and the conservation laws inherited at independence, the international conservation community has indirectly taken over this resource.*



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*On average, more than 15 people are killed by wild animals each year, with the highest number recorded at 55 people in 1992. According to the Kenya Wildlife Service, elephants cause 75 percent of human deaths from wildlife.*

individual ranchers, pastoralists, and arable agriculturalists. The conflict between humans and animals is intense where forested parks border farmlands; this includes the Imenti, Nyeri, Trans Mara and Kwale districts. Other incidents occur where rangeland has pockets of agriculture such as Kimana, Leroghi and Taita districts.

On average, more than 15 people are killed by wild animals each year, with the highest number recorded at 55 people in 1992. According to the Kenya Wildlife Service, elephants cause 75 percent of human deaths from wildlife. The government offers 30,000 Kenya shillings (\$389) as compensation for each person killed. The bureaucracy involved to get the compensation may take more than 10 years. This has made the locals rightly conclude that the government values wildlife more than people.

One study estimates that the net cost to the Kenyan economy from maintaining nearly 61,000 square kilometers (23,552 square miles) of land under protected areas is US \$203 million. This is some 2.3 percent of gross domestic product, equivalent to supporting 4.2 million Kenyans (Emerton 1999).

During the antipoaching war between 1988 and 1999, when the government issued “shoot to kill” orders against poachers, many of those shot were poor rural folks. Instead of enlisting them in the fight against poachers, the government resorted to burning villages near the parks, as in Kora. The local communities were caught in the cross-fire between conservationists and wealthy government officials sponsoring poachers to get trophies to sell to their European and Asian accomplices.

The Maasai Mara National Reserve received US \$26 million from tourism in 1988. Only 1 percent went to the local Maasai. Tourism firms received 45 percent, hotels 35 percent, shops 5 percent, taxes 5 percent, Narok Council and wages 5 percent respectively, according to the Intermediate Technology Development Group, a nonprofit organization. Only 2 percent of tourism industry profits go to the local people in Kenya, says this group. And the bulk of this tiny percentage goes to local leaders and those with capital and know-how to exploit the tourist market.

As Aldrich-Moodie accurately observes, the poor populations of the world must make a living from their natural surroundings (Aldrich-Moodie and Kwong 1997). Otherwise they will have little incentive to preserve these surroundings, including the wildlife that inhabits them. Only people who do not make a living in the vicinity of the wildlife reserves have the luxury of questioning whether or not human beings have the right to control wild animals.

According to Richard Stroup and John Baden (1998, 39), if property

rights to a resource are not fully defined and enforceable, those who put a relatively low value on its use may use the resource without compensating anyone else. This is the case in Kenya. The government and western conservationists have ignored the local communities in their quest to manage the wildlife resource—even though the World Commission on Environment and Development of the United Nations in 1982 called for recognition of local communities' traditional rights to the land and resources they use to sustain their way of life.

When everyone owns wildlife—that is, when government owns it—no one will take care of it. The public or nonprofit decision maker who cannot personally gain from more efficient utilization of the wildlife resource will not be keen to minimize wastage.

What is urgently needed locally is the strengthening of the institutions of justice to ensure the rule of law and the devolution of property rights to the local communities. At the international level, it is important to have the western world listen to the plight of the people around the wildlife conservation areas. The former director of Kenya Wildlife Service, David Western, observed correctly that if villagers living around a park made money from wildlife, the park would in effect become the villagers' bank and the wild animals in the park their assets. This would provide a powerful incentive against poaching. People are not likely to rob their own bank.

The farming communities should be exposed to farming methods that increase yield per hectare in order to reduce competition for space with the wildlife. They should also be allowed to co-own wildlife around their farms and/or be entitled to shares in the parks, now owned by the government, around their farms. Landowners whose land the animals occupy outside official protected areas should be included in the Kenya Wildlife Service board of management. This representation will help check disputes between the government agency and the locals.

Another approach would be to decentralize the Kenya Wildlife Service into regional committees that are managed by elected representatives from the ranches, farmers, trust land, and government land representatives. An efficient licensing procedure for supplying locally caught game to restaurants would provide an incentive for local participation in conservation and encourage employment.

Locals should be well informed on wildlife and conservation issues. A network should be put in place to facilitate communication between the African Kenyans, the white Kenyans and external wildlife experts to stop the trend of outsiders dictating issues locally. A study is urgently needed to clarify issues on possible wildlife ownership and local responsibility for wildlife.

There is absolutely nothing immoral in having people own wildlife. It is immoral to have them trampled to death and their crops destroyed with no gain in sight. It is illogical to have people drown in poverty when they can profitably gain from wildlife.

## REFERENCES

- Aldrich-Moodie, B., and Jo Kwong. 1997. *Environmental Education*. London: Institute of Economic Affairs.
- Bonner, Raymond. 1993. *At the Hand of Man; Peril and Hope for Africa's Wildlife*. New York: Alfred A. Knopf.
- Emerton, Lucy. 1999. Community Conservation Research in Africa: Principles and Comparative Practice. Paper No. 9. Manchester, UK: Institute for Development Policy and Management, University of Manchester.
- Stroup, Richard, and John Baden. 1998. Property Rights and Natural Resource Management. In *The Federal Judges' Desk Reference to Environmental Economics*, ed. John A. Baden. San Francisco: Pacific Research Institute, 35–65.

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*James Shikwati is director of the Inter Region Economic Network (IREN) in Nairobi, Kenya. The nonprofit organization ([www.irenkenya.org](http://www.irenkenya.org)) encourages free market policies and classical liberal ideas.*

## A MEDIOCRE GRADE ON THE ENVIRONMENT

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### PERC'S MID-TERM REPORT CARD GIVES BUSH A C-

By Bruce Yandle

When President Bush entered office, those of us who favor market approaches to environmental policy had high hopes. Some of us had served on candidate Bush's environmental advisory team and we knew he was open to new ideas. He recognizes that the day of command-and-control policies is over and that environmental progress depends on market forces, property rights, positive incentives, and community action. But when PERC—the Center for Free Market Environmentalism—took a hard look at what the president had accomplished, he barely mustered a passing grade.

PERC's Mid-Term Report Card, issued in January 2003, gives the Bush administration a C- for environmental and natural resources policy. Supporting the one-page report card is a 116-page study (see [www.perc.org](http://www.perc.org)) that analyzes conditions in 16 areas, including air quality, ocean fisheries, federal land, climate change, chemical releases, Superfund, and endangered species.

Where we had expected most progress was the management of public lands, but he got a C-. Gale Norton's upbeat rhetoric has not been backed by policies of local control or tradeable rights—such as allowing willing ranchers to sublease their grazing permits to environmental groups who can then retire them. It shocks us that Bush is the first president to ask Congress for \$900 million per year to expand the federal estate—when the National Park Service and other land agencies can't manage the land they have. And it saddens us that Bush's support for exploration in the Arctic National Wildlife Refuge fizzled because he couldn't arrange the right incentives to win over environmentalists. (He got a C on ANWR.)

Air quality policy, mired in old-style regulations and costly standards that generate no net benefit, got a D. (Market tweaks in the Clean Skies Initiative didn't justify an additional 70 percent reduction in emissions from power plants. We are not in favor of markets just for the sake of having them around.) The administration's failure to cancel Clinton's midnight regulation on arsenic—an unnecessary standard that hurts small, poor western towns—got a D. And forcing small companies to report on minor releases of the metal lead earned an F.

There are some bright spots. Just before the Report Card

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*It shocks us that Bush is the first president to ask Congress for \$900 million per year to expand the federal estate—when the National Park Service and other land agencies can't manage the land they have.*



# MID-TERM REPORT CARD

Overall Grade	C-
Agricultural Chemicals	B
Air Quality Regulation	D
Arctic National Wildlife Refuge	C
Brownfields & Superfund	C-
Chemical Plant Security	B
Drinking Water & Arsenic	D
Endangered Species	C
Global Climate Change	C
Grazing on Public Lands	C-
Ocean Fisheries	D
Persistent Organic Pollutants	D
Public Lands Management	C-
Regulation of Lead Releases	F
Regulatory Review	B
Water Allocation	C
Water Quality	B

went to press, the Environmental Protection Agency issued a Water Quality Trading policy that could usher in an era of cost-effective and cooperative pollution cleanup.

Under this plan, a company that meets an approved level of water treatment may purchase additional treatment from another discharger, instead of reducing its emissions further (trading that will allow for facility expansions). A company can pay farmers to change their practices to reduce stream runoff. And an environmental group can protect a river by buying up a company's right to discharge pollution and putting it in a "lock box." The water quality grade rose to a B. And Bush received a B for strengthening the office that watches over regulation. But overall, the picture for the first two years is disappointing.

We know that making fundamental change is hard. Businesses and bureaucracies that invested in yesterday's regulatory structure want to keep it in place. Environmental activists who profit by promoting doom apparently do not want to endorse policies that make it easier and less costly to forestall those calamities.

But Bush has become politically stronger since November 2002 and so we remain optimistic. We'll check back in two years.

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*Bruce Yandle is a senior associate of PERC—the Center of Free Market Environmentalism—and director of PERC's Mid-Term Report Card. He directed a team of policy analysts: Terry L. Anderson (PERC and Hoover Institution), Holly Lippke Fretwell (PERC), B. Delworth Gardner (Brigham Young University), Donald R. Leal (PERC), Angela Logomasini (Competitive Enterprise Institute), Brian Mannix (Mercatus Center), David W. Riggs (Capital Research Center), and Joel Schwartz (Reason Public Policy Institute). PERC senior associate Jane S. Shaw edited the Report Card with Yandle.*

## GREENER PASTURES

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By Linda Platts

### THE WORM TURNS

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At Wright-Patterson Air Force Base in Ohio, nearly half a million worms are at work farming food scraps from the mess hall. The worm farm had long been a dream of Bill Meinerding, the manager of the base's recycling program. So far he could not be happier with his squirmy little farmers.

Originally they were employed in Tullahoma, Tenn., but the air base there did not produce enough scraps for these industrious fellows. At Wright-Patterson, nearly 500 pounds a day of spoiled fruit and vegetable trimmings are delivered to the worm farm, which is housed in a dark building where the temperature is maintained at 70 to 80 degrees. The scraps are layered on top, the worms work in the middle, and the castings come out at the bottom. In just three weeks, the worms processed seven tons of scraps. Previously, the base spent \$100 a ton to dispose of food scraps that now provide benefits.

The benefits come in the form of castings from the worms, which make excellent lawn fertilizer because of their high nitrogen content. The air base is testing the castings on its golf course and hopes to use them to enrich the soil around the 8,000-acre base. Replacing chemical fertilizers with castings would be a cost-savings and would reduce fertilizer run-off into the streams and groundwater.

If the U.S. military can derive so many benefits from worm farming, there is no telling what other environmentally friendly practices might be adopted.

—*Environmental News Network*

### SPINNING TRASH

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The pop cans, plastic cups, cellophane wrappers, and other debris that people toss on streets and sidewalks can end up on the beach or bobbing in the ocean. Oil and grease from cars and trucks can also be flushed into open water by a rainstorm or melting snow. Storm drains are built to catch the waste, but they can be a headache for cities to keep clean and working.

An Australian company, CDS Technologies, has come up with a simple and cost-effective drain that was developed in Sydney while the city was preparing to host the 2000 Olympic games. Its circular design sends the stormwater spinning downward in a vortex. The trash, debris and pollutants are filtered out by a fine screen and trapped in a separation chamber, while the water is able to pass through the screen and continue through the stormwater system. Meanwhile, the trash and pollutants end their down-

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**Linda Platts** is PERC's editorial associate and Web site manager ([www.perc.org](http://www.perc.org)). "Greener Pastures" showcases market approaches to environmental protection and natural resource use that benefit private entities as well as the public.



ward spiral in a sump at the bottom of the drain.

Maintenance crews open the drains and skim off the trash using nets with long poles similar to those used to clean swimming pools. Any trapped water is pumped out and sent to a sanitary sewer, and the sediments are removed, tested for hazardous materials, and sent to a landfill.

Because these drains have no moving parts and use no electricity, they are easy and inexpensive to maintain. So far, CDS Technologies has opened nine offices in the United States and some of its largest drains have been installed in Santa Monica, Calif., a city by the sea. At least seven other countries in Europe and Asia are installing the Australian drains. Sometimes simple solutions are the best ones, and last the longest.

—*U.S. Water News*

## *LEASING THE GOAT*

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Small family-run farms are facing tough economic times. For many of the families, staying on the farm often means taking another job in town. In 1979, three of these small farmers came up with a better idea. They arranged to have their products delivered directly to urban dwellers. They contracted with other small farmers to provide a variety of specialty items such as creamy Brie, luscious berries, and sweet, juicy grapefruit.

The marketing tool (or gimmick if you will) in this case is that the customer leases a goat for chevre or a tree for maple syrup, and so on. In return for a premium price, the lessee is assured that the farmers have free-ranging livestock and make minimal use of pesticides. The lessee also is guaranteed fresh, natural, and delicious foods. For example, if you go for the wild rice lease you are guaranteed a minimum of three pounds of canoe-harvested rice from the pristine lakes of the Ojibwe people of Minnesota.

Rent Mother Nature ([www.rentmothernature.com](http://www.rentmothernature.com)) also delivers a leasing agreement suitable for framing along with the goods. For an extra \$5, it will send an action photo of your cow, blueberry patch, or tree.

Over the years the company has expanded its offerings from cheese and syrup to complete clambakes, lobster dinners and Yankee blueberry breakfasts. Prices start at about \$40 and climb above \$200. Some might consider the prices a bit stiff for three wheels of Brie, but it is a pleasant, even amusing, way to support small farms while also eating well.

The company has been in business for more than 20 years, so it seems to have a good thing going for all concerned—the farmers, the contented cows, and the urbanite looking for a taste of farm-fresh goodness.

—*Washington Post*

## TANGENTS

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### THE COSTS OF CLEAN AIR

By Daniel K. Benjamin

**economist**, *n.* a scoundrel whose faulty vision sees things as they really are, not as they ought to be.

—after Ambrose Bierce

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#### Daniel K. Benjamin

is a PERC senior associate and professor of economics at Clemson University. His regular column, “Tangents—Where Research and Policy Meet,” investigates policy implications of recent academic research. He can be reached at: [wahoo@clemson.edu](mailto:wahoo@clemson.edu).



Business executives regularly grumble about the costs of meeting environmental regulations. Manufacturers alone claim to spend almost \$30 billion per year to comply with environmental regulations—costs that put them at a competitive disadvantage in the world economy and result in the loss of tens of thousands of U.S. jobs. Economists rarely have been able to confirm these impacts. A new study by Michael Greenstone (2002), however, paints a compelling picture that the business firms are right. His extraordinarily detailed and comprehensive examination of the impact of the U.S. Clean Air Act reveals a substantial toll on employment and capital accumulation in those parts of the country where the regulatory burden has been the greatest.

The Clean Air Act imposes a broad array of regulations on U.S. firms. Following the 1970 amendments (which set the framework for today’s national policy) the Environmental Protection Agency (EPA) established national ambient air quality standards for four key pollutants: carbon monoxide (CO), ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), and total suspended particulates (TSPs). Under EPA rules, every county in the United States is either in “attainment” for a pollutant (that is, ambient concentrations are below the federal standard) or “nonattainment” (concentrations exceed the standard). Polluters in nonattainment counties are subject to stricter regulations than are polluters in attainment counties.

Because of these tighter controls, polluting firms in nonattainment counties should face significantly higher operating costs than firms in attainment counties. Greenstone has found persuasive evidence that this is the case.

The centerpiece of his work is the assembly of a set of data that dwarfs anything else in existence in the pollution arena. For example, he has compiled annual data on the four pollutant-specific attainment/nonattainment designations for each of the 3,070 counties in the United States. This is something that not even the Environmental Protection Agency has ever done. Greenstone then merges these data with 1.75 million plant-level observations on the characteristics and behavior of firms across the country. These include plants’ locations, character-



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*By matching regulatory data with firm behavior data, Greenstone can precisely measure the impact of EPA regulations on employment, investment, and industrial production by every manufacturing firm in every corner of the land.*

istics, input usage (including capital and labor), and output. By matching regulatory data with firm behavior data, Greenstone can precisely measure the impact of EPA regulations on employment, investment, and industrial production by every manufacturing firm in every corner of the land.

Greenstone finds that the Clean Air Act amendments substantially retarded the growth of those firms in nonattainment counties that have had to reduce emissions to meet EPA standards. Focusing on the effects of the law during the years 1972 to 1987, he finds that nonattainment counties suffered employment losses of approximately 590,000 jobs compared with attainment counties. Moreover, these companies reduced output by some \$105 billion in today's dollars and invested less, resulting in a loss of capital stock in nonattainment counties of roughly \$52 billion. Although these losses are modest compared to the size of the entire manufacturing sector, which does \$1.7 trillion in business a year, they had a substantial impact on the counties where the companies were located.

There are limits to Greenstone's work. For example, some of those 590,000 people who didn't get employed in nonattainment counties presumably found jobs elsewhere. Similarly, although investment fell significantly in nonattainment counties, much of that capital likely found a home elsewhere. Still, this is not much consolation to the workers or owners of capital. On average, the other jobs to which people moved were not as good, or else the individuals would have chosen them from the outset. Similarly, the capital that had to move can be expected to earn lower returns, for otherwise it would have been located elsewhere prior to the regulations.

Greenstone also does not attempt to measure the benefits that might have been produced by the Clean Air Act amendments. It is entirely possible that, although costly, the amendments cleaned the air so well that we as a nation are better off. As it turns out, Greenstone is currently investigating exactly these sorts of questions: How have we benefited from the Clean Air Act and has it been worth it? Stay tuned.

## REFERENCE

Michael Greenstone. 2002. The Impacts of Environmental Regulations on Industrial Activity: Evidence from the 1970 and 1977 Clean Air Act Amendments and the Census of Manufactures. *Journal of Political Economy* 110(6): 1175–219.

## LETTERS TO THE EDITOR

### LESS GOVERNMENT LAND, MORE FEE FISHING

#### WHO'S BUYING?

I would like to ask Daniel K. Benjamin (“Tangents,” December 2002) about his statement that “the direct purchase or lease of ecologically sensitive land can yield ten times more environmental protection for a given cost.” Who directly purchases what from whom? Put another way, I assume he is saying if an environmentalist person or group wants to “protect” (forbid or limit usage of the land for any purpose) land, that person or group should buy the land. So, my question is, “Who would buy the land and from whom would the land be purchased?”

Benjamin mentions the Nature Conservancy, which has bought land from private landowners, and in many cases has then sold the same land to a government entity. In my opinion, transferring land from private to public ownership is a very bad move, both for the public at large and for anyone who wants to “protect” the land. Congress was ready to dedicate billions of dollars to just such a practice, but a last-ditch effort by farmers and other private property rights groups to kill the bill was successful.

Your goal of showing market solutions to environmental concerns is laudable, but please don’t get off the track by proposing that government buy land.

Also, I would like to see future issues of *PERC Reports* discuss more production farming. The hobby farms and boutique farms you featured in the December issue wouldn’t feed a village of 500 people for more than a week or two. Without production farming, we would have to return at least 50 percent of the population to agricultural work—and I don’t think American citizens would like that. If they did, farmers would not have to employ non-U.S. farmworkers today.

Jo McIntyre, Free-lance business journalist  
Member, Oregon Women for Agriculture  
McMinnville OR

*Editor’s Note:* Daniel Benjamin wasn’t advocating government purchase of land. His point was that if someone wants to preserve land (limiting its use in some ways), owning the land is more effective than subsidizing the preferred activities. As for the Nature Conservancy, we deplore its tendency to transfer land to the government. On land that it owns, however, it is a good steward.

**Jane S. Shaw**, a senior associate of PERC, is editor of *PERC REPORTS*. She believes that vigorous debate about controversial environmental topics furthers understanding and lays the foundation for better policies. Send your letters to her at: *PERC REPORTS*, 502 S. 19th Avenue, Suite 211, Bozeman, MT 59718 or shaw@perc.org.



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## FEE FISHING WILL REMAIN MARGINAL

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Note: To review the articles that elicited these letters, see the following: “Tangents” ([www.perc.org/publications/percreports/dec2002/tangents.html](http://www.perc.org/publications/percreports/dec2002/tangents.html)); the Milesnick ranch ([www.perc.org/publications/percreports/june2002/milesnicks.html](http://www.perc.org/publications/percreports/june2002/milesnicks.html)); and the River Tweed ([www.perc.org/publications/percreports/sept2002html/fishing.html](http://www.perc.org/publications/percreports/sept2002html/fishing.html)).

I have just had a chance to read your two recent articles on “fee-fishing” (about the Milesnicks’ spring creeks in June 2002 and the Tweed in Scotland in September 2002). This is a subject that has been dear to my heart since I discovered the joys of the British system in the late 1960s. Exactly as your authors say, beyond its advantage for controlling harvest, a fee system protects the quality of the experience. It is a wonderful feeling to know you have half a mile of bank to yourself and won’t meet a competitor around the next bend or in the next pool.

Fee fisheries are very gradually making headway in the United States. Increasing pressure on even fairly remote stretches of water makes clear that, despite our wealth of fishing water, quality experiences are ever more difficult to find. But there are at least two substantial obstacles to going much beyond the smaller ponds and creeks in ranch or farm settings.

The biggest is the great difficulty (impossibility, perhaps) of limiting access to rivers that are big enough to float a canoe or boat in. A second, where publicly owned resources are involved, is a mind-set that favors free access with lousy experiences over rationing of access, even if the rationing is done by lottery rather than price. (A notable exception that I used to fish in the 1970s is a state park on a spring creek in crowded Long Island, near Islip).

Overall, it’s hard to see how this excellent policy prescription can do more than fix a few problems at the margin. Sad though this is, the good news is that the United Kingdom is just an economy class air ticket away and offers a very large range of prices and types of game fishing, from chalk streams (that’s spring creek in Brit speak) to giant reservoirs to freestone, rain-fed rivers. You can spend many wonderful weeks getting acquainted with the fishing, not to say enjoying the country pubs and other delights.

Clifford S. Russell, Professor of Economics  
Director, Vanderbilt Institute of Public Policy Studies  
Vanderbilt University, Nashville TN

*Editor’s Note:* The assumption that it is virtually impossible to limit access on rivers that are “big enough to float a canoe or boat” may be overly pessimistic. Entry is limited on at least one important river in Montana—the Smith River. During the period of highest demand, May through mid-July, access is controlled and fees are charged. Sooner or later, more blue-ribbon trout rivers will probably have similar limited access to prevent degradation. We agree that there is a mind-set that opposes fees, but this is changing in the West with respect to hunting. Perhaps fishing will follow.

## PERC REPORTS

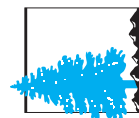
*The snow came late, giving some Montanans a chance to enjoy winter fishing. But then the snow fell heavily in the mountains and across the plains. It's not yet "springtime in the Rockies."*



*Doug Loneman*

*Inside this issue, read wintry tales of over-reaching government in the cities of Cleveland and Philadelphia. Learn how a Kenyan analyst sees wildlife protection in his country. Have a look at PERC's Mid-Term Report Card on the Bush administration's environmental policies—and more. PERC Reports is a forum for discussion. We welcome challenges, disagreements, and new ideas.*

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