Letters

We welcome letters from readers, particularly commentaries that reflect upon or take issue with material we have published. The writer's name, affiliation, address, and telephone number should be included. Because of space limitations, letters are subject to abridgment.

"After Environmentalism" Off Base

Dear Editor:

I read with interest Michael Kellogg's article, "After Environmentalism," in *Regulation*. I applaud Mr. Kellogg's attempt to sort through the advantages and disadvantages of different environmental policy models. Unfortunately, Mr. Kellogg's comparison of command and control, market-based, and free-market models presents a muddled analysis—and conveys some factual errors along the way. Above all, Mr. Kellogg would have done well to apply to his analysis of market-based approaches at least the degree of critical thought that he used to highlight the pitfalls of free-market environmentalism.

The problems in Mr. Kellogg's analysis are legion: I will focus on only a handful of analytical points, beginning with his assessment of market-based policies.

At least four of the criticisms Mr. Kellogg launches against command and control regulations are equally applicable to market-based environmental policies.

First, both command and control and market-based approaches involve centralized, political goal-setting. Under such decision processes, whether setting centralized standards or specifying fees, central goal-setting produces "winners" and "losers." And that implies conflict—the sort of "highly adversarial" processes that Mr. Kellogg seems to suggest are peculiar to command and control. Recent deliberations in California on its tradable emissions program—regarding what baseline emissions to use for establishing credits, what counts as a credit, etc.—demonstrate just how contentious such market-based approaches can be.

Second, depending on the particular policy design and the targeted problem, market-based approaches can also involve as high, or even higher, monitoring costs than some command and control regulations. Indeed, one of the driving forces behind the "technology-mandate" approach of command and control measures is that compliance can be easily determined: either the regulated firm has, or has not, put in place the required technology. By contrast, some market-based approaches can require complex, ongoing measurement of emission outputs, constant restructuring of fees, and monitoring of fee compliance (which can involve significant reporting and auditing).

Third, not all market-based approaches make environmental mitigation costs visible to consumers. Like regulations, such fees, especially if placed on manufacturers, are not at all apparent to consumers as a discrete "price" for environmental protection, and are no more apparent to the manufacturer than are certain regulatory costs. Take "virgin materials" taxes. These are set forth by advocates of market-based approaches as a means of reducing consumption of depletable resources. Such taxes are as invisible in terms of their relationship to the achievement of any environmental goal as regulations that require use of recycled content in products.

Fourth, since both command and control and market-based approaches involve central goal-setting, both face the same sorts of difficulties in addressing scientific uncertainties about harms and setting priorities among complex, often competing goals. Both require a dependence on "the wisdom and foresight of a single, centralized bureaucracy, subject to all the usual problems of misinformation, political pressure, and downright ineptitude," to repeat Mr. Kellogg's own indictment of command and control.

But this point raises another fundamental problem with Mr. Kellogg's arguments. He blurs together two very different kinds of "knowledge problems," with the result that his discussion of market-based approaches is confused at best. Environmental policymakers face at least two distinct problems: 1) how to set priorities and determine goals; and 2) how most cost-effectively to achieve goals once they have been set.

It is only in pursuing the latter—that is, cost-effectiveness—that market-based approaches may offer some improvement over technology-mandating command and control regulations, since market approaches allow knowledge of time, place, and detail to frame individual responses to price signals set through the political process. It is this sort of dispersed production knowledge that centralized bureaucracies lack.

However, this sort of dispersed "production" knowledge, while important to the efficient allocation

of resources, has nothing to do with the information problems of defining environmental problems. Questions like "do pesticides cause cancer," or "what is causing ozone depletion" are matters of scientific inquiry. The knowledge problem with regard to these questions is not that centralized bureaucracies lack the information, but that no one has clear answers to these questions. This means we face fundamental questions about whether or not a particular chemical or emission is a problem; we face questions about the risk tolerance and risk avoidance attributes of different individuals; we face fundamental questions about how to choose goals when individuals hold different priorities or manifest different degrees of risk avoidance.

In terms of these sorts of goal-setting questions, market-based approaches have no advantage over command and control regulations. Both models rely on collective goal-setting processes which obscure rather than illuminate information about individual preferences. This decision process is in marked contrast to the marketplace, in which individuals, through their decentralized transactions, pursue widely varying "ends" even in the absence of consensus about those ends. The market economizes on "knowledge" necessary to coordinate the allocation of scarce resources among infinite (or virtually infinite) ends, and it economizes on the need for "consensus."

Without market transactions actually occurring, we "know" nothing about what people really value or how much they value one end over another. Mr. Kellogg notes this dilemma briefly, but fails to explore its implications for central "price-setting" under market-based approaches. Kellogg mentions that there is no "right" price (or "cost") for various environmental externalities that is "knowable" outside of a context of marketplace transactions. "Price is merely a yardstick for measuring the relative value individuals place on use of resources for one end in relationship to other ends. Kellogg acknowledges this problem, but treats it as an inconvenience rather than as the central problem that it is.

In making those remarks about goal-setting, I do not mean to downplay dilemmas consumers face in the marketplace as they make their own choices. Precisely what makes environmental decisions so difficult—whether in public or private settings—is a lack of knowledge about the harms and risks associated with certain production and consumption activities. Are the courts adequate to protect citizens from harms of which they are not aware? Do perceptions of harm count? Or only scientific evidence of harm? Are citizens in a position adequately to use tort and liability laws? Those are important questions, but they are matters that transcend particular environmental policy models: market-base approaches have no advantage over either command and control or free markets in this regard.

I leave to other commentators the task of critiquing Mr. Kellogg's assessment of free-market environmentalism save for one comment. Mr. Kellogg is dead wrong about the inability of the "free" marketplace to accommodate "spiritual" values, which I distinguish from what Kellogg calls "intrinsic values." It makes no sense to talk of "intrinsic values," if by that term one means the world out there and its various components have "value" outside of the presence of any "valuer." The very notion of "value" is a human construct. Nor does it make sense to talk about "value independent of the choices of particular individuals." Even collective decision processes about environmental protection are ultimately an expression, however crude, of the "values" of individuals.

If what Mr. Kellogg really means to identify are spiritual values—valuing "nature as cathedral," valuing the very existence of golden eagles, or Alpine lakes—then he is wrong to assert that free markets cannot take account of these values. Property rights provide spheres of autonomy in which individuals—or groups of individuals—can pursue their dreams, both instrumental and spiritual. The long legacy of private preservationist activities is a testament to how the marketplace translates spiritual values into private actions.

In his discussion of "intrinsic values" Kellogg also displays a common confusion about markets, prices, and values. He writes, "some things simply should not be reduced to monetary terms. Some things are, or should be, sacred." Money is simply a common denominator—a mechanism for making noncommensurate values commensurate in order to facilitate making choices among competing values in the context of finite time and resources. In fact, as Tom Sowell has pointed out, "there are only noneconomic values." He adds, "to say that we 'cannot put a price' on this or that is to misconceive the economic process. Things cost because other things could have been produced with the same time, effort, and material. Everything necessarily has a price in this sense, whether or not social institutions cause money to be collected from individual consumers."

A final word of caution: Kellogg is right that free market environmentalism has failed adequately to come to grips with some of the toughest cases of institution-building, rights allocations, and rights enforcement. But Kellogg's indictment is too broad brush. A property rights approach functions reasonably adequately with respect to resource and land use matters. Negotiated agreements are increasingly emerging among "pol-

luters" and those affected by particular sources of pollution in the form of various compensation packages. Moreover, the boundaries for functioning property rights approaches are even expanding to include some "fugitive" wildlife such as elephants, ducks, elk, and now, in several experimental efforts, to pelagic fish such as tuna. Property rights approaches have been more elusive are in the realm of "fugitive and fluid" emissions, most especially air emissions. Here, we may have to settle for politically set emission charges or standards combined with tradeable permits.

It is worth remembering two points about decisionmaking and markets made by Thomas Sowell in Knowledge and Decisions before we hasten to find the marketplace inadequate to address many (most—per Kellogg) environmental problems. The marketplace, wrote Sowell, "is no particular set of institutions. . . . Any comparison of market processes and governmental processes for making a particular set of decisions is a comparison between given institutions, prescribed in advance, and an option to select or create institutions ad hoc." Most important, Sowell rightly reminds us that the most basic question we face "is not what is best but who shall decide what is best." Both command and control and market-based environmental approaches sidestep this question as it relates to fundamental decisions about goals.

Turning from these more abstract matters, I wish to point out a few factual errors in Mr. Kellogg's essay.

He notes that "it is now estimated that as much as 85 percent of the expenditures from Superfund will go, not to cleanups, but to transaction costs. . . ." The 85 percent figure comes from a RAND Corporation study. It did not refer to all Superfund sites, but only to a subset of sites in which insurers were involved. Transaction costs associated with the clean-up for all types of sites fall way short of the 85 percent figure.

Kellogg also appears to confuse industry Superfund costs with those of federal government. He writes that to date Superfund has spend $6.7 billion to clean 180 of 1,250 sites on the national priorities list. He then goes on to say "estimates for the remaining clean-ups range from $125 billion to ... $1.25 trillion." The lower $6.7 billion figure is for government expenditures only. The latter billion and trillion dollar estimates are for total public and private costs. Yes, the figures are huge, which is Kellogg's main point; but he misleads the reader by making it appear that the jump in expenditures will climb at least twentyfold.

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Market Approach or Market Socialism?

Dear Editor:

In his article, "After Environmentalism: Three Approaches to Managing Environmental Regulation," Michael Kellogg raises two distinct objections to free market environmentalism. His primary criticism is as a neutral arbiter of public policy—a technocrat seeking to ascertain the pros and cons of current command and control strategies, the now popular efforts to introduce "market mechanisms," and the newly rediscovered arguments favoring ecological privatization ("Free Market Environmentalism" or FME). Wearing his analytic hat, Kellogg finds command and control failing, property rights infeasible, and thus recommends "market mechanisms." Yet, Kellogg wearing a deep ecology hat, also argues that nature is different and he would seemingly view as illegitimate any market valuation process—whether the result of political manipulations or private property. In both cases, Kellogg's legal training, which one might imagine would focus on comparative institutional designs, is strangely lacking.

Kellogg's technocratic review of alternative means of protecting the environment is a basic restatement of the standard market-socialist myth that there exists a "third way" between the utopian, but infeasible, ideal of a centrally planned economy (in which goals would be collectively determined) and the, not only immoral, but, in the environmental area, probably impossible, decentralized private market (in which disparate goals would be established by each individual property owner). Kellogg is to be commended for his recognition that it is the **absence** of property rights that creates environmental problems and is certainly correct that many difficult problems remain if ecological privatization is ever to become a reality. Yet his casual dismissal of ecological privatization and his quick and his naive acceptance of the legitimacy of most environmental policy is too facile. More importantly, his insistence that politics continue to determine environmental priorities comes as a copout, given his substantive criticisms of the problems created by such politicization.

Kellogg, as do most critics of current policy, focuses on means rather than ends. Yet, the tragedy of modern environmental policy is not that we are doing wise things foolishly—but rather that we are doing far too many foolish things. That is the dominant result of EPA's internal 1987 study, *Unfinished Business*, as well as numerous external reviews of the agency (see, for example, *EPA: Asking the Wrong Questions*, 1989). Kellogg concedes this point but

makes it appear that this problem results from the tools used by politicians rather than from the politicized nature of environmental policy itself. Kellogg seems to view environmental objectives as obvious; and, perhaps, in the early days of EPA—when the task was reducing a few criteria pollutants generated at a small number of point sites in million ton quantities—it was. But, today, EPA seeks to control hundreds of substances often in minute quantities generated at myriad locations throughout the world. Crude prioritization measures might suffice in addressing haystack problems; they fail totally to resolve the needle problems of today.

Kellogg has little sense of history, and thus seems unaware that in the 1930s, such a "middle path" strategy (at that time for economic purposes) was championed by Abba Lerner and Oskar Lange. These socialist scholars realized that direct efforts to control a modern economy would fail, but believed that less direct means would still permit collective political control. As most readers of *Regulation* should know, Mises and Hayek demonstrated that this market-socialist variant was no more feasible than its non-hyphenated parent. In effect: Let's pretend capitalism isn't; or as the late Warren Nutter noted, "Markets without property rights are a grand illusion." Why such arguments are more attractive when painted green is unclear.

A handful of special issues might be handled by politics with no great loss; however, current environmental policy is unrestrained. Environmental policy is now dominated by the market failure paradigm: Whenever an environmental externality exists, government must intervene; a world of pervasive externalities mandates pervasive political controls. It is this move toward ecological central planning—toward the politicization of all economic activities having any environmental impact—which most threatens a free economy.

Markets are arrangements whereby people seek what it is they wish to do—not merely ways of achieving pre-determined goals. Markets are not political constructs but rather the spontaneous result of decentralized voluntary exchange. Absent exchange arrangements, the information needed to set priorities does not exist. Is it more important to ensure the survival of an additional spotted owl in Washington state or to reduce by another part-per-million PCB levels in the Hudson? Should plastic recycling rates in Atlanta be increased or should ozone levels in downtown LA be reduced? These are important questions but indeterminate in the absence of exchange arrangements. Thus, the challenge of policy makers is not to create markets, but rather to find ways to encourage the evolution of institutions (property rights, nuisance law, right of contract) which make voluntary arrangements possible.

Kellogg seems oblivious to all this. He first dismisses the command and control process as too slow to respond to change, contentious, inefficient, expensive, politicized, and, in addition, prone to hiding the costs of clean-up. He then dutifully repeats the standard Pigouvian arguments for market socialism—eco-taxes and eco-quotas will be more flexible, less costly, less adversarial, and will encourage desirable technological change. Kellogg waxes eloquently, as have theorists from Pigou onward, about the potential efficiency gains of addressing pervasive market failures by well-designed market mechanisms. Kellogg does concede that market socialist strategies have problems—indeed, many of the same problems faced by command and control regulations—but he sweeps aside these objections because of the "theoretical" gains made possible by such measures. Blackboard efficiencies win the day here—as in so many Pigouvian discussions of policy.

At one point, Kellogg suggests that certain market socialist policies—recycling credits and Amory Lovin's style "megawatt" policies—are positive examples of such approaches. These examples would have been more convincing a decade ago—before they had been tried. Today, however, with demand side management policies in disarray and recycling costs spiraling out of control, Kellogg's optimism in such market mechanisms appears especially foolish.

Nor is the experience with market-socialist approaches more encouraging elsewhere. Would anyone argue that agricultural policy has been advanced by the use of tradeable tobacco production quotas, that the taxi cab medallion system in New York City represents sensible policy, or that Bureau of Land Management water pricing policies have encouraged efficient resource use? In practice, alas, politics and politicians, not analysis and analysts, determine the design of such market mechanisms. Powerful special interests able to garner special treatment under regulatory regimes will also be able to benefit from tax or quota schemes. The forces that encourage mis-prioritization today will not disappear under a market socialism regime. Public choice realities are an unpleasant reality in the political world and warranted far more attention than provided them by Kellogg.

Moreover, a focus on environmental means ignores the more basic question of environmental goals. Consider the tradeable emission rights incorporated into the acid rain control section of the Bush Clean Air Act Amendments. Prior to enactment of these rules, the federal government had commissioned a massive study of the nature, extent, and cause of the hypothesized "acid rain problem." This resulting National Acid

Precipitation Assessment Program (NAPAP) study concluded that the acid rain problem was far smaller than had been hypothesized and that there was no case for a massive federal control program. Regulatory proponents, however, sold acid rain control as essential to gain support for "market-oriented" policies (tradeable emission rights). Yet, doing something efficiently that shouldn't be done in the first place is not efficient!

Kellogg's discussion of Free Market Environmentalism suggests that he has not given the property rights approach the "serious exploration" he says it deserves. Anderson and Leal, among others, demonstrate the superior record of private property approaches in addressing natural resource and wildlife concerns. And, after all, much of the current environmental debate (especially in Third World nations) involves not esoteric questions of privatizing airsheds or the oceans, but straightforward issues of private vs. political control of forests, farmlands, and wildlife. Significant political barriers, not significant transaction costs, block privatization solutions in these areas. Kellogg's case would have been strengthened had he explicitly endorsed FME in those many areas in which the antipathy to private property now blocks superior property rights solutions (for example, the Endangered Species Act, wetlands regulations, the Convention on International Trade in Endangered Species) before questioning the applicability of property rights approaches to air and water pollution.

Let me also note that Kellogg, like most apologists for current policies, misunderstands Coase. One can only sympathize with this brilliant economist who seems always to be quoted, never to be read. Coase is clearly not a Coasian in Kellogg's sense and, certainly, never argued that the case for political intervention can be made a priori. Indeed, one of Coase's major findings was that in the **perfectly competitive world**—the artificial reality in which environmental "economists" make the case for pollution taxes and quotas—there can be no market failure, and thus no case for such political intervention. The market failure paradigm lacks any theoretical basis. To Coase, the challenge is to move beyond "blackboard" economics, to examine how real problems are actually resolved in the real world. His work has focused on how lighthouses were provided privately hundreds of years before Kellogg-style analysts proved that this was impossible, how firms are restructured to manage externality problems, how nuisance law often resolved pollution disputes. Coase was well aware that property rights approaches required that one solve complex problems of fencing, boundary crossing detection, monitoring, enforcement, policing, and so on. His work, however, demonstrated that resolving such problems was the major function of voluntary arrangements, that creative solutions to "market failure" difficulties could be found everywhere in the real world, and that, certainly, the mere existence of transaction cost realities did not mean that politics would necessarily improve on this situation.

Kellogg is right that more work is needed in this area. There are very few free market environmentalists in the world today and many significant issues have yet to receive attention. For example, how would private property approaches address the "many/many" problem—the common situation in which many small polluters create many small consequences? The Coasian approach would suggest that we examine how comparable problems are resolved in such private arrangements as malls or condominium associations. Each lakeside resident may contribute some small amount of phosphates to the lake resulting in eutrophication. Each mall user consumes a small amount of air conditioning which must somehow be financed. Voluntary arrangements often address such issues by aggregation—creating an entity responsible for managing the environmental property resource and responsible for all costs incurred and for setting and attaining some specific environmental quality. Some malls, for example, provide air conditioning and various amenities; others are simply warehouses. Some housing associations spend vast sums maintaining lake quality and parks; others are simply housing tracts. Different environments for different tastes—and different willingness to pay. But, the work here is just beginning.

Transaction costs are real; they do not disappear because they are politicized. Indeed, in many cases, they may increase. In a private property world, entrepreneurs are encouraged to reduce such costs. Technological advances or institutional innovations that make it easier to reach agreement will increase profitability. Unfortunately, there has been little work on whether transaction costs are reduced more quickly in the private than the political sector, but anecdotal evidence abounds and tends to support those favoring FME. Would a political agency ever have created pooling and unitization arrangements such as those which have evolved in the oil industry? Would barbed wire ever have been invented had the federal government owned all western lands? Neither groundwater nor oceanic resources—both politically managed environmental resources—have seen such successes. Is this an accident?

Certainly, technology may well reduce the transactions costs of protecting property—and private parties do seem eager to provide services that would achieve such cost reduc-

tions. One example discussed in a recent news article involved a private firm that proposed to contract with a Northwestern fishing association to police the North Pacific to detect and alert authorities to unauthorized fishing in U.S. waters. The firm intends to use infrared satellite surveillance and a computer "finger-printing" technology that it believes will allow it to uniquely characterize each ship operating in an area and to determine whether the ship is under load (that is, hauling a net) or merely passing through. Technological and institutional changes which lower transactions costs are far more rapid when incentives (made possible by private property) encourage them—in a market economy, technological change is an endogenous, not exogenous, phenomena. Static analysis misses the real value of such a property rights approach.

Kellogg's rejection of property rights may owe much to his secondary argument favoring traditional environmental goals on non-economic grounds. This second Kellogg seems to abandon the whole debate pro and con markets in favor of a deep ecology theme. In the latter part of his article, Kellogg hits all the "gotcha" issues—"if someone wants to buy Yosemite and put up condos ...", "if the new owners want to clear-cut the last of the old growth forests ...", "most of us would be revolted by such a result..." Indeed, he believes we should even be horrified were we required to "take up a collection to prevent it." (What does he consider taxes collected to finance national parks and wilderness areas?) Kellogg goes on to inveigh against the degradation of values implicit in any monetization effort, the economists failure to recognize the "intrinsic value" of the environment. To this Kellogg, "environmental cleanliness is next to godliness," the return of the wolf to Yellowstone is a "partial repayment of a spiritual debt..." A property rights approach, he argues, cannot honor such non-economic values.

This Kellogg seems ignorant of America's history of advancing non-economic values. In Europe, Protestants and Catholics spent many hundreds of years arguing for political resolution of "sacred value" questions. Both sides viewed individual choices and voluntary arrangements as totally inadequate to resolve such dilemmas; after all, infinite values were at stake. Why Protestants might refuse to recognize the Virgin Birth! Catholics might insist upon a celibate clergy! Much blood flowed before such theocratic demands were removed from the political arena. In America, religious as well as a wide range of other non-economic values are honored and respected but not politically supported. Each of us individually determine our own religious values and decide for ourselves what level of support we wish to provide. In America, the cathedrals of God are built on private property and are financed privately under America's traditional concept of separation of Church and State.

There is no reason why those who believe in the intrinsic or even sacred value of nature cannot advance their beliefs in this matter as well. After all, environmental groups now spend hundreds of millions annually advancing their values politically. Were such funds invested in the private sphere, much private conservation would be possible. Kellogg seems to want special status for the eco-theocratic values he supports—for the Spotted Owl but not for the Holy Ghost! That is wrong.

As a lawyer and one acquainted with the conflicts inevitable when sacred values are forced into the secular sphere, Kellogg should rethink his position. Ecological privatization in America—like economic privatization in the former Soviet Union—is a complex process with many transitional difficulties. It will not be easy. Nonetheless, the Russians are making the effort to transform their economy. They have little choice, recognizing that economic goals are best defined and advanced privately, that economic central planning was a vast mistake. Ecological central planning, market-based or otherwise, is no more likely to advance ecological values. Isn't it time for the environmental establishment to realize that fact?

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KELLOGG replies:

In my article, I levied two main criticisms at free market environmentalism. The first was that it doesn't work. Transaction costs—in the form of identifying causes, negotiating with dispersed groups, and dealing with holdouts and free riders—are too large to permit a free market solution for our most significant environmental problems. Government intervention—preferably in the form of market-based incentives rather than the current command and control regulation—is therefore necessary to prevent the externalities that stem from market failure.

In last month's issue, Terry Anderson and Donald Leal, the two main gurus of the free market approach, wrote a lengthy rebuttal to my article. Astonishingly, though, they did not take issue with my claim that free market environmentalism doesn't work. It's not that they accepted that claim. They simply ignored it. They launched the usual criticisms against both command and control and market-based approaches—all of which are summarized in my article—but when it came to their own approach they provided no details and responded to no criticisms.

Anderson and Leal do note that a

free market approach requires "a system of well-specified property rights and a system of common-law torts that forces a polluter to pay for any damages he generates." But I explained at some length why such systems were practical impossibilities. I directly challenged Anderson and Leal to explain how they would work. I criticized their book rather harshly for failing to come to grips with this problem. Their continued failure to do so threatens simply to marginalize them in the environmental debate.

Lynn Scarlett, although she criticizes me for being too soft on the market-based approach, nonetheless appears to agree with my fundamental point, which is that "property rights approaches have been more elusive"—read: don't work—"in the realm of 'fugitive and fluid' emissions, most especially air emissions." I assume she would include water pollution, as well. Here, she admits, market-based approaches, like tradeable permits, are superior to both command and control regulation and to a pure free market approach.

Scarlett, however, argues that a property rights approach "functions reasonably adequately" with respect to resource and land use matters, and can even be expanded to include fugitive wildlife and pelagic fish. I wish she had explained these points. Land use, after all, is heavily regulated; indeed, generating pollution is a form of land use that Scarlett admits must be regulated. Also, I'm not sure to what sort of "[n]egotiated agreements" and "compensation packages" she is referring. More importantly, I do not know what "reasonably adequate" means in this context, particularly with respect to fugitive wildlife and pelagic fish, both of which are disappearing at an alarming rate.

But that brings me to the second criticism I made of free market environmentalism. Under that approach, the disappearance of fugitive wildlife, pelagic fish, pristine rivers, and old growth forests is a matter of indifference, as long as that disappearance reflects the choices of a freely functioning market. The free marketeers disclaim any suggestion that such things have an intrinsic value that should trump the preferences of individuals expressed in the marketplace. Thus, Anderson and Leal swallow without blinking the prospect of condos in Yosemite.

Scarlett too acknowledges that the free market approach has no truck with any notion of environmental "values." There are no "values" of any sort in this approach, there are simply "choices of particular individuals" (as Scarlett claims) or "preferences, constrained by budgets" (as Anderson and Leal put it). Indeed, Scarlett states that "[i]t makes no sense to talk of 'intrinsic values' [of any sort] if by that term one means the world out there and its various components have 'value' outside the presence of any valuer."

But values are not the same as preferences. To say that something has intrinsic worth (a painting, for example) is to make a claim about the painting, not about the speaker's preferences. And the claim is judged by reference to the painting's intrinsic qualities, not by what it fetches in the marketplace. Scarlett is guilty of a reductionist fallacy (promulgated by the logical positivists) that any first-year philosophy student could explain. It may be true that "the very notion of 'value' is a human construct." But so of course is the notion of "red," and it still makes sense to talk about a certain object "out there in the world" being red. If Wittgenstein taught us anything it was that we are not forced to choose between a naive Platonism and an impoverished reductionism.

To say that there are values independent of marketplace preferences, however, is not necessarily to say that government should intervene to protect those values (*i.e.* to coerce those who don't share them). It is a fundamental tenet of classical liberalism—to which I subscribe—that government should remain studiously neutral on most questions of value, leaving individuals free within as wide a sphere as possible to make their own choices. At the same time, though, government must prevent individuals from exercising their freedom in a way that impinges on that of others. Indeed, that is the principle justification for government coercion of any sort: to preserve the life, liberty, and property of all citizens. But that means that government itself—through the political process—must articulate and protect values in order to carve out a sphere of personal autonomy, a sphere in which all persons are treated and protected as equals, however unequal their material and personal circumstances might otherwise be.

I would suggest that environmental values are an important and necessary subset of this core group of values that government should articulate and protect. I recognize that it may seem strange to say that wilderness areas and timber wolves have anything to do with personal autonomy and interpersonal equality. But the connection with clean air and water should be clearer. And the items form a continuum.

The assaults of modern life can take many forms, and it is part of government's responsibility to provide protection against those assaults. One form that protection takes is the police. Another form it takes is laws that limit air and water pollution. Still another form is the establishment of refuges within our cities—parks, museums, playgrounds—in which all citizens can congregate on terms of equality to escape the dirt and the noise and to enjoy the preservation of beauty in its various forms. From there, it is only

a small, and perfectly legitimate, step to the preservation of refuges outside the city—wilderness areas, battlefields, national parks—and the protection of biodiversity.

Even Hayek, the greatest modern proponent of classical, free market liberalism, stated that government conservation is perfectly legitimate "where the aim is the provision of amenities of or opportunities for recreation, or the preservation of natural beauty or of historical sites, places of scientific interest, etc." *The Constitution of Liberty*, p. 375 (Chicago 1960). Such amenities, he explained, render value to the public at large and "enable the individual beneficiary to derive advantages for which he cannot be charged a price." Such amenities, I would suggest, also help to define us as a nation and as individuals. They are an essential part of the quality of our lives and of the sphere of equality that is promised to us by liberal democracy.

The political process may well be a sadly imperfect vehicle for articulating and defending these values. Our current state of environmental degradation bears witness to that. But it is the only vehicle we have. The one set of things that cannot be left to the market are the rules that define and control the functioning of the market. Articulating a core set of values—and fashioning the rules that preserve those values—is a large part of what our society is about. Anderson and Leal can sneer all they want at the "coercive environmentalists" with their "elitist agendas." But, at the end of the day, I would suggest that the environmentalists have a greater concern for equality than those who would barter away our most precious common heritage in the marketplace.

Michael K. Kellogg
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POSTSCRIPT: Fred Smith's letter reached me only after I had finished the above reply. It is highly informative and written with his usual flair. But I don't think his arguments differ in any significant respects from those of Scarlett and Anderson/Leal. Accordingly, I will not write a separate response, but simply make two additional points.

First, I agree both that the EPA has many foolish priorities and that private actors, with private incentives, are far more innovative than government actors. But that does not change the fact that, in some circumstances, market failure requires government intervention. I do not misunderstand Coase on this point. It is a central thesis of his article, "The Problem of Social Costs,"and he specifically uses air pollution as an example of the need for regulation.

Second, I am no more guiltier of making a religion of the environment than Smith is of making a religion of free markets. Indeed, his intolerance of apostasy seems much greater than my own. I do not propose forcing anyone to worship at the shrine of the timber wolf. I simply draw the line at letting the heathens slaughter the few wolves that are left. My interest is in conserving, not converting. And even Smith seems to recognize the legitimacy of collective efforts to conserve. He writes approvingly of housing associations that "spend vast sums maintaining lake quality and parks," as if that were a wholly voluntary undertaking by each member of the association. But the fees of such associations, like the taxes that pay for our national parks, are mandatory, not voluntary. You can vote in the association and you can move out if you don't like the result, but you can't free ride. The same applies when we, as a society, through our democratic process, decide to spend vast sums protecting our environmental treasures. Smith can vote against environmental initiatives or he can opt out of our outsized housing association. But until he and his colleagues come up with a realistic and detailed plan for a free market environmentalism that actually promises to deliver the goods, the rest of us are going to outvote him.

MKK