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**Special Issue:**

**Radical Environmentalism**

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**Introduction: Teaching Radical Environmentalism**

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**TEACHING RADICAL ENVIRONMENTALISM**

During two semesters as a visiting faculty member at Hobart & William Smith Colleges in Upstate New York, I had the opportunity to teach a course on “radical environmentalism.” I was at the time (Fall 2013 and Fall 2014) likely the only person in the U.S. teaching such a course, which created a bit of a stir with some of the higher-ups. I learned from a faculty member in my department that other teachers at the Colleges had protested this course which, I think, means that he felt that I was brainwashing students with my ideas. My explaining to him that it has never been my intention to indoctrinate students but rather to inform and raise issues and concerns about which everyone should care, as well as to get students to think critically and carry out informed action, fell on deaf ears. Nevertheless, this opportunity was deeply rewarding to me intellectually, emotionally, and spiritually. It was a time for me to not simply teach a stand-alone class on an issue about which I am interested but instead for me to teach for 15 weeks on an issue about which I am passionate.

We began the course by watching Toby McCleod’s short, *The Cracking of Glen Canyon Dam*, and questioning if dams are renewable sources of energy and furthermore if they are necessary. Students next watched *END CIV: Resist or Die*, and read selections from Henry David Thoreau’s *Walden*, George Marsh’s *Man and Nature*, John Muir’s “The Destruction of the Redwoods,” Bob Marshall’s “The Wilderness as a Minority Right” and “The Problem of the Wilderness,” Aldo Leopold’s *A Sand County Almanac*, Rachel Carson’s *Silent Spring*, Peter Singer’s *Animal Liberation*, and Dave Foreman’s “Strategic Monkeywrenching” from *Ecodefense: A Field Guide to Monkeywrenching*. Students compared the writings of Barry Commoner in *The Closing Circle* to activist Paul Watson’s three laws of ecology: the law of diversity, the law of interdependence, and the law of finite resources.

What the readings especially revealed was that few students have any grounding in the history of environmental and other social justice movements. Indeed, I have been surprised regularly to learn how few students have read even a sampling of the books and materials that should be the basis for any environmental course or program, especially Thoreau’s *Walden* or “Resistance to Civil Government” (“Civil Disobedience”). What I have learned during the last 18 years of teaching is that few teachers require students to read these formational materials. Hobart & William Smith Colleges was no different.

Students in my course learned about the connections between nineteenth-century first-wave feminists, abolitionists, and anti-war activists who were not only supportive of the temperance, prisoners, and children but in many cases also animals, vegetarianism and veganism (although the term was not yet coined), and anti-vivisection. In fact, the class became students of history as we considered organizations and networks such as the Hunt Saboteurs Association, Band of Mercy, the Tucson Eco-Raiders, Greenpeace, the original ELF (Environmental Life Force), Sea Shepherd Conservation Society, Earth First!, Bolt Weevils, People for the Ethical Treatment of Animals (PETA), Stop Huntington Animal Cruelty (SHAC), Environmental Liberation Front (ELF), and Animal Liberation Front (ALF), among others.

Throughout the course, students discussed and analyzed larger issues about dissent; dam construction and energy; trees, tree-sits, deforestation, and forest health; animal liberation and vegananarchism; Luddism and the myth of progress; deep ecology; Black Mesa, Rod Coronado, Indigenous activism and coalitions; ecofeminism, Judi Bari, and labor; and various Red Scares (and the current and ongoing Green Scare), as well as specific cases, for example, at Mount Graham, Minnehaha Free State, and “The Mud People’s Protest” in downtown Eugene, Oregon. There were plenty of humorous moments, such as when we watched sight-unseen the terrible movie, *Night Moves* (2013). There were also numerous in-the-news stories that students considered, especially the surrender of ELF activist Rebecca Jeanette Rubin to authorities in 2012 and the release, reimprisonment, and release of ELF activist Daniel McGowan. Students were fortunate to come into contact with and learn from speakers such as activists Rod Coronado (in person and via Skype), pattrice jones, Ray Luc Levasseur, and Pickering.

Students read Edward Abbey’s *Desert Solitaire* and *The Monkey Wrench Gang*, Mary Losure’s *Our Way Or the Highway: Inside the Minnehaha Free State*, Craig Rosebraugh’s *Burning Rage of a Dying Planet: Speaking for the Earth Liberation Front*, and, in the second iteration of the course, David Pellow’s *Total Liberation: The Power and Promise of Animal Rights and the Radical Earth Movement*. A number of students declared that Pellow’s work was the perfect book to tie together everything about which they had learned throughout the semester. Students maintained journals that included their class, reading, and film notes, as well as the scholarly book reviews they wrote. For their final projects, students were expected to write an essay titled “Narrative of Protest: An Example of Radical Environmentalism.” Many of the readings and course materials were inspired by the work and teachings of scholar Bron Taylor, who had years earlier also taught a course titled “Radical Environmentalism” at the University of Florida.

The most memorable and rewarding teachable moment in the course came after the following question was posed: are Earth and animal liberationists terrorists or arsonists? The students had just finished watching the ELF recruiting film, *Igniting a Revolution*. One of the students in the course was instantly angry and could not contain himself. He blurted out, “They should be imprisoned. They are terrorists.” Few students disagreed with his sentiments. Most students supported terrorism enhancement charges. I simply sat quiet as they vented their frustrations and processed what they had just watched.

Moments later, the following in-the-news stories were raised in-class: the assassination-style killings of two prosecutors in Texas in January and March 2013 and the serial arsons of 80 properties on Virginia’s Eastern Shore during five months in early 2013. Students instantly wondered why radical environmentalists were receiving heightened terrorism charges, while in the Texas and Virginia cases, no elected officials, media personalities, or law enforcement officers suggested such sentences. The idea of terrorism was simply not a part of the media’s narrative.

A few days later, students were able to interact with Leslie Pickering, former spokesperson for the Earth Liberation Press Office, who was on-campus talking about his harassment and surveillance by the FBI and other government agencies. Students were able to see that Pickering was no raving lunatic, but was instead a compassionate, committed, community-minded activist and entrepreneur. Pickering had returned to his hometown of Buffalo, New York, and had with his wife opened Burning Books, a radical bookstore. Coming face-to-face with the person who from 1997 until 2002 was, along with activist Craig Rosebraugh, the “face of ecoterrorism,” was beneficial for students. In a non-confrontational and open-minded space, students were able to have their questions answered and develop new perspectives about activism generally and radical environmentalism in particular. During Pickering’s evening presentation, many students continued to question the media and the role of certain government agencies and American businesses.

What finally tipped the scales for students in opposition to enhanced terrorism labels was watching the film, *If a Tree Falls: A Story of the Earth Liberation Front*, a few classes later. Almost all of the students by this point viewed the activists portrayed as arsonists or saboteurs rather than terrorists. My students noted the various FBI agents and police officers depicted in the film who saw the film’s protagonist, Daniel McGowan, with sympathy and, perhaps, empathy. Students were beginning to see the tremendous reach of the federal government in a post-9-11 world. Students were also by this point asking larger questions about the machinations of Congress, the lobbying efforts of the pharmaceutical, agriculture, and animal testing companies, grand juries, and the highly restrictive Communication Management Units—prisons where McGowan was incarcerated. They began to wonder about their “rights” and become active not only intellectually but also physically.

(I have seen similar responses from students regarding the use of American Indians as mascots for sports teams. Generally, most students polled initially see no problem with such racist [and I would argue, violent] stereotypes. After students listen to a presentation about the issue and watch the excellent film, *In Whose Honor?*, they generally change their minds.)

As a result of taking this course on Radical Environmentalism—in fact, all of my courses—students participated in protests against the Ringling Brothers Circus and the proposed storage of liquefied petroleum gases by Crestwood Midstream on Seneca Lake. One student drove to Buffalo to interview Pickering, while another travelled to his hometown to learn about Earth First! activists in the Hudson Valley. Students became engaged in the movements to stop the Keystone XL Pipeline, the hydrofracking of natural gas in Pennsylvania, and the delivery of coal to the Brayton Point Power Station in Massachusetts (the so-called Lobster Boat Blockade). Many students travelled to Washington, D.C., in 2013 and New York in 2014 for climate change marches. Many of my students embraced concerns of solidarity, intersectional social justice, and “total liberation.” Some students adopted vegan diets. The students were clearly becoming engaged, thinking critically, and carrying out various levels of informed action.

This course was not simply an intellectual exercise, however. Students were able to learn first-hand tactics used by activists. For example, Pickering shared his experience climbing the Washington Monument in 1999 in protest of primate research. Students had access to various editions of the *Earth First! Direct Action Manual* and *Earth First! Journal*, and learned about the tripod stand at the top of Mount Graham that shut down access to telescope dedications in 1993. They read essays by Rod Coronado in his book, *Flaming Arrows: Collected Writings of Animal Liberation Front Activist Rod Coronado*, especially his essay about the sinking of Iceland’s whaling fleet in 1986. They watched films such as *PickAxe*, *Breaking the Spell* and *This is What Democracy Looks Like*, *Redwood Summer: Saving the Rainforest Starts at Home*, *Who Bombed Judi Bari?*, *You Can’t Be Neutral on a Moving Train*, *Uprising on Mount Graham*, *If a Tree Falls*, and numerous youtube and media clips—all of which gave some indication of the necessity of careful planning, willingness to act, and various creative actions in defense of the Earth and its creatures, including non-human animals.

The following collection of essays is a reflection of my experiences teaching these Radical Environmentalism courses and my desire to share some of the recent scholarship on the topic. It is my belief that such educational opportunities are essential if we are to move quickly enough on the myriad of environmental problems with which we are faced.

In this issue of *Green Theory & Praxis*, Political scientist Larry Cushnie investigates differing applications of punishment to radical environmental activists. Political scientist Joshua Varnell discusses the prosecution of radical animal rights and environmental activists by the federal government. Varnell is especially interested in the ways in which the U.S. government uses confidential informants and agent provocateurs are used against animal rights and radical Earth movements, especially concerning the case of Eric McDavid. Literary studies scholar Paul Lindholdt uses as his focus the 2014 film *DamNation* to investigate the concept of “rewilding,” explore the role of Thoreau and his efforts toward activism and rewilding, and lastly interrogate several examples of artwork throughout. Meneka Thirukkumaran examines core curriculum and questions contemporary systems of schooling and the scientific industrial paradigm underlying its foundation.

Here is to supporting your efforts to become an eco-warrior, a biogladiator, for planet Earth and all of the life that it supports.

If you would like to obtain a copy of my extended reading list, course materials, and syllabus, please contact me.



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**Mapping Discursive and Punitive Shifts: Punishment as Proxy for Distinguishing State Priorities against Radical Environmental Activists**

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**Abstract**

Over the past decade, sentencing rates have climbed steadily for environmental activists who choose property destruction as their form of protest. This tactic is not new to the protestors’ toolbox, yet it is receiving a level of attention and punishment never before experienced. What explains this reaction considering the relative inefficiency and singular impact of the individual acts? Why is such a backlash present at multiple levels of society (popular reaction, prosecutors, judges, media, etc.)? Why are these acts so symbolically powerful to the state in comparison to their relatively small costs? Why are sentences issued in response to these actions at such a disproportionate and punitive level? This article argues that the courts, in sentencing radical environmental activists, adopt clear signals from the federal government. Literature on judicial behavior is helpful towards addressing some of these questions. However, the most important questions revolve around the theoretical implications concerning a state which, in certain cases, punishes the destruction of property at levels comparable to the destruction of sentient life.

**MAPPING DISCURSIVE AND PUNITIVE SHIFTS: PUNISHMENT AS PROXY FOR DISTINGUISHING STATE PRIORITIES AGAINST RADICAL ENVIRONMENTAL ACTIVISTS**

“We are the burning rage of this dying planet. The war of greed ravages the earth and species die out every day. ELF works to speed up the collapse of industry, to scare the rich, and to undermine the foundations of the state.” -Earth Liberation Front, Beltane Communiqué

"The No. 1 domestic terrorism threat is the eco-terrorism, animal-rights movement."

-John Lewis, FBI Deputy Assistant Director

**Introduction**

On New Year’s Eve of 1999, Marie Mason burned down the Agriculture Hall on the campus of Michigan State University. The arson was in protest of the genetic engineering research carried out within. The research was part of a federally funded program to genetically modify foodstuffs for consumption in the United States. On February 5, 2009, Mason was sentenced to 22 years in prison. Prosecutors acknowledged that the fire was not set in an attempt to damage human life, yet Mason received the longest sentence ever for an act of environmental activism. Leading up to her sentencing, the Federal Bureau of Investigation (FBI) warned the press of the possibility of ‘terrorists’ attending the court date to protest or otherwise interrupt the proceedings potentially through violent means (Potter, 2009). Similar intimidation tactics (not backed by any actual threats) were used by the federal government in the mid-1970’s during the trials of various American Indian Movement (AIM) activists (Churchill & Vander Wall, 2001; Matthiessen, 1992). Federal prosecutors asked for a sentence of 20 years, the judge added another two for Mason’s involvement with the Earth Liberation Front (Fox News, 2009). The judge reasoned that Mason’s acts fit within the definition of terrorism constructed by the PATRIOT Act (*Public Law 107-*53, 2001) and the Animal Enterprise Terrorism Act (*Public Law 109-374,* 2006). Chief US District Judge Paul Maloney also used a vague ‘terrorism enhancement’ established by the Omnibus Counterterrorism Act of 1995 allowing broad discretion in sentencing (up to 20 years) for acts aimed at influencing the government and for endeavors found of a congressionally defined list of terrorist acts (*H.R. 896*, 1995). What political processes, climates, and strategies led to such a harsh penalty for Marie Mason? Why have courts in recent years issued several sentences to property-destroying environmental activists beyond those typically given for rape and murder? Why has the executive branch through federal law enforcement agencies been so aggressive in applying statutes (some already in existence for a decade, yet rarely used) that target property-destructive protest?

This article documents a variety of changes in political priorities and statutory weapons for prosecutors contributing to the rise in punitiveness against radical environmental activists. These circumstances include courts and judges carefully monitoring cues from the federal government as to how contentious political controversies are resolved in the legal realm. This link is most clear between publicized, concerted efforts on the part of federal law enforcement, demonstrated through the attorney general’s Department of Justice’s (DOJ) and Homeland Security’s yearly strategic plans. In order to clearly identify the stakes (legal, philosophical, and existential), this paper integrates discussions of the theoretical and normative place of property in American society. Specifically, one method of understanding the priorities of a community is to consider which crimes receive the most punitive sentences. While the severity of sentencing applied to environmental activity is a relatively new phenomenon, the trend represents punishments for the destruction of *things* on par with the destruction of *beings*.

In the United States, courts provide a multi-directional tool for competing environmental interests. Individuals may petition the court for grievances against private corporations and/or government interests, or they could find themselves as defendants for their activism. In the case of environmental activists, the interplay with American courts shifts overtime. Federal law enforcement sets the agenda for the judiciary in their pursuit of various threats, and courts, over the past 10-15 years, responded with elevated sentences for similar crimes. Specifically, the government pursued higher penalties (in months of incarceration) for environmental activists over the past decade than in previous ones. The crimes are similar in tactics, scope, and severity, yet the sentencing of convicted environmentalists rose steeply. Understanding this trend through an evaluation of sentencing rates for similar crimes over the past two decades, focusing on instances of property destruction, arson, vandalism, etc. with activist motivations demonstrates a trend of increasing punitiveness. Why has sentencing rates for similar acts of environmental activism increased? What factors explain this variation?

One possible reason for an increase in punitiveness involves activists shifting from ‘conventional’ protest to activities destroying property and breaking laws. However, research identifies a dramatic shift in punitiveness even as tactics remain relatively stable. The shift occurred long after activists began using the tactic of property destruction. The political milieu and discourse surrounding ‘eco-terrorism’ serves to increase attention to extra-legal activism in defense of the environment. Domestic security forces (FBI) in conjunction with the federal legal apparatus (Department of Justice and Homeland Security) have made ‘eco-terrorism’ a top priority since September 11, 2001 (Jarboe, 2002). Clear evidence of this emphasis exist in FBI press releases, congressional testimony, and revelations in the strategic agendas laid out by various federal entities discussing the threat of ‘eco-terrorism’. This article argues that, while this new focus on activists leads to slightly more arrests and convictions, it disproportionately assigns more severe penalties to environmental radicals in comparison to pre-9/11 cases. Illuminating the agenda-setting power of federal law enforcement’s response to radical environmental action, demonstrates a realignment of federal priorities in the wake of 9/11 to reclassify destructive dissent as terrorism.

The directionality of this process is difficult to map. There are several possibilities for how the timing of massive international terrorist actions coincides with the rise in punishment for domestic political activists. One is that Congress passed a law targeting the specific threat of those affiliated with the perpetrators of the September 11th attacks, but utilized vague language and definitions thus opening substantial legal space for pursuit of domestic agitators. Such a lack of specificity enabled federal overreach on the part of prosecutors utilizing outward looking congressional acts towards internal dissent. While the new legislation was publically linked with the immediate tragedy, its existence and push for implementation preceded the events justifying its passage into law (Van Bergen, 2002). Regardless of timing and motivations, wide latitude is available for federal actors to pursue and prosecute a form of dissent as old as the country under the auspices of preventing terrorism. Considering American priorities towards the protection of property as a cause of more stringent penalties for activists in conjunction with a ‘War on Terror’ is a necessary and logical next step towards a comprehensive explanation. This approach seeks to integrate understandings and antagonisms between property rights and the rights of protest and resistance. Utilizing a modern case study of how the American state confronts dissent through destruction undergirds the approach.

This paper is divided into four sections. The first outlines the agenda-setting approach of the justice department’s and federal law enforcement’s mounting interest in and emphasis upon environmental activists utilizing direct action. The section provides an initial foundation and discussion about how concentrated federal efforts provide sentencing cues and priorities to courts. While some of these changes seem statute driven, in reality, a multitude of legislation salient to stricter sentencing was present for decades. Rather, the change is the result of increased political attention towards the War on Terror and the new priorities of the DOJ and the FBI. In other words, legislation such as the PATRIOT Act set a new agenda for federal actors, while also opening up the legislative past for previously under-utilized statutes.

In the second section, a longitudinal data set documents the length of sentences in cases involving property destruction by environmental activists. The data reveals upward movement in the rhetoric of terror and fear from federal entities, which mirrors the increase in punitive sentences. Descriptions of environmental activists as terrorists and as significant threats to domestic security becomes the new standard. FBI, DOJ, and Homeland Security press releases, congressional testimony, and newspaper articles comprise the bulk of the data. From the case studies, a steady increase in terms of incarceration since early 2002 is immediately apparent.

The third section analyzes the data to hypothesize reasons for the observed changes. The analysis includes deeper interrogations of individual cases, analysis of discourse from the state, and considerations of the political landscape. These three areas enable the reconstruction of a political, a legal, and a law enforcement climate leading to longer rates of incarceration.

The final section considers the theoretical implications of increasing punishment for damage to property which explicitly rejects harm to individuals. The situation has not been one of a gradual rise in sentencing for environmentally motivated property crimes. Rather, sentencing vaults upward to a level reserved for rape, murder, and other violent crimes against sentient beings.

The paper concludes with a discussion of the results and the implications the data provides for future interactions of activists and the courts. Effects are not a simple top-down description of increased state attention and condemnation, but a multi-directional interaction effect, in which courts are less responsive to the rights-claims of activists. The political climate allows for questionable prosecutorial tactics towards environmental activists, due to their participation in law-breaking activities against symbolic property targets. While a lack of sympathy is expected, the change in levels of punitiveness demonstrates a normative arena of contention. Property, as a sacrosanct symbol of the right to exclude in the liberal state, leads to emotional and reactive policies when property is destroyed in the course of protest. When an environment of terror complements these actions, we can expect a steep rise in the level of punitiveness for participants.

**Federal Law Enforcement & Agenda Setting**

Since the 1980’s, the Department of Justice publishes yearly or semi-yearly reports on the status of foreign and domestic terrorist concerns. These reports offer a clear public agenda for FBI response to domestic incidents perceived as a terrorist threat. *Terrorism in the United States*, renamed *Terrorism* in 2001, significantly alters its labels and descriptions of environmental activists between 1996 and 2001. While groups such as ELF are discussed as a significant threat going back to 1998, they are not anointed as ‘eco-terrorists’ until the reports published in 2002. The 1998 DOJ *Terrorism in America* briefing uses an image from an ELF action in Colorado as the *cover* of the report, yet refers to ELF as “an extremist environmental movement” (DOJ, 1998). While their actions gain enough prominence to make the cover of the report, they are still described in terms of radical activists. Fast forward to 2002 and for the first time we see descriptions of “the challenge to respond to animal rights and ecoterrorism” (DOJ, 2002). Before 2001, “eco-terrorism” as a term was used sparingly in newspaper stories and other forms of popular media. In fact, the earliest use of ‘eco-terror’ found using a popular internet search engine, is by an environmental group in 1987 who named themselves the *Evan Mecham Eco-terrorist International Conspiracy.* This article also explores the strategic rhetorical use of ‘terror’ attached to activists as one of several tools deployed by the federal government to realign destructive dissent with terror. The ‘War on Terror’ provides a nebulous category to encompass many groups who contest federal power, especially when property is involved. This response fits within previously discussed historical cases of government attempts to combat controversial messages and actions of dissent.

The discursive shift beginning just after the 2001 attacks became much more significant after Congress responded to those attacks by giving federal law enforcement broad new powers to investigate and punish acts of 'terrorism'. The FBI began to use newly aggressive tactics similar to the ones used in an earlier generation with COINTELPRO (Churchill & Vander Wall, 2001). Significantly, however, federal law enforcement officials were much more open in announcing and taking credit for the tactics used in the post-2001 campaign against radical dissent. The FBI, in conjunction with the ATF to curb property destruction by environmental activists, launched Operation Backfire in 2004. The program targets environmental and animal-rights activists participating in sabotage of industries harmful to the environment and animal welfare. Aligning the program with COINTELPRO is not due to its covert nature, but due to tactics law enforcement utilize to find, to arrest, and to prosecute activists. While Operation Backfire represents the clearest example of a policy shift from the federal government in the aftermath of 9/11 to combat domestic terrorism, various other crackdowns on public forums of protest demonstrate the extent that the control over discourse about dissent reaches (i.e. development of ‘free-speech zones’ at global economic conferences and vagrancy laws used against the Occupy movement).

Operation Backfire utilizes secret grand juries, FBI provocateurs, informants, unnamed sources, surveillance, pre-emptive arrests, and other tactics treading the border of legality. These are the same methods executed throughout the 1960’s and 1970’s against such groups as the Weather Underground, the Black Panther Party, the American Indian Movement, and the New Left more generally (Churchill & Vander Wall, 2001). While many of these actions fall in a grey area of legality, federal prosecutors legitimize them as necessary and relevant when the moniker of ‘terror’ is attached to those being investigated. Similarly, these tactics appear more recently against various protest groups leading up to WTO, G8, and other international economic conferences including preemptory arrests and agent provocateurs.

After a shaming *60 Minutes* report (“Burning Rage” in 2005), it was clear that the FBI had failed to arrest anyone as part of Operation Backfire. While there was little public outcry at the time, the federal government was embarrassed by the combination of resources used and lack of tangible outcomes pointed out by CBS journalists (Bradley, 2005). Not long after, federal law enforcement dramatically ramped up both enforcement activity and publicity surrounding examples of ‘successes' targeting domestic dissenters as ‘terrorists’. The most efficacious tactic in developing cases against activists involved threatening an informant with federal drug charges if he did not cooperate in secretly taping discussions with his conspirators and friends about events from previous years. Jacob Ferguson was flown around the country, while wearing a wire, in order to casually run into old acquaintances from his ELF days. Ferguson was a prolific arsonist and acknowledged his responsibility in most of the major actions perpetrated by an active ELF cell (Bernton, 2006). Indictments began raining down on members of a group dubbed ‘The Family’ for various ecotage events going back to 1996. The eventual result was multiple convictions, helpful in reversing the image issue Operation Backfire suffered, as well as the imprisonment of 13 men and women (Bernton, 2006). These indictments, as well as the accompanying arrests and convictions, were widely publicized by the FBI through press releases, media interviews, and congressional testimony. These documents and statements conjure a picture of domestic terror cells conspiring to destroy the property of everyday American citizens as part of their radical environmental agenda. Understandably, the FBI does not mention or discuss motives for these illegal acts. Rather, the actions are lumped together within the larger ‘War on Terror’. As Attorney General Alberto Gonzalez states, “Today’s indictment proves that we will not tolerate any group that terrorizes the American people, no matter its intentions or objectives” (FBI, 2006). The method of pursuit, the tactics, and state descriptions of property destruction set a clear agenda for courts and judges to issue aggressive sentences to environmental activists.

**Longitudinal Evaluation of Convictions**

29 cases of property destruction, designated as acts of environmental activism associated with the ELF, from 1987-2012 constitute the case studies for analysis. The cases were found through a wide variety of sources. While the most dramatic cases were present across national news syndicates, federal government records provide the most salient examples. Since the focus of this paper is on federal law enforcement’s change in approach and veracity in sentencing, the cases promoted by the FBI (touted in press releases and press conferences) are most helpful. This demonstrates two important concepts: 1) federal agenda setting displayed in public dissemination of information including press releases and congressional testimony, and 2) the shift in federal attention to these activists even as the research shows a continuing presence of these illegal actions stretching over decades. There are potential problems with this sampling method with an overreliance on federally controlled messaging and information. In other words, the entire universe of actions may not be present. Lower level offences taken care of at the city or county level might be excluded. However, since the argument is about federal attention to these acts, the sampling demonstrates shifts over time in the public attention granted to environmental activists. Another issue is the assigning of monetary damages that the events represent. These numbers are notoriously difficult to pin down with any real precision. As with large-scale drug busts, dollar amounts trend towards the dramatic. For this reason, sentencing rates rather than the monetary damages assigned for their actions provide a more accurate metric.

Seven of the incidents reach the sentencing stage before September 11, 2001, and 22 occur afterwards. This date is chosen as the point of departure due to a concerted effort from federal law enforcement to crack down on environmental activists and any entities construed as terrorist elements. Accompanying this higher level of attention is also a discursive shift. It is difficult to make a perfect comparison since many acts differ in levels of damage. This includes differences in cost (as ascribed by property value) and impact (as determined by symbolic importance). Therefore, the data shows a potential trend, rather than a clear outcome.

‘Eco-terrorism’ is the term used exclusively beginning in 2002 by the FBI and other federal institutions to label the destructive acts of environmental radicals (Jarboe, 2002). The 29 cases in the data set are found in press releases, newspaper articles, congressional testimony, environmental activist message boards, and civil rights newsletters. Simple comparisons of the mean and median of cases before and after September 11, 2001 illustrate a disparity and shift in the severity of sentencing. It is also important to describe the circumstances surrounding specific cases showing how the courts interpreted similar activism differently within a relatively short period of time. This article hypothesizes that the increase in rates of sentencing are attributed to the increased political attention from the federal government. Publicity surrounding federal law enforcement campaigns, directs political attention to a specific issue increasing awareness and salience for the courts. In effect, the political climate contributes to actual legal outcomes and that these cases are demonstrative of such a trend. This is not a stunning or remarkable outcome in general terms concerning how political climate affects enforcement priorities; however, it is important in terms of the impact on the suppression of dissent more generally.

The analysis is divided into four main parts. First is a discussion of the results of the data gathered. The 29 cases demonstrate a steady rise in rates of sentencing. A variety of confounding factors present significant effects on the results: invocation of federal statutes, pleading guilty or not guilty, cooperation with law enforcement, testifying against other defendants, becoming an informant, previous convictions, and additional charges. Even with these considerations, an increase in severity of sentencing is present. Second, closer examination of a few individual cases build a deeper account of the events surrounding specific verdicts. Disproportionately harsh penalties arise following 2001 compared to crimes before that year. Third, this article applies the logic of courts as political actors to understand how the political climate influences the supposedly insulated judicial realm. Finally, considering the implications of government labeling and FBI counterintelligence programs on the future of environmental activism and its prosecution helps to establish a framework for future analysis.

The data gathered represents a collection of the most prominent prosecutions of environmental activism, specifically described as ‘ecotage’. Ecotage represents acts conducted to eliminate the profit motive of environmentally harmful actions. As Parsons argues, “…ELF ecotage is also meant to question and confront the social, economic, and political realities of the world and to undermine them through their active problematization” (Parson, 2008, p. 53). Ecotage can take many forms. Stereotypically, the word describes acts of arson and vandalism upon easily identifiable sources of environmental degradation. Debate remains within the activist community about whether these acts constitute a response to reduce the profit motive of individual issues or represent a larger revolutionary perspective. This distinction is unimportant to the federal government who reserve the legitimate authority to ascribe motive in their prosecutions. Whether the burning down of a planned community in environmentally sensitive wilderness represents an attempt to stop a specific instance of urban sprawl, or its arson constitutes a larger struggle against commerce trumping protection of eroding ecosystems, federal law enforcement dictates the ‘proper’ response.

Parson provides a helpful analysis of competing ideologies within the movement. Parson discusses the radical ecological traditions behind environmental activist groups such as Earth First! and Earth Liberation Front. He implicates three ideologies that help to encompass the reasoning and motivation behind these actions including deep ecology, social ecology, and green anarchism (Parson, 2008, pp. 54-58). Each provides a distinctive understanding of the place of the activist and motivation for their actions against corporations, research entities, urban sprawl, etc. This creates different priorities in target assessment for activists using property destruction as a tactic and complicates the portrait painted by the DOJ.

Thus, assorted actions fall within varying definitions of justified ‘ecotage’ including animal release, vehicle sabotage, and tree spiking. Ideologies influencing activists lead to fluctuating understandings of legitimate resistance. Comparisons between ecotage and civil disobedience provide a persuasive evaluation of radical resistance; enabling a multifaceted understanding of actions and their potential justification (Vanderheiden, 2005, pp. 425-447). Vanderheiden develops spheres of defensible acts of ecotage which do not constitute terrorism, yet also fall outside of civil disobedience. His discussion is helpful in developing a spectrum of activism overcoming federally constructed binaries.

This data set suffers from many limitations. It is not an exhaustive list of all cases of ecotage and it is not necessarily representative of the entire population of cases. However, it does constitute the most salient cases due to the publicity surrounding them. These cases received the most attention in federal law enforcement press releases and testimony as well as availability from national news sources. As Figure 1 demonstrates, acts of ecotage penalized by the courts before September 2001, have a mean sentence of 42.4 months and a median of 36 months. The shortest sentence out of the sample is 12 months while the longest is 84 months. These seven cases show a relatively homogenous reaction by the courts for crimes involving property destruction.

**Sentence Lengths, in months, of Environmental Activists - Property Crimes (Figure 1; Appendix 1)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Date Range** | **# of Convictions** | **Mean** | **Median** | **Shortest Sentence** | **Longest Sentence** |
| **1/1/91 - 9/11/01** | 7 | 42.4 | 36 | 12 | 84 |
| **9/12/01 – 3/31/12** | 22 | 92.9 | 81 | 6 | 262 |

Incidents after September 2001 experience a clear change. In Figure 1, the mean has more than doubled to 92.9 months and the median is up to 81 months, similar to the largest penalty before September 2001. Across the cases, the shortest sentence is six months and the longest drastically increases to 262 months or 21.8 years. In addition, the sentences after September 2001 do not match with the more generally consistent convictions for vandalism and arson.

There is a variety of factors particular to the cases that might account for such changes, including value of those objects and/or structures vandalized or destroyed. It is difficult to rule out such factors completely with available information. Assigning value to damages is notoriously difficult, but publicized numbers tend towards the dramatic. Nevertheless, it seems that there is, at most, a small uptick in the amount of damage associated with the protest actions, and certainly not an increase proportional to the substantial increase in the level and length of incarceration. It is difficult (if not impossible) to make an accurate damage comparison, as figures are not reliable; however, there is little reason to believe that tactics intensified toward more substantial losses.

Few of the cases before September 11, 2001 involve the use of federal laws for sentencing; however, federal acts did exist before 2001 and were available to prosecute environmental activists. In 1995 & 1996, Congress passed the Omnibus Counterterrorism Act and the Federal Crime Bill and the Anti-Terrorism and Effective Death Penalty Act, respectively, in the wake of the Oklahoma City bombing (Singh, 2006, pp. 71-93). The acts articulate expanded definitions of domestic terrorist related activities as well as federal sentencing guidelines. Most importantly, the birth of ‘terror enhancements’ gave judges a tool allowing for an additional 20 years added to sentences at their discretion. Neither of these acts were mobilized against environmental activists prior to 2001. Thus, the availability of guidelines allowing for more punitive sentences were present, but remained quiescent. The RICO Act is also available to prosecute activists across causes; though it was originally written as a method to convict high-level mafia members well before 2001. The Animal Enterprise Protection Act passed in August of 1992 makes it a terrorist offense for commerce clause violations by anyone crossing state lines who “intentionally damages or causes the loss of any property (including animals or records) used by the animal enterprise, or conspires to do so” (*Public Law 102-346,* 1992)*.* The law lay dormant for six years until it was used to convict Justin Samuel in 1998, which is one of the cases included in the sample. In 2006, Congress amended the law and renamed it the Animal Enterprise Terrorism Act (*Pubic Law* 109-374; 18 U.S.C. § 43). Alterations to the statute went beyond simple naming to include further expansion of the definition of terrorism and enlarged powers for the courts to sentence wrong doers. Examples of the discursive shift towards terrorism and the potential impacts of this key rhetorical change are elaborated upon later in the piece.

So what was the difference after 2001? Key changes include an increase in attention to acts construed as anti-capitalist, anti-American, violating copyright, and/or targeting property after 9/11; a reassertion of previously unused pre-9/11 statutes; and, most importantly, a shift in discourse and attention towards environmental activism from federal law enforcement. The move towards more aggressive pursuit of all types of ‘terrorism’ made it much easier to facilitate and further a punitive agenda. Specifically, the discourse of ‘terror,’ justifies increased lengths of incarceration based upon more widely available sentencing guidelines at the federal level. Descriptions of terror also demonstrate a moral high ground for federal officials and allow the construction of activists as irrational or insane actors outside of political and/or ethical consideration.

In February of 2002, the Domestic Terrorism Section Chief testified before Congress naming the Earth Liberation Front (ELF) and the Animal Liberation Front (ALF) as the two most dangerous domestic terror groups in the United States (Jarboe, 2002). In this instance, congressional testimony serves as the point of departure from reactionary policing, and towards preemptive, concentrated, and organized prevention of actions by direct action environmentalists. Before this point, the crimes committed by members of ELF were prosecuted just as any other arson or act of property destruction, many times at the state rather than federal level. Following this address, rates and lengths of incarceration went up drastically. Environmental activists find themselves labeled as ‘terrorists’ by the federal government in press releases, congressional testimony, and other public discourse. FBI monitoring of environmental activists became tactically similar to the COINTELPRO program of the 1960’s and 1970’s. In recent years, Operation Backfire was initiated to infiltrate and close down individual cells of the Earth Liberation Front (ELF). In coming pages, this paper elaborates upon Operation Backfire and its varying outcomes.

ELF and ALF have never harmed nor supported actions targeting sentient beings. In their own mission statement of sorts, they proclaim that their tenets require the step “to take all precautions against harming life” (Parson, 2008, p. 52). In other words, they repeatedly declare normative principles eschewing the targeting of sentient life, and have so far lived up to that promise. Other, more violent groups, neither profess to be non-violent nor demonstrate any commitment to similar ethical imperatives. ELF and ALF were elevated above the Ku Klux Klan, armed militias, violent anti-abortion activists, and the Aryan Brotherhood as the top domestic threat to the United States. According to congressional testimony (as of 2002) the ELF and ALF were responsible for over $40 million worth of property damage without harming a single individual or being (Jarboe, 2002). The author has been unable to find harm to sentient life in any of their actions since this addition to the congressional record. The reaction of the FBI and the federal government seems to protect economic interests, rather than address threats including hate-based rhetoric by violent organizations to incite fear and to destroy human life. Specifically, a study by the Combating Terrorism Center at West Point addressed the growth of acts perpetrated by domestic right-wing groups resulting in harm to human life.

**Attacks Initiated by Far-Right Groups/Individuals per Year – Figure 2** (Perliger, 2012, p. 87) - The vertical axis of the graph represent the number of violent attacks perpetrated by individuals/groups associated with the far right. The attacks are categorized by (1) the date of the attack; (2) perpetrator(s) characteristics and their organizational and ideological affiliation; (3) target characteristics; (4) implications of the attack (number of fatalities and injured, and whether it was completed successfully); (5) geographical aspects; (6) tactical details; and (7) a concise description of the attack. The horizontal axis represents the year of the attack.

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In their study, members of far rights organizations perpetrate a clear rise in violent acts against human beings. Each of these data points represents the attempt to physically attack a target. In sum, there were 4,420 violent incidents over the span of 22 years. 670 of the incidents resulted in fatalities and 3,053 resulted in physical injuries (Perliger, 2012, p. 87). During the same period of intense focus upon radical environmental and animal rights activists, actual harm was skyrocketing against human beings (typically of historically persecuted minority groups). Making a public statement that environmental activists constitute the number one domestic terror threat, while at the same time a steady rise of harm to life is perpetrated by another, sets a dangerous precedent. Thus, priorities of federal labeling and perceived threat-level of ‘domestic terrorism’ against inanimate objects versus sentient life comes into question. It is not that federal law enforcement was not pursuing these violent, right wing groups; but rather the public perception developed through press releases and congressional testimony emphasizes the danger of property destruction as a higher order threat. Setting the agenda in this way elevates the protection of property to a place that must be interrogated in the face of actual human violence.

However, this would be too base and stark a contrast. Rather, this example provides a set of priorities for domestic security forces in the United States that conjure interesting theoretical questions of law enforcement and sentencing priorities. A later section theorizes how excessive punishment of property crimes leads to demonstratively detrimental priorities for the state.

Length of sentences change in relation to the level of cooperation from individuals in custody. Before 2001, individuals who assisted investigators would typically receive probation or short jail terms. After 2001, individuals who helped with an investigation were still given years in jail similar to non-political incidents of vandalism and arson. Federal prosecutors offer deals in which they promise not to pursue prosecution by federal terror statutes, yet still prosecute the individuals at rates that match or exceed pre-2001 levels. In other words, the standards shift towards increasing severity for the same crimes, even in the case of plea bargains.

**A Tale of Two Actions**

A discussion of two individual cases is helpful towards understanding the circumstances and the differing results of pre versus post 9/11 convictions. Qualitative investigations assist in determining the context and the discourse surrounding each event. While it is not possible to draw firm conclusions about disproportionality by making comparisons across a small number of select cases, in the context of the data just presented, the additional details in this section lend additional plausibility to the claim that something changed after 2001. Earlier convictions of politically destructive acts, lack implications of ‘terrorism’ compared to later convictions. Terrorism connotes more than just a definitional characteristic of the actors and actions participating in political violence, it also gives wide leeway to those in pursuit. Defining an individual as ‘terrorist’ removes rationality from them as a political or conscience driven actor. This allows for a wide variety of justifications in their surveillance, pursuit, and punishment. The moniker of ‘terrorist’ is beyond existing laws because that individual is perceived as outside of societal norms to such an extent, that they seek the overthrow or destruction of a political entity or innocent citizens. However, that description is rarely controlled by the one labeled as terrorist. The state decides who counts as an enemy and thus who is worthy of aggressive pursuit and prosecution.

Besides the discursive power of the term ‘terrorism,’ there are also legal ramifications for defendants. Most prominent are ‘terror enhancements’ available with wide judicial discretion in their application. Accompanying legal statues are a wealth of government resources, at the ready, with the directive to capture and punish. Thus, the character of state actions varies drastically from typical policing. The stakes are seemingly higher in the case of fighting terrorism rather than the preservation of law and order. The difference in convictions is a result of a variety of factors, but the most salient factor seems to be the divisive political climate surrounding each incident and state directed implications as to what these actions represent; i.e., the difference between controlling activists and punishing terrorists.

In a 1997 indictment, Douglas Ellerman received 16 federal counts including purchasing, constructing, and transporting five pipe bombs as well as setting fire to a fur breeding facility in Utah (Jarboe, 2002). Ellerman’s sentence was seven years in prison. Ellerman admits to being part of a radical environmental organization, yet he was not prosecuted under enhanced federal statutes. All of the information necessary to use federal guidelines towards increased sentencing (as well as the federal statues themselves; i.e., the 1995 and 1996 congressional acts) were present in this case. They chose not to. Why would prosecutors decide to not throw the book at an admitted member of a radical organization who participated in every step of the process eventually leading to almost $1 million in destruction? The answer lies in the political climate. In 1997, the word ‘eco-terrorism’ was not part of the federal government’s lexicon even as new domestic terror statues were in effect. The term itself originates from the Center for the Defense of Free Enterprise in an attempt to set the agenda in the face of the growing environmental protest movement of the 1980’s and early 1990’s (Potter, 2011, p. 55). Ron Arnold (who takes credit for coining the phrase) used the term to describe any “crime committed to save nature” (Potter, 2011, p. 55). Activists participating in property destruction were convicted based upon existing statutes dealing with arson, incendiary devices, and vandalism. Statutes did exist at the federal level which could be applied in these cases, yet none were invoked.

The shift after 2001 emerges when comparing Ellerman’s case with that of Eric McDavid. On March 6, 2008, Eric McDavid was convicted on charges of conspiracy to destroy property by fire or explosion. He was sentenced to 20 years in prison. The charges stem from the planning and preparation to destroy four targets symbolic of supporting environmental degradation (Scott, 2008). McDavid was arrested before any damage occurred due to an undercover, independent contractor working for the FBI. “Anna” was a paid informant who asked for the position with federal law enforcement after years of work as a volunteer infiltrator of left leaning movements (Todd, 2008). The sentence McDavid received is longer than the average sentence for murder (19 years) in the United States. What differences in the two cases led to such divergent outcomes? Both men conspired with other individuals to destroy property as a means of protest. Both men purchased the materials necessary to make incendiary devices. Both men planned (or assisted in planning) attacks to guarantee maximum damage. One of the perpetrators, Ellerman, was successful in his plot and destroyed almost $1 million worth of property. The other was arrested before he was able to carry his plan to fruition. The resulting prison sentences differ by 13 years, with the longer sentence being given for an action that did not even take place.

These differences are attributable to the discursive shift since September 11, 2001, which puts direct action environmentalism and property damage in the same category as terrorism. A quote from the prosecuting attorney in the McDavid case is revealing:

Today’s severe punishment of nearly 20 years in federal prison should serve as a cautionary tale to those who would conspire to commit life-threatening acts in the name of their extremist views. (Scott, 2008)

This statement demonstrates the federal government’s concern with making an example of McDavid, rather than simply prosecuting a planned arson. Groups, such as ELF, condemn practices that could potentially harm innocent life. The FBI has acknowledged that fact (Jarboe, 2002). One can imagine the difference in outcomes if the Ellerman case shifted ten years into the future. Ellerman participates in a conspiracy to destroy property, purchases and assembles the materials necessary for destruction, and carries out the act successfully. He receives seven years for his crimes. An examination of the academic literature concerning the integration of the legal and political realms is helpful towards understanding discrepancies between these case studies.

A key factor to consider is judicial decision-making determining the length of sentence and whether or not to use additional federal guidelines. While prosecutors make recommendations for length of sentence, judges retain discretion after a jury assigns a conviction or a guilty plea is entered. In these specific cases, a wide range of options are available to a judge not available in cases involving harm to individuals. The fact that judges become the ultimate arbiters of which type of sentence, sentence length, and application of federal statutes is important to identifying the various actors who react to volatile political climates. As a supposedly insulated figure within the legal realm, one would expect sentencing rates to remain static unless the specific laws pertaining to arson change. Since these laws remain the same, the change in sentencing results from other factors.

The strategic approach in judicial behavior literature acknowledges that judges make decisions based upon their perceptions of whether or not a decision will be viewed as legitimate by the government and the public (Baum, 2006). While this literature tends to focus on the Supreme Court, its application to federal justices is also enlightening. Judges are aware of the standards and expectations criminal cases can set. Even though the criminal court system does not specifically function upon a system of precedent, other decisions in similar cases are still pertinent. If a contemporary issue is salient due to attention in the media, acknowledgment in official government channels, and attempts to influence public opinion, judges will also be aware. For instance, if ‘eco-terrorism’ is publicly discussed by the federal government as a problem requiring sustained attention and renewed focus, judges may feel pressured to issue decisions consistent with contemporary understandings of environmental activists as terrorists. Courts mediate issues that fluctuate in saliency. In 1997, Douglas Ellerman was considered part of a fringe group of activists who destroyed property in an attempt to make a political point. He was dealt with as other vandals or arsonists regardless of his affiliation. In 2008, Eric McDavid was arrested in an atmosphere of heightened political and legal awareness of the threat posed by ‘eco-terrorism’. Courts react to the discursive shifts of the federal government. Political situations can sometimes find their resolution in the courts, and the courts can take their cues from the political realm.

Why were federal prosecutors successful in increasing rates of sentencing for activists? What strategies and tactics led to a clear rise in punitiveness of sentences? Three main factors accounted for the change. First, the discursive shift from ‘activist’ to ‘terrorist’ assisted federal law enforcement and prosecutors in gaining a favorable position in political and legal opinion. This tactic restructures law enforcement’s position beyond legal authority to a place of moral authority. Descriptions of ‘countering terrorism’ dismiss the environmental concerns in question as secondary or simply not pertinent. It also removes rationality from actors described as ‘terrorist’. Second, the FBI undertook a counterintelligence program—Operation Backfire. Operation Backfire originally directed its attention at one specific cell, but expanded its operations after successfully disbanding their original target. Operation Backfire symbolizes the archetype of the federal government’s interaction with and against ‘eco-terrorists.’ It demonstrates a marked change from simple prosecution to active infiltration. Third, time itself is an actor. The salience of these groups increases as they register as a more substantial threat to the federal government.

Operation Backfire is the physical manifestation of time and the discursive shift mentioned above. The FBI spearheaded the plan assisted by ATF and other law enforcement organizations, in order to target and infiltrate activist cells. The task force was originally conceived to target a specific cell of activists responsible for some of the most highly publicized attacks on private property. These included the $12 million arson of a Vail ski resort expansion threatening lynx habitat, the disabling of a high-tension power line near Bend, Oregon, as well as acts spanning across Wyoming, California, and Washington. After completing their objective, the FBI continued Operation Backfire as a semi-clandestine mission to pursue similar radical entities such as the individuals responsible for arson at the University of Washington Center for Urban Horticulture (Bartley & Carter, 2008). Activists, independent media outlets, and the National Lawyers Guild denounced the tactics used by the FBI during this campaign (National Lawyers Guild, 2006; Flynn, 2006).

Months after the patriotic fervor sparked by 9/11 (allowing for overarching support of the PATRIOT Act) attacks from civil liberty groups grew in response to the expansive powers granted to the federal government and, more specifically, the executive branch. The pursuits of ‘eco-terrorists’ fell under its expansive language and provided a legal basis for engaging in questionable levels and methods of surveillance as well as the opportunity for newly appropriated federal funds for law enforcement. The PATRIOT Act also sets a point of emphasis for federal attention to any movements or actors threatening the United States after 9/11. Its passage marks a sense of legitimation for ramped up federal attention and pursuit of dissidents.

**Discursive Shifts and Theoretical Implications**

Describing someone as a ‘terrorist’ serves an explicitly rhetorical purpose in contemporary discourse, through the very language and imagery the term conjures obscure its rational analysis: it implies a moral claim for their aggressive pursuit and prosecution unconstrained by the conventional limits set upon military or law enforcement action (Vanderheiden, 2005, p. 425).

The discursive use of ‘eco-terrorist’ helps to justify surveillance and aggressive prosecution of environmental activists. By utilizing the term ‘terrorist’, the government signals its retention of “the legal powers to pursue activists free from the constraints of conventional civil liberties” (Vanderheiden, 2005, p. 427). Vanderheiden’s reference to ‘legal powers’ involves various federal statutes constituted before and after September 11, 2001 giving wider leeway to federal prosecutors and increased funds for law enforcement. Thus, defining an organization as supporting terrorism or participating in terrorism serves a variety of functions. The term signals to the public, political, and legal realms that direct action environmentalists do not deserve the same rights as others; it provides the government with a moral claim to back their actions; and it introduces individuals into the legal system and exposes them to punishment beyond regular criminal prosecution. As discussed in previous sections, ‘terror enhancement’ sentencing grants discretion for added punishment in terms of decades, rather than months. Expanded definitions of terrorism also appear in the PATRIOT Act justifying detention without trial and expanded search and seizure provisions, all of which grant the federal government expanded instruments in pursuit of environmental radicals.

Terrorism has a wide variety of definitions, but an understanding of it as “the calculated use of violence or threat of violence to attain goals that are political, religious, or ideological in nature…through intimidation, coercion, or instilling fear” provides a resonate starting point (Chomsky, 2003, p. 69). It is important to begin from a more generalized definition of terrorism in order to articulate how federal understandings shift in the 21st century. Typically, ‘terrorist’ refers to individuals who do not recognize noncombatant immunity (Walzer, 1977). Inciting fear and intimidation among innocents are clear goals. Applying this definition to radical environmental activists requires amplification in a variety of directions. First, violence is perpetrated upon property rather than people. This removes the *purposeful* threat to human life. Second, the goals are ideological in nature and towards specific actors. Their specific attacks are linked to instances of environmental degradation typically with corporations as targets. While messaging is meant to reach the general public, they do not represent a threat to ‘noncombatants’—i.e., the average citizen. In testimony before the Senate Judiciary Committee, John Lewis the Deputy Assistant Director of the FBI, defines domestic terrorism as:

acts of violence that are a violation of the criminal laws of the United States or any state, committed by individuals or groups without any foreign direction, and appear to be intended to intimidate or coerce a civilian population, or influence the policy of a government by intimidation or coercion, and occur primarily within the territorial jurisdiction of the United States. (Lewis, 2004)

The state’s definition may successfully encompass many of the actions of activists already mentioned; however, the rhetoric itself is suspect. A better application of the definition postulated by the FBI, throws a vast net of inclusion that resonates with violent groups of the far right more so then the property destroyers of the far left.

This is not to say that environmental and animal liberation activists are perfectly legitimate political players while participating in law-breaking, but it does ask important questions about legitimate levels of punitive sentences for acts bestowed with moral dimensions by the federal government—especially considering the real consequences of prison. Many of the activists convicted after 2001 are being held in Communication Management Units (CMU). CMUs were set up in 2006 to control the communication of convicted individuals with relationships to terrorist organizations or who committed terrorist acts (Johnson & Williams, 2011). The majority of prisoners held in these facilities are aligned with modern Islamic radical groups; however, various environmental activists have found themselves confined in these highly restricted areas (Center for Constitutional Rights, 2013). The facilities are notorious for their intensely controlled, solitary environments. The philosophical implications of punishment for destruction of property going beyond punishment for the destruction of beings are critical elements when studying the suppression of dissent.

**Targeting Property: Implications of Destruction**

One of the more interesting and controversial implications of property destruction as a political tactic involves the deep roots of liberalism and capitalism in the United States. A Lockean understanding of property as a fundamental right bestowed upon man from God is present in the founding philosophical tenets of American liberal democracy (Locke, 1980). Property is the primary unit of the economic system, the symbol of accomplishment, and the mark of status for individuals in the United States (Veblen, 1994). When property suffers public defacement and destruction, the reactions of citizens as well as the state is clearly disapproval. Property destruction moves beyond a simple act of rebellion or a violation of the legal code; it has the potential to be perceived as an attack upon a normative paradigm of Americanism.

Modern examples of this alternative form of political participation receive concentrated attention from the federal government against the backdrop of the “war on terror.” In a post-9/11 legal environment, actions traditionally dealt with through preexisting statues (i.e., vandalism, criminal mischief, arson, etc.) are now within the purview of federal prosecution and increasing levels of punishment (i.e., PATRIOT Act). For instance, the United States labels property destruction by environmental activists (such as Earth Liberation Front) as acts of terrorism meant to incite fear among the general populace (Yang, 2005). Prosecutions and sentencing reflect PATRIOT Act statutes expanding the criteria for what constitutes a terrorist act (Yang, 2005). The federal government perceives property as an entity, which when destroyed, represents a more general attempt to incite fear or attack the foundations of modern society through expanding definitions of terrorism. These assumptions relate to fundamental understandings of property and the place it holds in capitalist economies. In essence, the preservation of property is so sacrosanct that larger-scale attempts to destroy it results in national fear and terror. In other words, violence against property constitutes an attack upon the normative tenets of the United States rather than as an act of conscience. Press releases from the United States government discussing radical environmentalism describe destructive acts in a similar nature (Yang, 2005). Any discussion attempting to reorient property destruction, as a method to enter the political arena, must confront issues associated with the status of property in the United States.

ELF concentrates upon symbolic and functional targets for destruction. They call attention to specific instances of environmental degradation, as well as reveal topics of larger environmental concern. Ironically, their actions serve to protect property owned or controlled by third parties (i.e., air, water, forests, etc.) Under a Lockean ideal these acts constitute irrational meddling where one’s interest is in what one owns, and nothing else. Their many actions include the destructions of a ski resort in Colorado, a massive construction site in San Diego, a Hummer dealership in Southern California, and a rural cluster development in Washington State. These four events committed by loosely organized cells of activists; who in the case of the Aspen ski resort, the San Diego event, and the ‘green’ rural cluster development, attempt to draw attention to three specific cases previously challenged in formal legal channels. The destruction of the car dealership in West Covina, California was an attempt to spread a further reaching, symbolic message against disproportionate consumption of fossil fuels by luxury automobiles and the tax breaks available to owners due to federal loopholes (Plungis, 2002). Whether or not that message resonated with attentive members of public is questionable. While some may ask ‘why?’ when perpetrators carry out such a large-scale destructive act, many were likely to question the rationality of the actors behind the vandalism.

ELF actions reveal the complicity of the state in environmental degradation. Therefore, the use of legal and political channels to contest their messages reinforces a government monopoly on defining legal and rational acts of participation. The federal contestation and response was not in an argumentative form, but rather through three key methods—labeling, surveillance, and punishment. The performative element of any given act is an attempt to seize the public’s attention in regards to an issue deemed too important to overlook (Vanderheiden, 2005; Parson, 2008). ELF tactics seek to generate aesthetic awe in the experience of individuals witnessing such dramatic acts of protest. However, with the federal government launching campaigns like Operation Backfire under heavy publicity, aesthetic awe can quickly turn to witnessing irrationality, unchecked militantism, or terror within the discursive choices of state actors. This brief discussion illustrates the role performance plays in acts of dissent through destruction. It is this theatrical element which lends itself to the current level of attention from federal security forces. These actions challenge a fundamental American perspective as to the sanctity of private property. By attacking a seemingly definitional component of American culture, federal response will rise to meet it—especially in an era of terror.

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## Conclusions

Since September 11, 2001, the federal government’s campaign against radical environmental activists (who participate in ecotage) has drastically increased sentencing rates. Lengths of sentences usually reserved for murderers and rapists now appear in the convictions of arsonists and of vandals. The culmination of several factors accounts for the new levels of punitiveness.

The specific causes include shifts in governmental discourse, concentrated law enforcement activity, and large-scale changes in the political climate. Research showed that reference to ‘eco-terrorists’ was not consistently apparent until after the events of 9/11. A new frame emerges during the ‘war on terror’ to justify inordinate amounts of resources and attention to domestic threats upon the status quo. Environmental activists using property destruction as political protest are symbolically important targets for punishment and control. The federal government’s concern with quelling dissent is especially pertinent when such actions are accomplished through anti-capitalist means. Operation Backfire is the clear implementation of discourse, policing, and punishment towards controlling dissenting elements of the population. The FBI’s campaign is successfully infiltrating and discrediting the fringes of the environmental movement.

The result of these new federal efforts is a significant rise in the level of punishment for property crimes with environmental associations. Agenda setting and judicialization of politics literature discuss how the political climate has direct affects upon the actors within the legal realm as well as the legal institutions themselves. Increased sentences over time for similar actions are directly related to the discursive shift from law enforcement at the federal level and has a substantial chilling effect upon political dissent.

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**Appendix 1**





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**Speaking About “Eco-Terrorists”: Terrorism Discourse and the Prosecution of Eric McDavid**

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**Abstract**

Today, the FBI describes the radical animal rights and environmental movements as the number one domestic terrorist threat facing the nation. This article explores how the terrorism discourse was employed to investigate and prosecute Eric McDavid as a domestic terrorist. Critical terrorism studies have gone a long way in demonstrating that much of the hegemonic terrorism discourse is informed by political bias, flawed data, and unverifiable assumptions. In addition, this discourse is reproduced and applied without consideration of context or circumstances to varied incidents. This has meant that the language used to describe international terrorism is reapplied to the radical animal rights and environmental movements. By investigating the use of the terrorism discourse in Eric McDavid’s trial, I illustrate two interrelated outcomes of how the hegemonic terrorism discourse was used to prosecute McDavid. First, how the terrorism discourse has been used to justify law enforcement investigative tactics, specifically the use of informants in terrorist investigations, with the use of informants being demonstrated to produce constructed terrorist threats that result in law enforcement foiling their own plots. Second, I demonstrate how the terrorism discourse was reproduced in McDavid’s trial to prosecute him as a dangerous domestic terrorist.

**SPEAKING ABOUT “ECO-TERRORISTS”: TERRORISM DISCOURSE AND THE PROSECUTION OF ERIC MCDAVID**

The number one domestic terrorist threat currently facing the U.S., according to the FBI, are radical animal rights/environmentalist (107th Congress, 2002; 108th Congress, 2004; 109th Congress, 2005a; Best & Nocella, 2004; Del Gandio & Nocella, 2014; Loadenthal, 2013; Smith, 2008). This has been an often recited refrain in Congressional hearings and FBI press releases and memos, a refrain echoed by many inside and outside the halls of the federal government. For example, shortly following the attacks of September 11, Alaska Representative Don Young stated that he believed the attacks may have been carried out by radical eco-terrorists linked to the WTO protests in Seattle in 1999 (Ruskin, 2001). In a 2012 speech, then presidential hopeful, Rick Santorum claimed that the radical environmental movement had created a “reign of environmental terror,” creating a boogie man out of the hydro-fracturing process, a process Santorum claimed to be completely safe (Guillen & Summers, 2012).

Terrorism has come to be understood as the major threat facing the U.S. and the Western world in the 21st century. It is seen as an existential threat to civilization. Today, it is even claimed that a dangerous “terrorist ideology” has come to influence public education in the U.S. In Oklahoma, conservatives attacked high school AP history as “un-American,” “dangerous,” and the ideological indoctrination of “terrorism.” Dr. Ben Carson commented on the Oklahoma AP History course, stating: “I think most people, when they finish that course, they’d be ready to go sign up for ISIS” (Gambino, 2015, para. 22).

As Edward Said (2001) has noted, “[t]errorism is anything that stands in the face of what we want to do...people's movements of resistance against deprivation, against unemployment, against the loss of natural resources, all of that is termed terrorism” (para. 8-9). It is because these causes would and do directly challenge the foundations of the modern liberal-democratic state that they are understood as terrorism. Terrorism is most often applied to groups and individuals who criticize or attack the status quo. All too often, the terrorism discourse has come to be employed when capitalism, or the near religious faith in the free market, is directly challenged. This pronouncement was seen in George W. Bush’s proclamations after 9/11 that the best way to fight against terrorism is to go out shopping, to continue consuming. Capitalism is understood as the foundation of Western civilization and the battle against terrorism is often represented as a “clash of civilizations,” to borrow Huntington’s famous phrase. It has come to represent a clash of good v. evil.

This paper sets out to explore the effects of the terrorism discourse in the investigation of and prosecution of Eric McDavid through a critical discourse analysis. McDavid was arrested in early 2006 for conspiracy to destroy the Nimbus dam. In May of 2008, McDavid was sentenced to nearly 20 years of prison after receiving a terrorism enhancement. The terrorism discourse has important effects for who we as a society consider a terrorist and who is authorized to speak about terrorism. As an ideological tool, the terrorism discourse allows elites (social status, economic, and political elites) to effectively secure and protect the status quo by providing what Noam Chomsky (1998) termed a “grave enemy” to channel the active fears and discontent of the population. Today, the radical environmental and animal rights movement are portrayed as the “grave enemy” of domestic terrorism, with the ALF/ELF being the FBI’s number one priority for 15 years. With this designation being pushed by economic and political elites who believe that the position advocated by these movements are a direct threat to their positions (Arnold, 1983, 1997; Cong. Rec. Oct. 14, 1988; 105th Congress, 1998; 107th Congress, 2002; 108th Congress, 2004; 109th Congress, 2005a; 109th Congress, 2005b; 109th Congress, 2006).

**Critical Discourse Analysis**

In this section I want to briefly set out and summarize the main tenets of critical discourse analysis (CDA) as a theoretical and methodological tool designed to investigate the social effects of discourse. Drawing from a number of major figures in the field of CDA, we can identify six main tenets: (1) CDA concerns itself with social problems; (2) Discourse is a social practice, understanding discourse as a social practice implies a wider investigation of social context; (3) CDA concerns itself with power-relations in discourse and how discourse (re)produces social inequalities and/or social injustice; (4) Discursive events are situated within a dialectical relationship to situation(s), institution(s), and social and political structures; (5) Discourse may have ideological effects. To uncover such effects, it is necessary to explore, investigate, and reveal the interpretations of discourse and the social effects of a particular discourse; (6) CDA is both practice and theory; engaged in actively challenging social and political domination (Keller, 2013; Fairclough & Fairclough, 2012; Blommaert, 2005; Hammersley, 1997; Kress, 1990). CDA limits itself to interpretation, understanding, and explanation and not to a nomothetically oriented goal, it is not, as Fairclough and Wodak (1997) state, a “dispassionate and objective social science, but [CDA sees itself] as engaged and committed. It is a form of intervention in social practice and social relationships” (p. 258).

Critical discourse analysis is a theoretical and methodological approach which holds that there exists a fundamental relationship between discourse and society, that discourse is a social practice (Fairclough & Fairclough, 2012; Fairclough & Wodak, 1997; Blommaert, 2005; Kress, 1990). In turn, because CDA understands discourse to be a social practice, the researcher is not divorced from this practice, so that, there is a fundamental relationship between analysis, and the practices and events analyzed (Kress, 1990; Fairclough & Wodak, 1997). In this respect, researchers play an active role in discourse (re)production. This is because CDA understands the researcher to be an agent embedded in social structures and institutions, which influence their choice of and understanding of social problems, and that their particular situation requires them to be committed to emancipatory social and political change. This means that from the CDA perspective, researchers cannot position themselves outside of the practices and events which they study; that there exists no truly “objective” position from which one may observe and describe the world (Keller, 2013; Fairclough & Fairclough, 2012; van Dijk, 2001; Fairclough & Wodak, 1997; Hammersley, 1997; Kress, 1990).

Because CDA understands discourse to be a “form of social practice” (Fairclough & Wodak, 1997), discourse is seen as being shaped by and shaping society, so that social and political structures are both outcome and medium of discourse (Fairclough & Fairclough, 2012). This means that when analyzing any particular discursive event or practice, the researcher must be aware that discourses are relevant only with respect to context. Discourses are historically rooted, and culturally and ideologically embedded as well as being “connected intertextually to other discourses” (Keller, 2013, pp. 25-26). Discourses are powerful social practices which produce ideological effects because they are representative of reality, that is they create meaning by representing the world in particular and specific ways. Discourses organize the world around us by creating understandings for events, processes, individuals, identities, common sense, and by putting subjects into “imagined” relationships, to borrow Althusser’s (2001[1970]) formulation. Discourses form the basis for how agents understand the world and act as social agents. Hegemonic discourses (re)produce social knowledge, embedded within them are ideological perspectives which maintain the status quo.

CDA’s goal is to uncover the social and ideological effects of discourse by demonstrating the way in which hegemonic discourses obscure alternatives. Hegemonic discourses often portray their ideological assumptions as “rational,” “normal,” benign,” “neutral,” “natural,” and/or simply as “common sense.” Such representations are essential for legitimating discourses because alternatives are then seen as “irrational,” “unnatural,” and/or “unrealistic” (Wodak & Meyer, 2009; van Dijk, 1993). For example, such subtle forms of domination like racism, sexism, and speciesism are opaque and taken for granted, supported and (re)produced through specific discourses. Such forms of domination were simply accepted as common sense or natural until they were challenged (van Dijk, 1993). As both practice and theory, CDA actively engages in exposing the ideological function of discourses which reproduce such forms of domination in social and political practices. CDA is also a productive discourse designed to alter and change social, economic, and political relationships so that they are more equitable and just.

In this paper I seek to employ a CDA approach to uncover how the terrorism discourse was ideologically employed against Eric McDavid, with its core ideological assumptions reproduced within the eco-terrorism discourse. Such a discourse was used to legitimate both FBI tactics and federally prosecute Eric McDavid as a domestic terrorist. In a larger respect, I hope that such an analysis will help to destabilize the eco-terrorist discourse which is currently used to delegitimize radical environmental and animal rights organizations and activists by painting them as irrational and violent existential threats to Western society. Such representations of reality are inherent to the terrorism discourse, having social and political stock as common sense understandings of reality. Yet, as critical research has demonstrated, the terrorism discourse itself is highly vulnerable to destabilization.

**Data**

Eric was freed from prison in January of 2015, after FOIA requests revealed that the FBI, and likely federal prosecutors, intentionally withheld evidence in his case. Using the terrorism discourse, federal prosecutors, relying on a confidential informant as their primary source of information, portrayed Eric as a domestic terrorist mastermind bent on the destruction of the U.S. (Habeas Hearing, 2015; Holpuch, 2015; Pilkington, 2015; Potter, 2015). Data for this paper is drawn from the trial transcripts of Eric’s trial which ran from September of 2007 through May 2008 when he was sentenced and the January 2015 Habeas Hearing in which evidence from FOIA requests was presented to the court. Additional data is drawn from trial documents, including law enforcement declarations, law enforcement reports, petitions, juror declarations, habeas petitions, appeal briefs, and news reports.

**Terrorism** **Discourse**

Discourse has a profound effect on the way in which we understand the world, because of its power to construct reality. Discourse is a productive activity, meaning that discourse acts to produce “meaning-structures of our reality” (Keller, 2013, pp. 71-72). This means that discourse is constructive of reality. The way in which we understand reality is informed by how we speak about, understand, and think about the world around us. Today the terrorism discourse has an outsized role in social and political discussion, occupying a role of importance equal to discussions of democracy or climate change. It is because of the power of discourse that the terrorism narrative “function[s] to construct and maintain a specific understanding of, and approach to, terrorism and counterterrorism and the 'knowledge' generated in the field has certain academic, political, and social effects” (Jackson, 2009, p. 69).

Critical studies on terrorism have revealed and uncovered the core assumptions of the contemporary terrorism discourse, which informs our understanding (Jackson, 2007a; Gunning, 2007b; Della Porta, 2013; Schmid & Jongman, 2005; Jackson, Breen-Smyth, & Gunning, 2007; Stampnitzsky, 2013; Silke, 1998, 2009). This research demonstrates that the concept of “terrorism” is highly malleable, politically biased, and often ideologically driven. This is the result of a field of investigation that “rather than looking like a discipline or a closed 'cultural field,' terrorism expertise is constructed and negotiated in an interstitial space between academia, the state, and the media. The boundaries of legitimate knowledge and expertise are particularly open to challenges from self-proclaimed experts from the media and political fields, and this has had significant consequences for the sorts of expert discourses that tend to be produced and disseminated” (Stampnitzky, 2013, p. 47).

Discussions of terrorism since the 1970s have increasingly come to focus on describing acts, and incidents as irrational, illegitimate, and evil, and those described as terrorists have come to be understood as pathological, irrational, and evil (della Porta, 1992, 1995, 2013; Gunning, 2007b, 2009; Jackson, 2007, 2009; Loadenthal, 2013; Ranstorp, 2009; Silke, 1998, 2009; Stampnitzky, 2013). This is because much of the discussion about terrorism has become tied to moral judgements (Stampnitzky, 2013, p. 8). In turn, conventional definitions of terrorism go to great lengths to exclude the state, most often read Western states, from being included within the definition of terrorism. Terrorism has become an identity marker, “where the identity of the actor rather than the act itself defines the designation of ‘terrorism’” (Miller & Mills, 2009, p. 417). This understanding, however, is simply the recognition that we cannot understand the actions or individuals because they are irrational, evil, nihilistic, abnormal, and strictly not like us (Crenshaw, 2014; Miller & Mills, 2009; Silke, 1998, 2009).

The discourse on terrorism is essentially a refusal “to grant terrorism and terrorists the consideration of whether or not such actions may be justifiable—for, if they are justifiable, they are no longer ‘terrorism’” (Stampnitzsky, 2013, p. 4). Critical studies of terrorism and the field of terrorism expertise have revealed that the conventional understanding of psychological abnormality, immorality, and irrationality are simply not borne out by evidence. In fact, many studies point to the way in which many acts labeled as terrorism are provided justifications. With many justifications being rational and in many cases sounding like justifications used by states to explain state acts of violence (Gunning, 2007a, 2007b, 2009).

Furthermore, if the definition of terrorism was consistently applied, we would have to acknowledge that “there have been a number of historical cases where terrorism has been used on behalf of causes most Western liberals would regard as just” (Wilkinson & Steweart, 1987, p. xiv). Or, as Herman (1982) has argued, that the “sub-rosa” violence carried out with U.S. acquiescence, and in many cases outright support, pales in comparison with what is contemporarily labeled as “terrorism.” Critical studies have revealed that while the terrorism discourse is highly unstable and contradictory it continues to persist driven by an overblown threat that is represented as unpredictable, imminent, and one capable of mass destruction that seeks to destroy the Western world (Jackson, 2007, 2009; Mueller, 2009; Stampnitzsky, 2013). This discourse finds resonance in the mass-media because the media overwhelmingly promotes a “discourse of fear” (Altheide, 2003), and media outlets overwhelmingly rely on experts who are “ideologically conservative” and have deep connections to the state or think tanks linked to government agencies (Miller & Mills, 2009). The discourse itself serves important purposes for state and corporate elites.

Far from identifying a unique form of political violence, the terrorism discourse acts to demonize actors and silence oppositional voices who criticize Western states’ claims to enlightened progress and claims of freedom, justice, and fairness. The discourse on terrorism has produced a discourse that, while not simply constructed to support the state’s demonizing of political opponents, “is at the same time a highly complex and intertwined set of narratives and rhetorical strategies that aims to reinforce the authority of the state and reify its disciplinary practices” (Jackson, 2005, p. 178).

Before turning to an analysis of how the terrorism discourse is used against activists to justify questionable law enforcement tactics and how the discourse was used to prosecute Eric McDavid, I turn to a detailed discussion of the Eric McDavid case as this case serves as an example of the social effects of the eco-terrorism discourse. Understanding the contours and context of the case will help us make sense of the terrorism discourse’s application as well provide context for the case under investigation.

**The Case of Eric McDavid**

In August of 2004, Eric McDavid, then a young college student and budding anarchist, traveled from his home in northern California to Des Moines, Iowa for the annual CrimethInc. Convergence (U.S. v. McDavid, 2007, pp. 207-208). This yearly convergence of anarchists attracted anarchists from across the U.S. engaging in several days of discussions about the major tenets of anarchism from the foundations of anarchist philosophy to the role of violence in the movement to more practical guides for living an anarchist lifestyle. It is here that Eric first met a young, and radical, anarchist known as “Anna.” Wearing a camouflage skirt, this young lady with bright pink hair instantly impressed Eric. Anna sees in Eric a young man deeply committed to anarchism, but inexperienced. Eric and Anna spend days together getting to know one another, and at the end of the convergence the two travel to New York to protest the Republican National Convention. Anna, however, is no political activist, she is a confidential informant working in coordination with the FBI. Both Anna and the FBI initially misidentify Eric as a leader in the anarchist movement, but ultimately a benign individual they conclude (Memo in Support of Brady Claims, 2014; Declaration of Walker, 2012).

Anna was first approached by the FBI in the fall of 2003. She was then a 17-year old Miami community college student whom the FBI asked for help in infiltrating left-leaning protest movements in order to report on illegal activity. Anna was the main source of evidence and the primary witness in the government's case against Eric McDavid (U.S. v. McDavid, 2007, p. 195; Todd, 2008). Anna first came to the attention of the FBI following a class report she presented on the Free Trade Agreement of the Americas (FTAA) protests for a political science course (U.S. v. McDavid, 2007, p. 199). In that class, a former Florida State Highway Patrol Officer, impressed by her report, showed a copy of it to his superiors, who in turn shared it with the FBI. The FBI asked Anna to work as a confidential informant, attending protests and reporting back on any illegal activity taking place during the protests. In the case against Eric McDavid, Anna was able to provide evidence of an ongoing conspiracy that involved plans to build explosives and bomb federal institutions. A threat framed as a national bombing campaign.

On January 13, 2006, following several months of investigations, wiretapping, and electronic surveillance, Eric McDavid, Lauren Weiner, and Zachary Jenson were arrested in a K-Mart parking lot in Auburn, CA. The case presented by federal prosecutors painted a picture of Eric as a violent anarchist terrorist intent on attacking the federal government by whatever means necessary in pursuit of his extremist political views. The case against Eric rested on the testimony of Anna and wiretaps that seemed to present Eric as the organizer of a bombing conspiracy that targeted the Nimbus Dam, the United States Forest Service Institute of Forest Genetics in Placerville, CA, and cell phone towers.

The FBI was able to produce much of the evidence in the case through electronic surveillance of a cabin procured by the FBI for the group. Anna made the cabin available to the group to plan through their winter bombing campaign, providing an opportunity to bring all the suspects together at one place and record their movements. The cabin, located in Dutch Flats, CA, allowed the group to work and plan over six days from January 6th through January 12th of 2006, with the FBI diligently monitoring the progress of the conspiracy just down the road in their command post. While the FBI portrayed the investigation as the dismantling of a major domestic terrorism cell that justified the FBI's investigative techniques, the facts of the case reveal a far more nuanced discussion and considerable questions about the actual threat posed. Anna's role as a confidential informant highlights the highly suspect nature of using confidential informants in domestic terrorism investigations, as well as raising questions about the actual efficacy of the FBI's counterterrorism operations, specifically if the FBI engaged in the investigation of a legitimate security concern, or simply acted to suppress political opponents.

**Confidential Informants**

Since September 11, 2001, the federal government has increased law enforcement budgets, expanded the criminal code, created new agencies, and pursued domestic terrorists with an increased vigor, all justified under preventing another terrorist attack on domestic soil. In turn, the FBI's mission has been updated from one of criminal investigation to one focusing primarily on counterintelligence as the Bureau takes the lead on many domestic terrorist investigations. The updated mission of counterintelligence focuses on foiling threats before they can come to fruition (Ashcroft, 2002).

Cunningham (2004) has noted that this updated mission is one in which “the Bureau[...]stresses agents' ability to anticipate future threats, often indiscriminately targeting suspects for their ostensible hidden activities” (p. 8). Extensive FBI investigations have focused on disrupting terrorist networks through intelligence gathering strategies employing counterterrorism tactics. The transformed mission of the FBI has meant that directors and Special Agents in Charge (SAC), dedicate significant resources to identifying and disrupting terrorist networks by employing counterintelligence tactics, similar to those in the previous COINTELPRO operations of the 1960s and 1970s (Cunningham, 2004). In pursuit of its updated mission as a counterintelligence agency, the FBI has come to rely heavily on confidential informants. Individuals who are paid by the FBI to infiltrate suspect communities and report back on “terrorist” activity. However, what is growing increasingly clear is that these investigations rest on suspect police work and political bias. Suspects are targeted because of ethnic identity, religion, or political ideology (Center for Human Rights and Global Justice, 2011; Greenwald, 2010; Human Rights Watch, 2014; Kamat, 2010).

Law enforcement and the FBI justify the use of confidential informants in terrorism cases based on the terrorism discourses portrayal of terrorism as a shadowy and unpredictable event. The terrorism discourse has influenced the way in which the FBI understands the threat of terrorism and how, in turn, it responds to that threat. As former federal prosecutor, David Raskin, states in a *New York Times* interview: “There isn't a business of terrorism in the United States[...]You're not going to be able to go to a street corner and find somebody who's already blown something up[...] Therefore, the usual goal is not to find somebody who's already engaged in terrorism but find somebody who would jump at the opportunity if a real terrorist showed up in town” (Shipler, 2012, para. 7-9). As the Raskin qoute makes clear, there exists no terrorist infrastructure from which security agencies can monitor. Because terrorism is understood to be a "special" kind of violence, one that is unpredictable, hidden, and strikes without warning, traditional law enforcement tactics are inadequate in combating the threat of terrorism. This threat narrative presents terrorism as only being able to be overcome through intensive information gathering (Ackerman & Yuhas, 2015).

Focusing on a preventative model of policing has meant that the FBI must focus on the processes that lead to violent terrorism, which has meant looking for sources that produce terrorists. The terrorism discourse holds that ideology plays an important role in motivating or influencing individuals to engage in terrorist behavior. Smith (2008) points out that in “2002, an FBI memo indicated that potential terrorist groups included 'anarchists,' 'animal rights extremist[s],' and 'environmental extremist[s]'” (p. 16). In addition, Smith found that prosecutors and law enforcement agencies have been advised that

“[a]n effective way to begin tracking potential ELF members is to track active members of other environmental organizations with similar ideologies[...] Earth First! is one group which might be tracked, in part because it support[s] an environmental preservation philosophy. A hint as to what other ideologies—besides 'environmental preservation'—might provide grounds for terrorist investigations surfaced in a report published by the Heritage Foundation. The report suggests that it is likely that people will be killed by environmentalists if the philosophy of Deep Ecology is not challenged at the philosophical level” ( p. 18).

In essence what this discourse does is present ideology as an important marker of violent behavior. Infiltrating groups that represent subeversive and terrorist ideologies becomes an important aspect of the preventative model. Using confidential informants is an attractive tactic for the FBI for several reasons. Informants provide easy access to suspect communities because they are often drawn directly from the communities they are charged with infiltrating. They can sweep up all manner of information without regard to criminal activity, because they are not restricted by the same guidelines that control undercover operations. Informants are a low risk, high reward tactic for investigations. Not only does the FBI not have to employ a large intelligence gathering apparatus, but the high conviction rate of cases involving informants makes it an attractive tactic.

The guidelines that direct the use of confidential informants are devised by the U.S. Attorney General's office and implemented in the Domestic Investigative Operational Guidelines (DIOG); yet attorney general guidelines have been significantly scaled back since 2002 (USDOJ 2008). In conjunction with the USA PATRIOT ACT and the Animal Enterprise Terrorism Act (AETA), domestic law enforcement agencies have been granted unprecedented powers of surveillance along with a wide latitude in investigative operations (Black & Black, 2004). The result has been an increased focus by the FBI on suppressing critical political dissent of subversive groups, with an overwhelming focus by the federal government on animal rights/environmental activists coming to be known as the “Green Scare” (Best & Nocella II, 2004, 2006; Kuipers, 2009; Loadenthal, 2013; Lovitz, 2010; Nocella II & Del Gandio, 2014; Potter, 2011).

Attorney General John Ashcroft first articulated the justification for revising of FBI guidelines in a May 2002 speech. In that speech, Ashcroft asserted that the FBI was burdened by unduly harsh restrictions on its activities, restrictions that provided cover to terrorists. Essentially Ashcroft argued in this speech that the FBI needed to be allowed to engage in any activity that terrorists could engage in so as to allow the Bureau to adequately gather intelligence of ongoing terrorist plots (Ashcroft, 2002). The threat of terrorism is represented as one that can only be overcome by intelligence gathering tactics, limiting those tactics means that the FBI would be hindered in their ability to thwart terrorist plots. As Ashcroft notes, “[t]hese restrictions are a competitive advantage for terrorists who skillfully utilize sophisticated techniques and modern computer systems to compile information for targeting and attacking innocent Americans” (Ashcroft, 2002). The FBI makes clear that the use of confidential informants plays an essential role in counterterrorism operations as a valuable and much needed source of information. An FBI spokesperson stated in a 2005 *Washington Post* Article that “[c]onfidential informants and other confidential human sources are critical to the FBI's ability to carry out our counterterrorism, national security and criminal law enforcement missions... A source can have a singular piece of information we could not otherwise obtain, enabling us to prevent a terrorist act or crime, or apprehend a fugitive” (Eggen, 2005).

**Questioning the Efficacy of Informants as a Tactic**

A 2005 report from the Office of the Inspector General (OIG) reviewed the FBI's compliance with the Attorney General's 2002 guidelines and indicated serious failures (USDOJ OIG, 2005; Eggen, 2005). This review, covering 120 cases, found that the “most significant problems were failures to comply with the Confidential Informant Guidelines. For example, we identified one or more Guidelines violations in 87 percent of the confidential informant files we examined” (USDOJ OIG, 2005, p. 2). While many of the violations were minor in nature, the high proportion of cases that exhibit some sort of violation should give us pause. A 2011 report by the NYU School of Law's Center for Human Rights and Global Justice found that the use of confidential informants has resulted in a 97% conviction rate for cases that employ informants; however, the cases that rely on confidential informants are also marked by excessive concerns over the FBI's role in facilitating the very crimes they investigate (Center for Human Rights and Global Justice, 2011).

Many cases represent constructed threats that relied on FBI know-how, funding, and resources. There are also considerable concerns over the choice of targets, with the FBI focusing on marginalized individuals facing personal hardships. The conclusion of the report states that many of these cases appear to simply be cases of entrapment. A July 2014 report by Human Rights Watch echoed much of what was in the Center for Human Rights and Global Justice report, stating that many domestic terrorism cases indicate that confidential informants play key leadership roles and it's likely, with the assistance of the FBI, constructed entire plots (Human Rights Watch, 2014). However, proving entrapment in court requires overcoming an excessively high standard, in which the defense must prove no predisposition to commit the crime (Center for Human Rights and Global Justice, 2011; Kamat & Soohen, 2010).

This prospect is often complicated by the fact that the FBI, law enforcement agencies, and prosecutors rely on evidence that cannot be “fairly contested” (Human Rights Watch, 2014). This procedural hurdle is raised when prosecutors or law enforcement agencies withhold valuable information (*New York Times* Editorial Board, 2015). In turn, much of the information produced by informants is classified by the FBI. This means that for those charged with terrorism related crimes, they are likely to be convicted even in the face of serious investigative and procedural flaws, because they do not have access to evidence that might otherwise be exculpatory or evidence that might demonstrate investigative violations. While many critical reports into terrorism cases focus on the American Muslim community, anyone who finds themselves under investigation as a terrorist face the same problems (Center for Human Rights and Global Justice, 2011; Human Rights Watch, 2014; Kamat & Soohen, 2010). With the FBI insisting that the greatest domestic terrorist threat facing the nation comes from radical animal rights and environmental activists, it comes as no surprise that these tactics have been employed against these activists as well. The threat posed by animal rights and environmental activists is apparently so pressing, that the FBI has attempted to insert informants into vegan potlucks; claiming these as hotbeds of extremist and terrorist activity (Potter, 2008).

**Anna, the FBI, and the Construction of a Threat**

During Eric's trial, Anna was presented as an unimpeachable witness. The FBI and federal prosecutors painted a picture of Anna as a heroic young woman who waded into danger for love of country. Without her bravery and assistance, prosecutors claimed, the U.S. would have faced a devastating eco-terrorist attack. However, many in the anarchist and environmental communities saw Anna as entrapping Eric in a romantic affair that ultimately led him into a conspiracy plot. While the truth probably lies somewhere in the middle of these two representations, it does appear that Anna played a much larger role in the conspiracy than originally admitted by the federal government, given the evidence released through FOIA requests (U.S. v. McDavid, Brady Memo, 2014; U.S. v. McDavid, Habeas Petition, 2012; U.S. v. McDavid, Habeas Hearing, 2015).

Anna was a young woman clearly affected by growing up in the aftermath of September 11, 2001, a world hyper-sensitive to the “terrorism” threat. Anna became an informant for the FBI at the age of 17, just two years after 9/11, and after earning her GED and beginning her first semester of college. In a May 2008 *Elle* magazine interview, Anna describes how she left high school at 17, earning her GED amidst her parents' “acrimonious divorce” (Todd, 2008, p. 267). She describes growing up a middle child of three, from a middle class family. Describing her parents as Vietnam era protesters, she is quick to note, though, that this was a long time ago, that she is a self-described “hawk,” the result she says of growing up in the aftermath of 9/11 (p. 267). At 15, Anna dedicated herself to joining military counterintelligence after witnessing the tragic events of 2001. She notes in the *Elle* interview that this was the result of her being a unique teenager, politically aware and savvy, and ready to do her patriotic duty, stating: “My friends and I saw that plane fly into the World Trade Center, and we thought right away that it was (some Palestinian) terrorist group[...] Keep in mind, we were teenagers reading *The Economist*” (p. 267).

Anna jumped into her new role with the FBI without hesitation, certain that the focus on animal rights and environmentalists was justified because they posed a serious terrorist threat; “to believe that these people aren't capable of harm or serious attack is not giving them enough credit” (p. 270). She so fully dedicated herself to her new role that she went far enough to get a tattoo on her shoulder of a skull and black flag (p. 270). Anna's first investigative successes came in June and July of 2004 while attending the G8 Summit and then the Democratic National Convention (DNC) protests. It is at G8 that Anna first met Zachary Jensen, and according to Anna, Zachary helped “score” her entry into the 2004 CrimethInc. Convergence along with others she met at the 2004 DNC protest (U.S. v. McDavid, 2007, p. 207; Todd, 2008, p. 270).

During the trial, Anna describes, and misrepresents, entry to the CrimethInc. Convergence as a complex process of shadowy meetings and coded messages that eventually ended in a formal invitation for those who were thoroughly vetted (U.S. v. McDavid, 2007, p. 227). Anna represents the anarchist movement in her testimony as a highly organized and centralized entity, with a leadership that enforced strict protocols and extensive background checks. CrimethInc. Convergences, however, were widely publicized and open to attendance. The only restriction was that law enforcement agents were not welcome.

While Anna was infiltrating the anarchist movement, she also came to have a profound respect for the movement and individuals she later described often as “disgusting” and “dirty” (U.S. v. McDavid, 2007, p. 245; Todd, 2008). In particular, Anna was impressed by the movement’s egalitarian nature, stating that “[o]ne of the best things about this movement is the way women are treated and viewed[...] They reject typical standards of beauty[...] They focus on a woman's independence, her passion, her conviction. And she is treated as an equal” (Todd, 2008, p. 272). Anna found in the movement the very quality of respect and equality that was lacking within the confines of the FBI (p. 323). Anna notes that on several occasions she felt as if the FBI was dismissive of her because of her gender. None of this came to light in the trial and was only relayed later by Anna in her *Elle* interview. While the FBI's male-centered culture may have played a role in agents being dismissive of Anna's ability, FOIA revelations reveal that many FBI agents were skeptical of the truthfulness of her reports. A FOIA request by Eric's lawyers, as well as a declaration from Special Agent Nassan Walker, agent in charge of the case, reveal that there had been internal FBI requests for Anna to take a polygraph test to confirm her reports. It seems several agents were skeptical about the validity of her claims; however, the polygraph request was refused by Anna's handler, Special Agent Ricardo Torres (U.S. v. McDavid, Brady Memo, 2014; Walker Declaration, 2012).

Anna was first assigned to work under Agent Torres's direction in early 2005, and the two grew close almost immediately. Torres spoke highly of Anna in the *Elle* magazine article, saying, “She was so young, and she wasn't an agent[...]but everything she said would happen, happened. I was able to verify every bit of information she passed on to us” (Todd, 2008, p. 323). Agent Torres and Anna became so close that Anna confided in Torres concerning very personal and traumatic events in her life. Feeling safe with Torres, Anna revealed to Torres that she had been the victim of a sexual assault in college (Todd, 2008, p. 323). While we have no knowledge of the actual sexual assault, it does appear that this event was significant enough to cause Anna distress during the investigation. Anna claims that the sexual assault had a profound impact on her behavior in the Dutch Flats cabin; she felt the stress of working undercover was too much, stating: “I was experiencing some kind of flashback, to being in a situation with a man who wouldn't leave me alone,” she said, reminding Agent Torres of her sexual assault (p. 324). These revelations in themselves raise concerns about Anna's internal state, her position as a vulnerable subject, and the responsibility of the FBI in such a situation.

Evidence from the trial transcripts additionally raises serious questions about the competency of Agent Torres as Anna's handler in the case. Under cross-examination, Torres revealed that he had no training in undercover operations or the use of confidential informants. More concerning, he was unaware of the U.S. Attorney General Guidelines that outline confidential informant use, or recent reviews by the Office of the Inspector General that raised concerns about the FBI's use of confidential informants and entrapment (U.S. v. McDavid, 2007, pp. 643-650; USDOJ OIG, 2005).

It now seems very likely that Anna's actions during the investigation were highly suspect and indicate that she and the FBI worked very hard at constructing a terrorist threat and entrapping three individuals (U.S. v. McDavid, Brady Memo, 2014; U.S. v. McDavid, Habeas Hearing, 2015). Anna, with FBI funding, bankrolled the entire enterprise, paying for the food, supplies, and travel expenses for the group, as well as supplying FBI laptops and a chemistry set (U.S. v. McDavid, 2007, pp. 840-841). No one in the group other than Anna had any stable source of income. Eric and Zach often traveled by hitch-hiking or train hopping, and without the Dutch Flats cabin would have been homeless (U.S. v. McDavid, 2007, pp. 907, 996-997, 1070). Zach lived on food stamps at the time and he and Eric practiced a freegan lifestyle, a trait the prosecution raised many times to demonstrate their radical natures in resisting modern norms. Lauren lived on a small stipend provided by her parents, who also paid for Lauren's living expenses while she was in art school in Philadelphia (U.S. v. McDavid, 2007, pp. 775-778, 794).

In addition, Anna had to drive both Lauren and Zach to California in early January of 2006, or the two would have had no other way of traveling west, and they would have been stranded in California without Anna (U.S. v. McDavid, 2007, pp. 849-850). During the drive from Washington D.C. to Dutch Flats, California in January of 2006, both Lauren and Zach would testify that they felt Anna was in charge of the group, leading them (U.S. v. McDavid, 2007, p. 1028). In fact, Zach Jensen, during the trip from Washington DC to California, states in audio recordings that he felt Anna was leading the group into a trap. He said he felt Anna was doing this because of something “bad” that had happened to her in the past (U.S. v. McDavid, 2007, p. 1028). At the cabin, Anna urges all the members to take part in the explosives development (U.S. v. McDavid, 2007, pp. 845-846). Lauren testifies to the fact that she and Zach were terrified at the prospect and were berated by Anna until they agreed to take a more active role in the construction of the explosives (U.S. v. McDavid, 2007, pp. 845-846). Anna even states in her testimony that had she not pushed the group to act or move forward, they would have “dilly-dallied” and got nothing done (U.S. v. McDavid, 2007, p. 494).

In addition, following the trial, numerous jurors stated that they believed Anna played a much larger role than was admitted by federal prosecutors and that the FBI overstepped in their investigation (Kuipers, 2012; U.S. v. McDavid, Carol Runge, Juror Deceleration, 2008; U.S. v. McDavid, Diane Bennett, Juror Declaration, 2008; Todd, 2008). Jurors were also presented with two contradictory statements during their deliberation concerning Anna's role as an informant, with one set of instructions stating that Anna was not an FBI informant and one statement saying Anna was an agent under the direction of the FBI. The confusing nature of the instructions put the jurors in a position that they felt left them no alternative but to find Eric guilty. Appeals courts refused to consider juror declarations or the errors in instruction as grounds for retrial.

But what now seems most damning in the case are the FOIA revelations that uncovered numerous letters from Anna to Eric, in which Anna seems to be pushing and cajoling Eric and in which Anna seems to be promising a romantic relationship if Eric progresses with the conspiracy (Democracy Now, 2015; Pilkington, 2015 Potter, 2015; U.S. v. McDavid, Brady Memo, 2014; U.S. v. McDavid, Habeas Hearing, 2015). Federal prosecutors claim that the withholding of evidence was unintentional and they were unaware of the evidence being held by the FBI (U.S. v. McDavid, Habeas Hearing, 2015). The FBI claims the evidence was non-exculpatory and did not warrant release to the defense. During Eric's Habeas hearing, Judge England expressed a cautious skepticism about both claims and pushed several times for federal prosecutors to answer why such a mistake would or could take place (U.S. v. McDavid, Habeas Hearing, 2015).

**Reproducing the Terrorist Discourse in Trials**

While the terrorism discourse justifies the implementation of questionable security tactics to uncover terrorist activities, it also plays an important role in the representation of individuals designated as terrorists in trials. From the very beginning the McDavid case was framed by the federal government as a successful counter terrorism operation. The government portrayed Eric McDavid as a violent domestic terrorist, convinced of both his ability to carry out a terrorist attack and in his commitment to a “terrorist philosophy,” McGregor Scott, U.S. Attorney, stated after the trial that if the defendants would have “succeeded in blowing up Nimbus Dam[...] It would make New Orleans look like a Sunday pancake breakfast.” (Todd, 2008, p. 323; The Eric McDavid Story, 2008).

Actually, destruction of the dam would have resulted in nothing more than a “trickle,” claims Jeff McCracken, spokesperson for the dam (Todd, 2008, p. 323). How did the federal government use the terrorism discourse to prosecute Eric McDavid in a case that resulted in no actual destruction of property or the death of citizens? To answer this question, it's important to analyze the terrorism discourse that has grown around the environmental movement; often accepted uncritically, it is taken for granted that the ALF/ELF are “terrorists” writ large.

While the hegemonic discourse on eco-terrorism is highly unstable and contradictory, it retains its power as useful and remains meaningful partly through its employment in trials. This gives courts a particular role in pronouncing on the inherent moral judgements within the discourse, acting as a site of moral reinforcement, but also as sites of political control and political neutralization. Court cases provide evidence of the continuing danger and threat from terrorism, which, in turn, provides the justification for the increased domestic security measures. Trials of “eco-terrorists” reinforce and reproduce the hegemonic discourse by demonstrating that defendants are inherently violent, acting irrational, and are simply evil. Motivation and explanation become irrelevant because the discourse of terrorism provides a self-explanatory and circular logic; terrorism is the result of terrorists.

Over and over studies have consistently disputed the conception of radical animal rights and environmentalists as engaging in direct violence. Most actions are minor violations of law and at the most they are cases of property damage. Vanderheiden (2005) points out that the moral transgression inherent to discussions of terrorism is the use of violence against a civilian population who is not the direct target of the violence. Such violence, Vanderheiden notes, is meant to serve as a threat to a secondary target of individuals, that is, if they do not adequately respond they will be met with future violence. Studies of the actions carried out by the ALF/ELF have consistently rejected the narrative of violence so often employed by opponents of these groups because they do not seek to injure or kill (Amster, 2006; Carson et al., 2012; Hirsch-Hoefler & Mudde, 2014; Johnson, 2007; Vanderheiden, 2005).

Furthermore, the criminal direct actions of the ALF/ELF are not directed indiscriminately, the target of such actions is the intended recipient and the destruction of property in such instances is not intended to signify future violence aimed at harming individuals. Actual violence in the “eco-terrorist” discourse is replaced with arguments of potential violence by those opposed to the movements. Such potential violence is often demonstrated through reference to ideology or philosophical position. With respect to the ALF/ELF, these actors often display an anarchist perspective, one that is anti-capitalist and anti-corporate. Joosse (2012) and Mcleod and Detember (1999) have both demonstrated that within news framing, anarchists are often trivialized by focusing on their “abnormal” appearance and behaviors, and represented as an inherently violent threat to the state and corporations. These misconceptions have also been reproduced in research.

Borum and Tilby’s (2005) research into anarchist violence reproduces the conception of anarchists and anarchism as inherently violent and abnormal, they state that “people with unusual attitudes, behaviors, and views of the world frequently (and disproportionately) are drawn to counterculture movements and extremist groups[...] These individuals would likely be engaging in criminal or violent behavior, regardless of their circumstances. Affiliating with a movement or ideal, however, gives them a reason and adds some sense of legitimacy” (pp. 205-206). Borum and Tilby’s discussion demonstrates how ideology acts as a signifier of inherent violent behavior. Anarchists cannot be understood as being drawn by social justice, political, or moral considerations, rather, they are simply engaging in movement activity as a way to legitimate or justify their own pathological violent behavior; in short terrorists simply behave as they do because they are evil.

Finally, an interesting aspect of the “eco-terrorism” discourse in trials is the use of a moral equivalency argument in comparing defendants to clearly violent but ideologically dissimilar cases. The result is odd portrayals of violent actions, rhetoric, or ideologies as equivalent to the crimes committed by environmental activists. Within the hegemonic discourse, differences in groups or ideologies is overlooked or strained attempts are made to demonstrate how the ideologies held by terrorists are simply “terrorist” ideologies. This type of comparison eliminates from the discussion the foundation of actions, the non-violent guidelines of the ALF/ELF, and the fact that no individual has been harmed in direct actions carried out by the ALF/ELF. Further, these portrayals attempt to portray the state as the progressive defender of social justice, ignoring the states actual position or role in constructing and reinforcing social injustice.

**Portraying Eric as a “Terrorist”**

The portrayal of Eric as a domestic terrorist was successful because since the 1980s, radical environmentalists and animal rights activists have been portrayed as dangerous and violent. During the trial of Eric McDavid, the most overt portrayals of this discourse came in the state's sentencing memo and in Judge England's comments during the sentencing hearing. Federal prosecutors stated in their sentencing memo: “McDavid’s home-grown brand of eco-terrorism is just as dangerous and insidious as international terrorism. A 20-year term of imprisonment demonstrates that the public does not tolerate those who would generate fear and inflict massive property damage in order to oppose government policy” (U.S. v. McDavid, Government Sentencing Memo, 2008, p. 6).

Such a portrayal reproduces the terrorism discourse’s assertion that “terrorism” is a serious and shadowy threat to the Western world. In many instances, we see assertions and references to international terrorism as an existential threat to Western civilization, with 9/11 serving as the ultimate reference point. The second half of the federal prosecutor’s statement introduces the idea that the primary goal of terrorism is to produce an emotional response of fear in order to produce a policy outcome. The assumptions underlying this is that terrorism is a symbolic act directed at an audience beyond the main target. Terrorist targets then serve as referents. While this might help explain some actions, many actions have multiple goals and are directed at multiple audiences. The ALF/ELF, far from simply directing their action symbolically at a larger audience are acting directly on the audiences they target for their message. The idea here is that Eric’s actions would have been directed at producing a general fear among the larger population, misrepresenting the activist community’s goals and motivations. The ALF/ELF have taken great pains to avoid physical harm to individuals, believing that such actions would most likely undermine their goal and message. The aim is certainly not to simply incite fear in a population. The goals are often twofold: to raise awareness of a particular issue by exposing obscured corporate and state behavior and to increase the cost of doing business.

Judge England’s remarks during sentencing also reproduced conventional terrorist discourse:

The Court has considered the kinds of sentences available, and the need for the type of sentence involved. There have not been many cases that have involved domestic terrorism. This is one of the newer cases. As indicated, this is a *new* world after September 11, 2001. And, again, I cannot help but recall the audio transcript or audio recording of Mr. McDavid indicating that there will have to be collateral damage at some point in time. And that's referring to human lives, and IEDs, which is the talk that we listen to, we hear of when referring to actions that are taking place 6,000 miles away in Iraq, and what people are undergoing at that point in time. (U.S. v. McDavid, Sentencing Hearing, 2008, pp. 55-56, emphasis added)

Judge England reproduces the idea that 9/11, a “new” kind of unprecedented violence, has ushered in a new world. Much terrorism scholarship has made claims to a “new” terrorism ushering in a “new” world, a terrorism of profound violence unexperienced in previous eras. However, those events described as terrorism today, are strikingly similar to past events and past descriptions of terrorism. The claim to “newness” has come to represent terrorism since the 1990s, and certainly after 2001, as something altogether different from previous forms of political violence. Judge England also introduces into the discussion references to the Iraq war and IED's.

These references reinforce the war narrative present in many terrorism discussions. Terrorism is essentially the resistance to the Western civilizing project; reproducing the language of clashing civilizations or a war pitting good against evil, the “War on Terror.” The use of military language like IED's additionally helps to reinforce the image of terrorism as unpredictable violence. The use of improvised explosive devices was a key referent in discussions of terrorism emerging in Iraq as a form of indiscriminate, illegitimate, and unpredictable killing. Once again we have the conflation of attacks specifically designed to destroy property and kill to actions that simply target property. Direct actions are, according to the ALF/ELF, responses to violence perpetrated by the state and corporations against all living creatures and the environment. They are motivated by the belief that capitalism is inherently immoral and that actions justified simply with reference to capitalism are inherently wrong. The focus of the ALF/ELF on attacking capitalism, its symbols, institutions and its foundations, however, does have the effect of being used to justifying the state and corporate claim that these organizations and individuals are an existential threat to Western civilization and are inherently violent.

A second important feature of the terrorism discourse reproduced in the McDavid trial was the continued use of language that demonstrated an irrational and abnormal character inherent to all terrorists. The dominant image that has emerged of terrorists is one of an irrational, psychologically disturbed, evil, misanthrope. Dominant portrayals of domestic terrorist’s abnormality is indicated by reference to ideological persuasion. Ideology plays an important role in the terrorism discourse as it acts both as evidence of terrorism and individual abnormality. For Eric this meant that descriptions of anarchy implied an irrational and abnormal character. The result is a description of individuals who demonstrate unusual behaviors or attitudes, the goal being to show how terrorists are not like “us.” The criminal complaint filed against Eric and his co-defendants refers to anarchy or its derivatives 26 times in 15 pages. It then goes on to describe the dangerous nature of anarchism and linking this to the ELF, and according to federal agents a known terrorist organization: “ELF adherents share a strong philosophical connection to the anarchist movement. The anarchist movement seeks to end the current system of government, economy and replace them with systems characterized by a lack of authoritarian/hierarchical relationships” (U.S. v. McDavid, Criminal Complaint 2006, p.3). During the trial, anarchy played an important role as a signifier of violence and abnormality. The first witness for the prosecution was former police officer Bruce Naliboff whose testimony covered a description of “anarchism,” and the ALF/ELF. Naliboff described anarchism to the jury as a “lifestyle choice,” but did recognize that many anarchists advocate for political and social change (U.S. v. McDavid, 2007, p. 182).

The description of anarchism as a lifestyle choice has several consequences. Primarily, by equating anarchism as a lifestyle choice, it disarms anarchism as a critical political discourse. It trivializes anarchism, it becomes nothing more than a personal choice akin to tastes or preferences; reducing its meaning to the level of a personal characteristic. The goal of the terrorism discourse is to demonize and delegitimize opposition voices. This seemingly incompatible representation is the same process identified by Joosse (2012), who found a “transgression of binary categor[ies]” led to a “semiotic excess” (p. 84). So that during the trial, anarchism was portrayed as both morally perverse and dangerous, as well as a trivial lifestyle choice. If anarchism is a “lifestyle choice” it has no claim to legitimacy as a position from which individuals may act for social and political change. The result is to remove the foundations from which individual activists act. Trivializing anarchism removes from the discussion grievances. It becomes irrational for individuals to claim general political and social grievances as arising from “personal choices.” Motivation and explanation are explicitly organized outside the conversation as irrelevant.

Anarchism during the trial came to be an indicator of Eric's abnormality and violence. Demonstrating this abnormality, prosecutors repeatedly made references to how Eric lived. During opening statements, Stephen Lapham, Assistant U.S. Attorney, spent a considerable amount of time describing the lifestyle habits of Eric McDavid and, by extension, his anarchism as abnormal, making sure that the jury understood that Eric lived abnormally: “Food he got from dumpster diving, or he would get from begging or getting it free from some source” (U.S. v. McDavid, 2007, p. 116). The oddity of Eric's lifestyle was often raised to demonstrate that he chose to live a life that was outside the norm.

In making clear that his lifestyle was not the result of circumstance, but of choice, prosecutors stated: “It's not as if they were homeless and paupers because of their circumstances. They chose to travel and live the way they did. It was a choice” (U.S. v. McDavid, 2007, p. 1277). Anna as well participated in this process of constructing an image of abnormality describing how she had to construct a “dirty” and “disgusting” image to fit into the activist community (U.S. v. McDavid, 2007, p. 245; Todd, 2008). It is, of course, not enough to demonstrate oddity or abnormality of individual habits and choices. This abnormality has to also be demonstrative of a larger more insidious and violent nature.

The terrorism discourse represents individual “terrorists” as inherently violent and drawn to subversive or extremist ideologies that provide them motive, legitimacy, and cover for their violent natures. Responding to the assertion by Eric's family and friends that he was a “kind” and “gentle” individual, the prosecutors stated: “Clearly, the defendant became a different person than his friends and family recall from his youth. He began attending CrimethInc meetings and anarchist gatherings” (U.S. v. McDavid, Government Sentencing Memo, 2008, p. 16). The underlying assertion is that being “kind” or “gentle” cannot co-exist with subversive ideologies. To be an anarchist is to be neither kind nor gentle, but is to be suspected of violence, to be suspected of terrorism. Terrorists cannot be seen as kind, gentle, or compassionate, as this might inject into the conversation the similarity between terrorists and “us.” To do so would in turn result in questioning how individuals like “us” might become engaged in these activities. If terrorists can be kind and gentle, then they may be justified in their actions.

Prosecutors provided plenty of evidence during the trial to demonstrate that Eric was a violent and dangerous individual. Two events during the trial became particularly important for demonstrating Eric's violent nature, yet both incidents were unverifiable. The first was a road trip to Chicago in which Anna drove Eric to Chicago following the 2005 CrimethInc. convergence, and Anna claimed that Eric threatened to kill her with a knife. The second incident took place in the Dutch Flats cabin the night prior to Eric's arrest. Both Anna and the FBI claim that Eric waved a knife in front of Anna's face as she slept. The first incident could never be verified or confirmed because the only witness was Anna, and she was not wearing a body wire at the time. The second incident, however, took place in the Dutch Flats cabin, which had been fully wired with surveillance equipment, yet no audio, video recordings, or notes exist from law enforcement monitoring in the HQ. The federal government, the FBI, and Anna all claim that these incidents took place, but no evidence was presented in court to support these claims.

In addition to these two events, prosecutors demonstrated Eric's violent nature by returning once again to the group's discussion of “collateral damage.” During that discussion Eric raised a nuanced view that accounted for the possibility of unintended casualties; ultimately, Eric concludes that this should be avoided at all costs to the best of the group’s ability (Kuipers, 2012). Federal prosecutors, however, represented this discussion as evidence of violence, stating: “No emotion. It's just a fact. And, as you hear in that recording, it's murder, and the Government will call it murder. He is aware of that” (U.S. v. McDavid, 2007: 1276). A theoretical discussion, then, became direct evidence of violence.

Collateral damage was an important and ongoing discussion for the prosecution during the trial. The goal for prosecutors was to decouple the legitimating effects of “collateral damage” when used by states to explain their actions from McDavid’s discussion. Collateral damage is the unintentional killing of civilians. The effect is to obscure the fact that an operation resulted in the death of civilians. The use of the term often implies the necessity of a particular military operation that did not intend to kill civilians. Intent becomes the reference point from which to judge an action. Federal prosecutors went a long way in making sure that collateral damage did not obscure the fact that this meant the death of civilians or that discussing the possibility of collateral damage was tantamount to advocating for the killing of individuals. This discussion helped to reinforce the idea of terrorism as illegitimate violence. It also helps to reinforce the idea that the state cannot engage in terrorism that terrorism is only carried out by non-state actors. Again, terrorism is defined in actor-based terms.

Finally, the trial of Eric McDavid employed an odd comparison between defendants and cases that clearly sought the harm of individuals. Eric McDavid's crime of conspiracy was compared during sentencing and judgment to crimes committed by members of the white supremacist movement and the militia movement. The State sought to portray these crimes motivated by a Right-wing ideology and specifically designed to kill civilians to those of Eric, who conspired to destroy property in support of the environmental movement.

Three cases in particular were raised by federal prosecutors as analogous to McDavid's crime of conspiracy: the case of Kevin Patterson and Charles Kiles, the case of Matt Hale, and the case of Jack Dowell (U.S. v. McDavid, Government Sentencing Memo). In response to the Defense Sentencing memo, federal prosecutors claimed that Eric's crime was not comparable to other “eco-terrorists” as his crimes were of a different nature. Kevin Ray Patterson and Charles Kiles were convicted of conspiring to destroy gas storage tanks. Patterson and Kiles were members of a right-wing millennial militia. Their goal was to hasten the collapse of the corporate U.S. government in hopes of restoring Constitutional order. The two planned to destroy gas storage tanks on Y2K in the belief that the new millennium would usher in a wave of chaos and destruction. Their hope was to cause mass civilian casualties in what they believed would be nationwide coordinated attacks by right-wing militias seeking to restore Constitutional order.

Matt Hale, founder of the World Church of the Creator, conspired to murder a federal judge in his tax evasion case. Hale, an avowed white supremacist, advocates for the murder of marginalized groups and left-wing activists. One of Hale's followers went on a multi-state shooting spree targeting minority citizens after the Illinois Bar Association denied Hale his law license, and Hale has been described as the “face of hate” in the U.S. Jack Dowell was convicted of burning down a Colorado IRS building. Dowell was at the time a member of the Constitutional Law Group and the Army of the American Republic.

These types of comparisons in the Eric McDavid case are no anomaly. During sentencing for Daniel McGowan, federal prosecutors compared the arson committed by McGowan and his fellow defendants under the moniker of the ELF/ALF to the burning of Southern churches by the Ku Klux Klan (U.S. v. McGowan, Terrorism Enhancement Hearing, 2007). Comparing activists in the environmental and animal rights movements to avowed violent right-wing groups and organizations has several important effects. First, comparisons of right-wing and racist crimes and rhetoric which directly advocates for the killing of individuals connects violence to an avowed non-violent movement. Another effect of this comparison is the tying of what many accept as the irrationality of right-wing militia ideology and supremacist ideology to animal rights and environmentalists. The inherent racism in these right-wing movements is now widely accepted as an irrational foundation for social and political organization. By tying these movements together, federal prosecutors present both movements as irrational and violent. Finally, it constructs an image of the state as a defender and advocate for civil rights. This obscures the fact that the animal rights and environmental movement have drawn both tactically and philosophically from the civil rights movement and liberation movements. It also ignores the many historical examples of state intransigence and outright resistance to civil rights. This comparison of Eric's crime of conspiracy to right-wing groups is also odd given the state's insistence that Eric's crimes were not comparable to other eco-terrorism cases after a trial that sought to present the conspiracy as a clear cut case of eco-terrorism. There are two important explanations for this portrayal. First, if prosecutors would have compared Eric's crimes to other eco-terrorists, they would not have had a connection to violence. Second, comparing Eric to other eco-terror cases would have presented examples of a sentencing range far lower than what the state advocated. Both of these aspects would have jeopardized the terrorist portrayal and in turn the terrorism enhancement applied to Eric during sentencing.

**Conclusion**

I hope that what the case of Eric McDavid demonstrates is the way in which questionable assumptions in the terrorism discourse were simply recycled to present Eric as a dangerous threat. The terrorism discourse itself is based on flawed data and assumptions that have no basis in empirical fact. Rather, the terrorism discourse has been used by political and economic elites with ties to agri-business and bio-medical research to delegitimize activists and silence them. September 11, 2001, was widely seen as an intelligence failure, a failure that has reinforced the belief that domestic security requires an extensive intelligence gathering apparatus. Confidential informants, long a useful tool for law enforcement, have become important and powerful tools for meeting the new demands of intelligence gathering in the era of the War on Terror. Intelligence becomes the primary arena in which terrorism is fought because the terrorist discourse represents the threat as a shadowy and insidious threat. Because of this, terrorism must be confronted prior to its actual manifestation, which means predicting who will become a terrorist. Confidential informants can easily access suspect communities with few resources and little risk to the FBI. From the FBI's point of view, the overall success of confidential informants in terrorism investigations is demonstrated in the high conviction rate of cases that rely on confidential informants as the primary source of information.

The success of these prosecutions, however, is most likely the result of several interrelated factors. Federal prosecutors are statistically more likely to win convictions. The evidence produced by confidential informants is often difficult to verify, even for agents in charge of the investigation. Additionally, evidence produced in investigations employing confidential informants cannot be fairly contested. Given the few restrictions and limited oversight of confidential informants, this makes it difficult to verify the information passed by confidential informants in the early assessment stages of an investigation. Finally, cases that employ an informant make it difficult for defendants to prove entrapment. An entrapment defense places a high burden on defendants to prove they had no predisposition to commit the crime for which they are charged. The difficulty of the entrapment defense is compounded because defendants may not question government conduct until they have proven no predisposition (Target and Entrapped; Human Rights Watch).

These concerns arose in the trial of Eric McDavid and demonstrated the suspect nature of evidence procured through the use of a confidential informant. Confidential informants also play an important role in the reproduction of the terrorism discourse by providing confirming evidence for law enforcements focus on specific groups. Confidential informants do not simply serve an informational gathering role; they play an active role in the crimes. In many instances confidential informants are suspected of moving crimes forward by ensuring that suspects are progressing through the conspiracy. In the case of Eric, there exists many instances of Anna being the prime mover in the conspiracy by pushing and cajoling the other members to move forward with the conspiracy, providing resources, and even actively bringing the members together from across the country.

Federal courts are hardly neutral sites of determining facts and ascertaining truth. Federal courts are embedded within the political and social structure. As such, institutional mechanisms operate to protect the institution and the larger system. Because the ALF/ELF are understood as threats to the system, they threaten powerful elite groups with interests within the system, they have become targets for repression. Because the terrorism discourse is hegemonic, federal prosecutors need only to link the defendant's characteristics with already known and understood terrorist characteristics. The pervasiveness of the terrorism discourse means that label itself brings forward the image of irrational, pathological violence. Through prosecutions like Eric McDavid’s, courts serve to reinforce the social understanding of terrorism and its application to the number one domestic terrorist threat, the ALF/ELF. Such characteristics and representations are readily reproduced in the mass media and within government agencies, law enforcement, and legislators at both the federal and state level. The terrorism discourse presents a simplified pathway from radicalism to violence, with ideology simply serving as cover for pathologically violent individuals. Much of the terrorism discourse reproduces reductionist theories of violence that are rooted in a predisposition to violence as a function of psychological deviancy. Such deviancy is an important function of the overall discourse as it “others” those targeted.

While the terrorism discourse linking environmental and animal rights movements is hegemonic in its portrayal of activists as terrorists, it is by no means uncontested. All discourse is open to challenge as discourse is a process continually in flux and open to continuous articulation and re-articulation. The terrorism discourse itself is a mixture of contradictory characteristics based on flawed data and unverifiable assumptions. It acts to construct an overblown and misrepresented threat to the state. As Jackson (2009) has articulated, the terrorism discourse is less about understanding and responding to a real threat, and more about “controlling wider social and political dissent, restricting human rights, and setting the parameters for acceptable public debate; and altering the legal system” (p. 79). But it is also at these points that the discourse can be challenged; where fissures in the discourse can be exposed.

The terrorism discourse when applied to radical environmentalists and animal rights activists who hold a non-violent stance, risks conflating acts of civil disobedience engaged in out of compassion with acts of heinous violence and aggression. In turn, such a discourse operates to obscure real violence committed by agri-business and bio-medical corporations when they use animals and natural resources as commodities by naturalizing their acts as common sense. When we challenge such conceptions and ask what is meant by terrorism, how is it employed, what its effects are, and who is silenced by the discourse, we engage in the process of counter-hegemonic discourse, as I hope I have accomplished here.

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**Pictorial Activism and the Rewilding of Rivers**

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**PICTORIAL ACTIVISM AND THE REWILDING OF RIVERS**

Henry David Thoreau (1961) famously wrote, “In wildness is the preservation of the world,” a maxim that scholars sometimes misunderstand as *wilderness* instead of *wildness*. A comparable maxim of animal liberation and earth liberation activists is “Live wild or die,” an injunction that intimates death is preferable to living without wilderness freedom. Uniting both of these concepts across the span of a century and a half is the concept of rewilding.

One common meaning of *rewilding* applies to conservation praxis, to the conscious application of ecological knowledge or skills. Earth First! cofounder Dave Foreman (2004) coined the term *rewilding*, he wrote a book on the subject, and he serves the Rewilding Institute as a Conservation Fellow today. Based in Albuquerque, New Mexico, the Institute integrates within its ambitious mission a plan to advance “continental-scale conservation” and to promote a “hopeful vision for the future of wild Nature and human civilization in North America” (para. 1). If rewilding advocates find continued success in the United States, their activism might set powerful precedents for other countries.

Caroline Fraser (2009, p. 356) cites Dave Foreman as having coined the term rewiliding. In his TED Talk, George Monbiot defines terrestrial rewilding as “the mass restoration of ecosystems,” but he neglects to address its attendant restoration in primal human wildness. Any survey of rewilding must address the objections of third-world environmentalists and writers. Ramachandra Guha, for instance, has written, “What is unacceptable are the radical conclusions drawn by deep ecology, in particular, that intervention in nature should be guided primarily by the need to preserve biotic integrity rather than by the needs of humans” (74). First-world environmentalists and writers speak from positions of privilege and power that are impracticable, as yet, for those from developing nations.

Rewilding gained scientific authority after conservation biologists Michael Soulé and Reed Noss (1998) codified it as a methodology and praxis. Their breakthrough article, in the journal *Wild Earth,* promoted the “restoration and protection of big wilderness and wide-ranging, large animals – particularly carnivores” (p. 2). Noss and Soulé espoused a threefold combination of largely protected core reserves, connectivity between those reserves, and support for keystone species to maintain an ecological balance. They espoused, in short, the three C’s of terrestrial rewilding: cores, corridors, and carnivores. (Soulé is a professor emeritus who now serves as a Science Fellow on the board of the Rewilding Institute, while Noss continues as a professor at the University of Central Florida.) A second meaning of *rewilding*, being used connotatively here, following cues from its broader context in activism, points to engagements in struggles that aim toward the twin targets of restoring endangered species or ecosystems and augmenting human health. It is this second meaning, engagement in struggles for ecosystems, for other species, and for the wellbeing of activists themselves, that so many so-called radical environmentalists have seized upon and adopted as a maxim.

Some definitions are in order here before I go on. *Radical* as it is popularly used is a misnomer, as is the term *ecoterrorist*; one person’s radicalism is another’s moral imperative. In seminal books by Manes (1990) and Scarce (1990) on the topic, radicals deviated in their willingness to break the law. Thoreau, Gandhi, and Martin Luther King broke laws for just causes, just as advocates for gay rights later did. By the 1980s the Earth First! cofounders adopted the “radical” label willingly, but within recent years activists have reconsidered the appellation, referring to their praxis as “ecological resistance.” Therefore *activist environmentalists* will be swapped in for the bad locution *radical environmentalists*. What makes *activist environmentalist* apt is the recent spread of formerly radical tactics and forms of resistance from a comparatively few “extremists” to the mainstream. Whereas conventional environmentalists work within legal and political systems, even wear suits and lobby lawmakers, activists act up. Activist environmentalists work outside of legal systems, that is; they take risks. When so-called activism finds refuge inside a system, it rarely continues to be radical or activist anymore.

Language is power, and therefore a rejection of the term *ecoterrorist* also must come into play. As radical or activist environmentalists never have done, terrorists hurt and kill people, with the aim of bringing severe anxiety (i.e., terror) to societies. Words scrawled on a dam face would fall under no standard definition of terrorism. Such an act would qualify as trespass, yes, but people do not suffer severe anxiety from workplace trespass. *Terrorist* is misapplied in cases that entail no physical harm. Industry, business, and law enforcement have circumscribed the language of activism for too long. Unwary activists have allowed establishment terms to be mainstreamed – we have accepted them without a query or a fight.

Today, it is commonplace for people from all walks of life to participate in resistance activities that used to be the province of only the most committed movement participants. People whose primary identities are not “environmentalist” now regularly commit acts of civil disobedience to arrest or delay destructive governmental and corporate forces. And in this confrontation with what is euphemistically termed “development,” mainstream North American society has simultaneously confronted the loss of the wildness that is at the heart of modern society’s most cherished value: freedom.

**The Fluvial Excursion**

Henry David Thoreau’s saying, “In wildness is the preservation of the world,” originated within his essay “Walking.” There, he was speaking of the spiritual side of wildness, an immanent state of intensity that links us with other beings. A primal urge stirred Thoreau near Walden Pond in a memorable moment when he “caught a glimpse of a woodchuck stealing across my path, and felt a strange thrill of savage delight, and was strongly tempted to seize and devour him raw; not that I was hungry then, except for that wildness which he represented.” Thoreau’s language, buried deep within the “Higher Laws” chapter of *Walden*, balances civilized propriety with impulsive savagery. He was responding not to a base or pedestrian inclination, as disciples and readers today might take it. He was teetering on a fulcrum to balance his need to heed “higher” laws. He was complementing his earnest spiritual mandates, those deriving from domestic civilization and all its expectations, with a claim to articulate his savage and embryonic transcendental yearning. That impulse toward savagery was akin to the impulse that some hunters claim they satisfy when they partake in the wildness of their prey by matching wits against it and emerging as the victor.

Arguably our first environmentalist, Thoreau sought to rewild himself by a variety of means. One of those he named the “fluvial walk” in his journals, a riverside hike that led to full absorption: “Divesting yourself of all clothing but your shirt and hat, which are to protect your exposed parts from the sun, you are prepared for the fluvial excursion” (p. 94). For polyglots like Thoreau, the word *fluvial*, hailing from Latin by way of Middle English, denoted a flowing river. *Excursion* in turn signified a brief trip or an outing. Having shucked most of his clothes, Thoreau was ready for a full-immersion adventure, a wild baptismal. He entered the river and relinquished himself to its *fluvia* or current. Drifting downstream feet-first, liberated by his near-nudity, he yielded to the river’s flow. He placed his chapeau atop his sex parts whenever he happened to pass other citizens who were recreating on the shore.

In the winter the river served Thoreau as a medium for rewilding as well. Across its frozen surface he skated with greater abandon than anyone else in Concord, performing “dithyrambic dances and Bacchic leaps,” or so noted Nathaniel Hawthorne’s daughter, Rose Hawthorne Lathrop (Bloom, 2007, p. 4). Thoreau danced on the ice in zany and gyrating displays. He articulated his inner wildness with his bodily articulation. Thoreau was an artist of rewilding. When he leapt on the ice in winter, when he opened himself to the stream’s brisk current and the sun, he rewilded his urbane self and gained a balance that proved incompatible with the civilized side of life. Rivers were places of impulsivity and artistic liberation for Thoreau.

The *fluvia* of his excursions proved vital for his rewilding. One of the most striking characteristics of the environmental movement has been freeing us and freeing all things to evolve. The current swept Thoreau away for *A Week on the Concord and Merrimack Rivers*, the title of his first book, published in 1849. Canoeing those rivers with his brother, Thoreau experienced the flux of the water as it drove toward the sea. He was responding to the force of gravity, to the tug that intimated humankind’s oceanic geneses. In this recognition there exists an important parallel with Charles Darwin. In 1845, on the second voyage of the HMS *Beagle*, Darwin had begun already to understand the ocean as a shared primordial broth from which all speciation arose, though it would take him more than a decade before he found the courage and confidence to print his findings in *The Origin of Species*. Without the harmonizing flow of rivers that Thoreau found ways to yield to, the elemental wildness incipient within first-world peoples might peter out and allow undue refinement to gain the upper hand.

Wildness and the river’s burly current are spousal units. Once we humans turned technology to the task of yoking rivers, that couple suffered a divorce. The healthy force of the currents changed, as did opportunities for fluvial excursions. Those great repositories of hydraulic wildness, rivers, grew tame. Such opportunities were not to be lost forever, though. No human artifice could forever sever those elemental forces nature had conjoined. What technology had separated, technology and the patience of time could once again reunify.

**Thinking Like a River**

Thoreau’s experiences and writings of wildness open the way to rivers and changing American attitudes toward them. What used to seem a consensus on the need to dam and control our streams is yielding to deeper reappraisals every year. Those reappraisals began with the environmental movement’s ascension in the 1960s, and they found an adverse focus within Glen Canyon Dam on the Colorado River when it opened for business in 1963. Even before that momentous event, some sensitive sectors of the public had already begun to feel fed up with corporate-agency collusion. Dams built by the Army Corps of Engineers and the Bureau of Reclamation (BuRec) were stifling wild water—snuffing fish, flooding canyons, erasing Native artifacts, and diminishing human opportunities to couple with the wild.

BuRec efforts to reclaim the West in particular, by building hundreds of big dams, smacked of anthropocentric entitlement. Embedded in the nomenclature of the Bureau of Reclamation was the notion of reclaiming lands perceived as abandoned, neglected, or usurped. To presume the right to reclaim arid landscapes, though, suggested Euroamericans had been afforded birthrights to seize land from earlier inhabitants—from birds, fish, humans, and nonhuman mammals, from rock and water. In the point of view of activist environmentalists, corporations were colluding in the modern age with municipalities, counties, states and the federal government to overwhelm the wild. Such a critique finds parallels in dozens of literary explorations of injustice and inequality. Consider the displaced Muley Graves who refuses to abandon his home in *The Grapes of Wrath* (1996) by John Steinbeck. Lurking ghostlike after his neighbors have gone, Muley yearns to strike the cops and tractors toppling Okie shacks. Uprooted from his home-site, suffering from a disordered state of mind, Muley imagines he can thwart the invisible suits behind the tractors that are reclaiming their bad debts; he hopes to disable the bankers repossessing played-out farms (p. 264). Muley and his ilk were entitled to nothing, after corporations began to run the Dust Bowl show. In much the same way today, traditional cultures and native species have little recourse against the agencies and utilities that are erecting massive dams. By 2006, the Three Gorges Dam on the Yangtze River in China had displaced 1.3 million rural people, along with “13 cities, 140 towns, and more than 1,600 villages . . .” (Lubin and Schafer, 2010, para. 3).

In the 1960s, mainstream environmentalists struck back at the BuRec and kindred agencies by legislative means. They lobbied for the authoring of new laws to safeguard at-risk ecosystems. Never has such a succession of legislative changes fallen into place so swiftly as it did back then. In 1968, the Sierra Club routed BuRec plans for dams at Marble Gorge and Bridge Canyons that would have turned the Grand Canyon into a reservoir. Within three years of the first Earth Day in 1970, Congress had enacted the Wild and Scenic Rivers system, the National Environmental Policy Act, the EPA, and the Clean Air, the Clean Water, and the Endangered Species Acts. But the 1980s brought a notorious reaction to environmental protection and preservation. With the election of Ronald Reagan, anti-environmental extremism became mainstream. Serious proposals were made to sell off massive tracts of public lands in the American west. Environmental laws were met with antipathy and enforced with carelessness. Environmentalism, mainstreamed in the 1960s and ’70s, became exiled. Interest groups like the Sierra Club, the Wilderness Society, the National Wildlife Federation, and others proved toothless and friendless when confronting Reagan appointees like Interior Secretary James Watt and EPA administrator Anne Gorsuch.

When the pace of environmental advocacy came to be stymied, when laws went unenforced and consequently did no good, some activist environmentalists opted for extralegal means. One of the first things they did was advocate for the rewilding of those rivers calmed by technocratic control. Devices for rewilding rivers have included a gamut of protests, writings, and (most pertinently here) the visual arts. The 2014 film *DamNation* takes anti-dam advocacy as its subject.

The first face to be displayed in that 2014 documentary is a graffiti artist, Mikal Jakubal. He lives now in California and works as an EMT and documentary filmmaker.



Figure 1: Mikal Jakubal, 1987. Reproduction courtesy of Mikal Jakubal.

When we met in 1980s Bellingham, Washington, he was performing ecological sabotage (ecotage). “Performing” is used deliberately, because his work took the form of covert performance art. In much the same way that taggers today are artists—as one may see by looking hard at the graffiti sprayed on freight trains—Jakubal’s art bore no signature. Angry and playful alike, his artistic talent claimed as its canvas bulldozers, posters in student unions, newspaper ads, and private homes. He doctored billboards, crafted flyers, fomented activism and mayhem. He compiled a memorable iconography as a lasting legacy. He added to the growing tide of opinion that has favored the once-unthinkable: the toppling of the Elwha River Dam and the Glines Canyon dams, both on the Elwha River in Washington State.

Public blowback against the dams, grassroots efforts to rewild the Elwha and other rivers, captured the interest of *DamNation*’s directors. Jakubal is the rightful protagonist of this film, which is “Dedicated to those who work passionately and tirelessly to protect our rivers.” Funding to make the film came from Patagonia, the outdoor clothing company. Its founder Yvon Chouinard makes a cameo appearance. A fly fisherman, Chouinard has a passion for salmon, which have been reduced in the Columbia River drainage today to between 9% and 18% of their former numbers (Scholz). Bruce Babbitt, Secretary of the Interior under President Bill Clinton from 1993 to 2001, calculates in the film that some 75,000 dams have been built in the U.S. “That’s more than one every day since Thomas Jefferson was in office,” Babbitt says, with evident heat. Built with the understanding they would deliver affordable power, flood control, and irrigation water, the largest of those dams undercut Native American economies and destroyed the totemic Northwest fish runs.

Mikal Jakubal defended western rivers by using the faces of concrete dams as easels. He defended the rivers to rewild them, to restore wildness in big fish, big water, and himself. He performed his art for a cause that has helped to cultivate a creative insurgency in others for decades. Interviewed in the film, he squirms with glee when asked to recount how he pulled off the one big stunt to which he is legally able to confess. He is able to confess to that daring performance, which took place in 1987, because by the time the film was made the dam already had come down by federal decree and using federal money. Statutes of limitations regarding his minor crime also probably had elapsed by that time.

One dam worker with a memory of the night Jakubal spent painting the Glines Canyon Dam crack tells the story. “We got wind that Earth First! was going to do something that night, so we put an extra ranger on duty,” the worker remembers. Jakubal evaded security and committed his caper without detection, painting a crack down the dam face with the words “Elwha Be Free.”



Figure 2: “Elwha Be Free” and painted crack. 1987. Photo courtesy Mikal Jakubal.

Jakubal’s handiwork gained the dam operator’s admiration. “It was a beautiful crack,” the man says. “The guy was an artist. There was no question of it. And he did that all in one night. It was an amazing feat.” Interviewed 27 years after the fact, Jakubal hoped his feat of fluvial vandalism would not be his most momentous legacy. The employee had another take: “I think that kind of woke up people to the fact that something had to be done.” With that single act of ecotage, Jakubal snapped the suspenders of the private owners of the dam and made them look into the future. It also raised the consciousness of those who best knew the dam and its tragic legacy. His bold act translates well to screens around the nation, to classrooms, and to community gatherings. The film features an animated sequence of some ten seconds that recreates the 1987 action.

Ben Knight, the film narrator and one of its directors, declares he has a lot to learn from someone like Jakubal “who would rappel down a 200-foot dam face in the middle of the night with a paint bucket just to make a statement.” Knight asks Jakubal, “Any words of inspiration for aspiring young artists who have a big dam canvas to paint?” Jakubal responds by urging others to get more ambitious, to originate bigger and better media events. He does not go on record about any other ecotage that Earth First!ers undertook during the 1980s. But those of us in the college town of Bellingham during that decade can confirm Jakubal’s radical bravado. His radical and imaginative monkeywrenching complemented the clever flyers he made. One of those flyers, reproduced here, shows an ancient forest on top and a chainsaw beneath it, ready to cut. Those artworks are captioned simply “Beauty. And the Beast.”

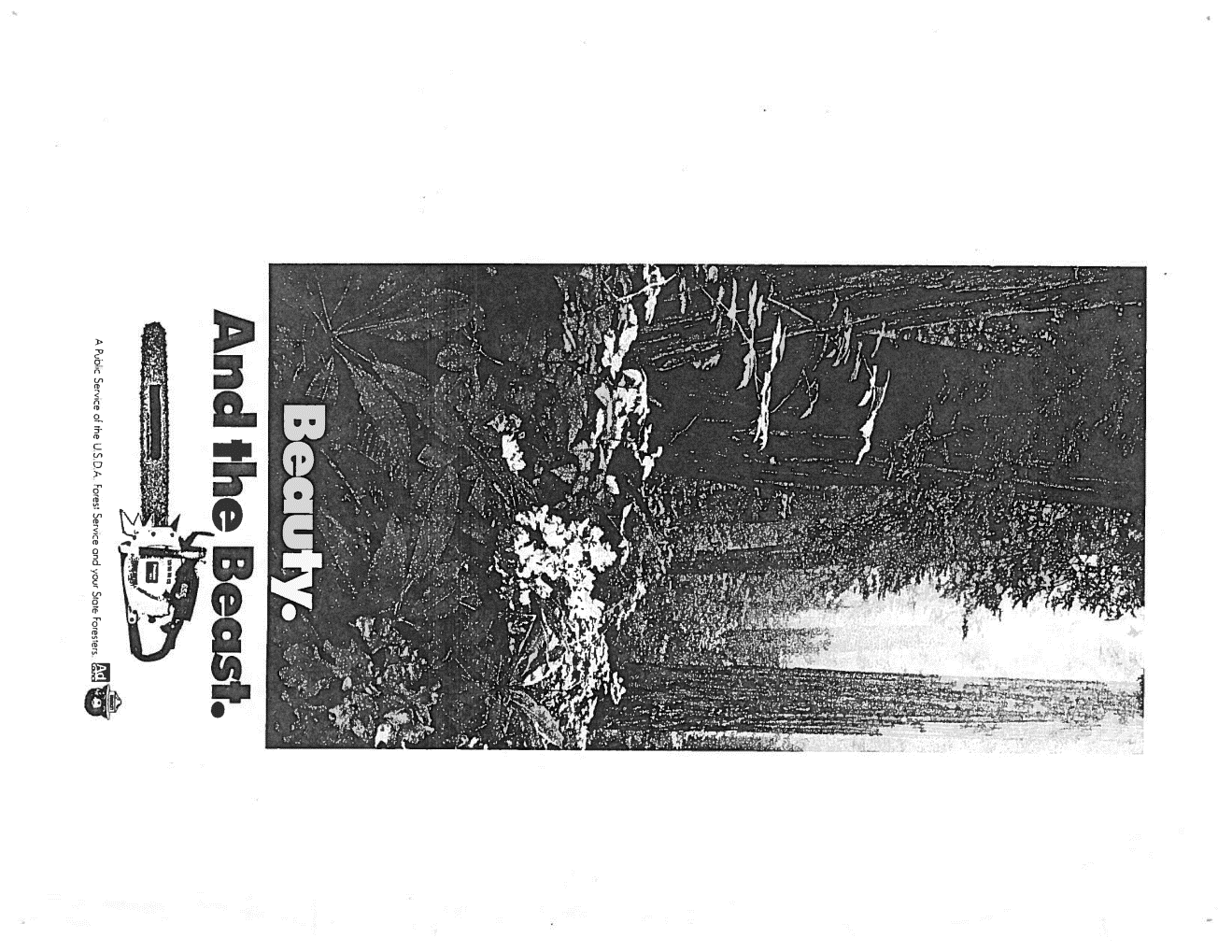


Figure 3: Beauty. And the Beast

The kicker for the cognoscenti was that the image bears a faux attribution, “A Public Service of the U.S.D.A. Forest Service and your State Foresters.” Lifted from mainstream propaganda, it points up the rank subservience of government to industry in that decade.

That same year, Jakubal’s signature also could be seen in the glorious desecration of the face of the O’Shaughnessy Dam in Yosemite. John Muir grieved that dam as one of his greatest defeats. Having working as a shepherd in the Hetch Hetchy Valley that was flooded when the dam went in, Muir railed in print beginning in 1908 against San Francisco’s plans to construct a dam there. He lost that fight, and the dam was built in 1913. Jakubal’s 40-foot crack on the 312-foot-high edifice accompanied the words “Free the Rivers! –J. Muir.” The Bay Area Water Agency had the crack and slogan painted over the next day, but it survives in a t-shirt for sale, a design that “pays homage to the activist art on the Hetch Hetchy dam in 1987” (Wild & Free). *DamNation*’s directors also say that Jakubal originated tree-sitting, the perilous feat of occupying a tree, slated for the saw, to thwart its felling (“DamNation”).

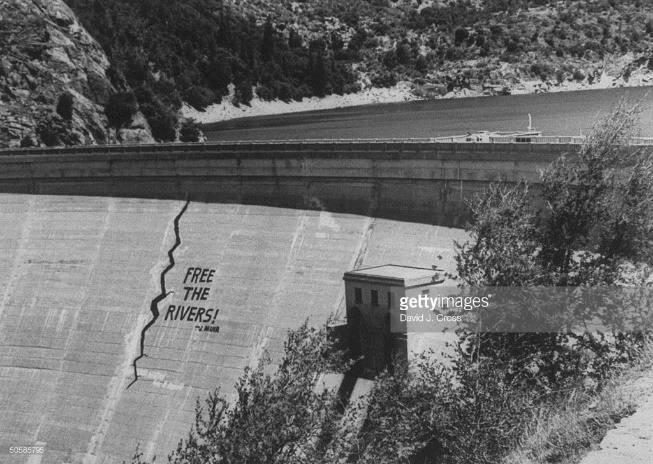


Figure 4: David J. Cross. Reproduced courtesy of LIFE Images Collection/Getty Images

An earlier flourish of activist art inspired Jakubal’s graffiti. On March 21, 1981, a 300-foot fissure appeared on the concrete face of Glen Canyon Dam in Arizona. That crack was in fact a tapering ribbon of black plastic. That sheet of plastic, both a wish fulfillment and a tacit threat, cleverly counterfeited a crack in the concrete edifice. Activists unfurled it down the dam face and held an impromptu press conference on the spot. Those activists—aka ecoteurs, provocateurs, vandals, artists, or what have you—were never arrested. In the view of agencies and law enforcement, the PR the activists would get if they were arrested would offset the efficacy of the arrest and send copycats out for attention. His starring role in *DamNation* has inspired Jakubal anew to get involved in river restoration today. The cycle of art begetting activism and activism begetting art appears to be perpetually reciprocal.

Henry David Thoreau, from all indications, would have approved of such audacious provocations. Thoreau, we remember, was the man who spent a night in jail in 1846 for refusing to pay a poll tax that was being assessed to fund the Mexican-American War, a war that ended by annexing Texas into the United States. A direct line of inheritance connects Thoreau and contemporary activists who were resisting wars waged on environment and humankind alike. Thoreau originated civil disobedience—aka “CD” today, among those who choose to act up on behalf of animals and Earth. In his essay initially titled “Resistance to Civil Government,” changed to its more familiar title “Civil Disobedience” four years after his death, Thoreau detailed his key philosophical rationale for disobeying civil authorities and laws. Activists such as Jakubal, Martin Luther King in the 1960s, and Mahatma Ghandi in the 1920s learned a great deal about CD from the life and writings of Thoreau, who also spoke and wrote in opposition to antebellum slavery. The sole difference is that some of his latter-day heirs choose to vandalize or ecotage implements of industrial ruin. Had Henry David Thoreau performed any sabotage, he and his biographers would never have left mention of it in the records, although it would have been coherent with his character. Mike Jakubal probably was too young to have lent a hand to the Glen Canyon Dam caper in 1981. Later, though, his forays into visual arts helped rewild multiple U.S. rivers. Those forays make mainstream environmentalists today seem conventional and conformist by contrast.

**Defensive Splendor**

A broad palette of arts has come into play for activist environmentalists over time. Regarded collectively, such efforts to protect, restore, and rewild rivers in Washington State and throughout the American West have been collaborative. People working in concert have willingly avoided the spotlight so that their actions sound louder than their mouths. It is as if nature itself had a voice, contrasting the culture of celebrity that news outlets promulgate.

One of the oddest fusions of river partisanship and the arts took place in June of 1941, when the Bonneville Power Administration hired Woody Guthrie to write songs to memorialize the glories of its bureaucratic projects. The BPA is the federal agency created to operate Bonneville, the first of the great western dams. Guthrie convinced himself he could serve the government and workingmen and -women alike by glorifying the great dams that had stripped the Columbia River of its wildness. Some of those dams, work-relief projects to help the nation through the Great Depression, satisfied him that proletarian interests were being justly served. Guthrie himself was radical enough that his guitar sported a succession of decals that read, “This machine kills fascists.” The BPA public-relations stunt exploited Woody Guthrie’s populist appeal to neutralize its Northwest dams against the outcries of those who cast doubts on the appropriateness of the government’s role in public-power production. Those bureaucrats must have believed that cheap energy for consumers and ready irrigation for sodbusters would offset near-mortal blows to the salmon and Indians. Today the Columbia River dams continue to kill salmon, steelhead, and sturgeon. The river is stilled for most of its run and its chilly current heated by miles of slackwater reservoirs.

The public-relations ploy involving Woody Guthrie functioned well enough that the BuRec thirty years later would hire popular artists such as Norman Rockwell to glorify its big dam projects around the West. Using oils, tempera and watercolors beginning in 1969, those artists strove to make high dams (and their so-called reclaimed landscapes) appear appealing to the human eye. Much like Woody Guthrie did, those artists were used to greenwash the ecological damage done by the agency that hired them. A decade later, Greenpeace and Earth First! learned in turn to co-opt the visual arts to their own ends. While Guthrie adopted the musical arts, and Jakubal the visual arts, other activists would act out in ways that assured print and televisual coverage as effective albeit ephemeral arts.

When freedom of speech failed, when anger became unsustainable, speech acts took pictorial form. Such pictures, like the “image events” that communication professors John Delicath (2003) and Kevin Michael DeLuca (2003) have identified as key to public protests, gained long lives in the public consciousness. Instead of aiming primarily for televisual media, instead of exploiting dynamic moments or photo-ops to generate the proverbial fifteen minutes of fame, those image events originated by activists demonstrate greater staying power. In books, videos, magazines, postcards, and promotional materials for advocacy groups, media events like those at Glen Canyon, Hetch Hetchy, and Glines Canyon outlasted their moments and their creators’ lives to inspire other activists over time. In books, magazines, flyers, and posters—displayed in head shops, co-ops, and health-food stores—such images were duplicated and traded, viewed by thousands passing through. (Many such events nowadays take as their preferred medium the Internet, which is free of charge and neutral in content, although conflicts still are playing out about matters of net neutrality.) Water-worthy “kayaktivists” in Portland and Seattle are innovating within the tradition (Brait, 2014).

Dam removal has also inspired editorial cartoonists. In 2009 PacifiCorp, the Oregon utility that owns four dams on the Klamath River, agreed to remove its dams by 2020. That news has become a cause célèbre and vindication among Northwest environmentalists. Cartoonist Rex Babin, drawing for the *Sacramento Bee* in 2009, depicted a litter of dead and dying fish on a dry stream alongside disgusted gulls. One of the gulls says in cartoonish sotto voce, “Dams on the Klamath are coming down! Pass it on.” Nothing radical imbues the cartoon, but it does highlight ways in which dam breaching and dam removal have gained a favored spot in the public consciousness, partly through activist efforts. Oregon cartoonist Jesse Springer, also in 2009, pictured a grinning fish leaping from concrete pool to concrete pool and ultimately into a deep impoundment dubbed “Klamath Dam Removal.” Dam removal, formerly a radical idea never accorded serious consideration, by the first decade of this millennium had gone mainstream. That watershed moment in American culture offers yet another reason why the locution “radical environmentalist” has become passé today.

The most memorable and accomplished of comic commentaries is a 2014 piece by Milt Priggee. He makes his home on Whidbey Island, in Washington State, near where the Elwha and Glines Canyon dams stood, until radical notions about rewilding U.S. rivers became commonplace. Priggee’s work has appeared around the nation. In many states, including Washington, newspapers no longer keep editorial cartoonists like him on staff. His 2014 cartoon here personifies the Elwha River as a curvy and gleeful female who is breaking the chains that attach her wrists to the restraining dams. Channeling the language of the Reverend Martin Luther King, Jr., she proclaims, “Free at last! Free at last!” If the echoes of King’s “I Have a Dream” speech offend some viewers, Priggee’s elevation of nature’s rights to a level similar to human rights affirms the rewilding ideal that activist environmentalists so long have advocated.

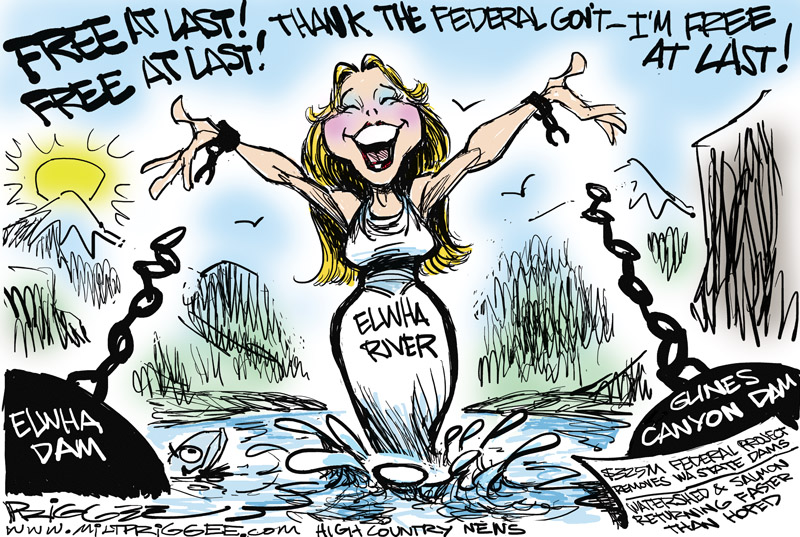


Figure 5: Milt Priggee cartoon, Aug. 14, 2014. Reprint courtesy of the cartoonist.

In a welcome inversion of environmental history, the personified river is thanking the federal government for her fresh liberty. That same government paid for the teardown, raised cash to recompense the private owners of the dam, and built a hatchery and a water treatment plant in place of the dam for the nearby city of Port Angeles. That complicated process took more than two decades to unfold, to gain congressional approval and funding. Priggee’s Elwha River shares attributes with a healthy and seductive mermaid. The wildness of the original river is implicit in her delighted demeanor and body language.

The visual arts came into play for both sets of forces in these ecological culture clashes—the government and the people. Bigger and better media events are sure to follow as technology increases the sophistication of partisanship. Guerilla theatre, a common tactic co-opted from anti-war protesters, will also follow. Many private dams today are being toppled by popular demand, engineering smarts, and congressional appropriations.

In the only event he will discuss, Jakubal had to practice his craft as stealthy as a cat—first to design and then to paint a massive crack on the face of the Glines Canyon Dam in 1987. He had to haul ropes, carabiners, paint rollers, buckets, and other gear by bicycle from his car a mile downhill. He had to do *Nachtwerk*—Edward Abbey’s clever phrase for ecotage accomplished under cover of darkness, a pun on Mozart’s *Eine Kleine Nachtmusik*. Art on behalf of environmental causes has often intersected with activism. Jakubal proved that fact memorably. His art inflicted no harm to humans, but it sent a major message all the same. By combining sentiments, words, and pictures in original ways, Jakubal emboldened others—activists, lawmakers, filmmakers, paddlers, anglers, and entrepreneurs like Yvon Chouinard. “I didn’t bring those dams down,” Jakubal said. “We were just one little bitty pinprick in the side of the system, trying to make this idea go forward” (qtd. in Barcott, 2014, para. 6 ). Jakubal made what is known as protest or activist art. Dams have been inspiring art for almost a century now.

**Politicking Bioregionally**

The ultimate dismantling that followed Jakubal’s pinprick cost the American public a lot, but it was far less costly than letting the signature salmon runs on the Olympic Peninsula die out. Those Chinook salmon, the largest in the state, had grown as large as 45kg during their years at sea. “June hogs,” the white settlers on the peninsula called them. The fish are returning to the river and the upstream ecosystem in healthy numbers now. To restore the Elwha River fully will cost some $324.7 million; the two dams and hydroelectric plants had to be purchased from the owner, two water treatment plants and other facilities needed to be constructed to protect water users, as well as “flood protection facilities, a fish hatchery and a greenhouse to propagate native plants for revegetation” (Olympic, 2014, para. 15). Actuaries can project such restoration costs in dollars and cents, but no number-cruncher can capably assess either the recompense that accrues in terms of wildness to the human spirit, or the ecological value of restoring streams that have been dammed dormant for almost a century. The Elwha and Glines Canyon dams blocked the river in 1914 and 1927 respectively. Sited across from Seattle on Puget Sound, those dams operated in tandem with a nascent logging industry to power pulp and paper mills in the rainforests of the Olympic Peninsula. The cultures that surround those dams form a core of the historical novel *West of Here* (2011) whose author Jonathan Evison, like Derrick Jensen, demonstrates some of the ways affective writing might help to rewild U.S. rivers as the visual arts have done. Like editorial cartoonists, these writers disappear behind a screen of relative anonymity and allow the voices of their characters and personae to advocate on behalf of our regional rivers.

*West of Here* is a roman à clef whose details line up historically with the divisive dams. The central figure is an entrepreneur who devises a plan in 1889 to plug the river, yoke its kilowatts, and power the town of Port Bonita. The entrepreneur, Ethan Thornburgh, is the thinly veiled real estate developer Thomas Aldwell; Aldwell gave his name to the silted reservoir behind the Elwha Dam. The town of Port Bonita is a barely camouflaged Port Angeles—the burg nearest the site of the Elwha and Glines Canyon dams. Those dams would set a precedent for the later concrete monoliths to be built in the Pacific Northwest, climaxing in the Grand Coulee Dam in 1942. Evison’s character Thornburgh devises his dam-building plan to prove to his pregnant lover Eva Lambert (whom he has pursues from Chicago) that he has enough ambition and capitalist savvy that she should wed him. If that strand of Evison’s plot sounds unpromising as literary art, it might nonetheless explain why entrepreneur Aldwell spent 25 years pursuing his dream to plug the Elwha River to could profit from it. The motives pooling behind Aldwell’s dream remain something of a regional mystery, not only for his persistence but also for his ability to evade the laws that mandated fish ladders a century ago. Ladders would have assured the passage of the massive native salmon. Evison bifurcates the intricate plot of this grand novel by setting its second strand on the eve of those dams’ removal in 2006. Such a dateline balances Ethan Thornburgh’s greed with the despair of one of his descendants that is now employed, ironically enough, as the foreman of a fish cannery.

The Elwha fish hatchery, built in 2012 as a condition of dam removal, remains an ecological controversy today. Hatchery maintenance rests in the hands of the local Native Americans, the Lower Elwha Klallam Tribe, signers of an 1855 treaty. In the long term, wild and hatchery fish will crossbreed and dilute the genes of wild fish—a problem that entails a knotty paradox. Even as the river itself is rewilding, even as current is returning to a stream idled for almost a century, the vestigial fish are being dewilded, to coin a phrase. Those fish quite literally butted their heads against the concrete dam edifice, unable to reach ancestral spawning grounds for several human generations. Finally free to migrate upstream, they find themselves in heavy competition with hatchery stock, their gene pool diluted. A river is much more than the *fluvia* or flow of water within it. It is a complex web of ecological relations, a network of key components mutually reliant on one another. If its native fish become less wild due to feral fish from hatchery strains, can a river be said to be wilder?

Mike Jakubal’s caper, if viewed as a species of vandalism, pales by contrast with the damage done to the tribes. Indian ecology relied on the salmon, on wild fish that the dams reduced to fractions of their historic numbers. The devastation of the rivers by governments and corporations, the trashing of tribal livelihoods: those were arguably the most egregious forms of vandalism in Washington State history, even though most people would not think of their losses as a consequence of government licensing and sanction. The tribes came to be civilized, dewilded, reliant on government-issued foodstuffs. One of the tribal women profiled in *DamNation* says removing the Elwha dams was “an answer to our ancestors’ prayers.” In that scene her spiritual sympathies and hopes are evident.

At 210 feet high, the Glines Canyon Dam was the tallest dam ever removed. The NGO American Rivers reports (2014) that 50 other dams came down in 2013 alone. Indeed, dam removal has gained so much momentum that the University of California at Riverside and California State University at San Bernardino have come together on a project they name the [Clearinghouse for Dam Removal Information, an online repository](https://registry.cdlib.org/26143/clearinghouse-for-dam-removal-information-cdri-cdr/) to assist activists and bureaucrats in the challenging process of collaboration, the messy process of working toward a common goal.

**Cultural Dissonance**

Glen Canyon Dam, since its completion in 1963, has become the granddaddy of all lost causes for river activists. A candidate for decommissioning for half a century now, it has been roundly reviled for its gargantuan excess. In the environmental culture war, it has become a battle as famous as Bull Run, the first major battle of the Civil War. Its detractors revile it for water loss to evaporation from its massive surface area, for increased seepage into the porous stone that it covered when it rose, for its detrimental effects on water quality and riparian habitat. Floyd Dominy, who was BuRec Commissioner at the time, went to expensive and arduous lengths to combat his detractors and defend his vision of the dam. He authorized a costly program that commissioned almost 400 objects of public art. He produced a book that touted the glories of Lake Powell, the reservoir that rose behind Glen Canyon Dam. He commissioned a video, scored with stirring music, that depicts the recreation opportunities Lake Powell affords. Tax rolls were tapped to pay for those PR instruments, those paltry projects of government-sponsored arts. U.S. ratepayers became at once the funding source and the audience for efforts to greenwash or consecrate the federal agency and its projects.

Before Glen Canyon Dam came online, the BuRec knew full well it had become a lightning rod for criticism. On its payroll as “artistic director,” John DeWitt was advising it on the aesthetics of its big dam projects. In an effort to lower public voltage, DeWitt enlisted the famous Norman Rockwell as keystone painter in the art collection begun in 1969. Rockwell was to aestheticize that most infamous of BuRec dams. One way to read Rockwell’s canvas, reproduced by agency courtesy here, is it suggests that tribes, horses, hawks, and dams can coexist—a kind of latter-day *Peaceable Kingdom*, the painting Edward Hicks made in 1926 to depict Eden before the fall. Alternatively, one may read the Rockwell canvas as a beloved artist’s forceful sortie into pictorial activism.



Figure 6: Norman Rockwell. *Glen Canyon Dam*. Oil on canvas. 1969. Glen Canyon Dam, Arizona.

Reproduced courtesy of Gloria Mestas and the U.S. Bureau of Reclamation.

If the latter interpretation were to dominate, we may imagine that Rockwell positioned the Navajo (or Diné) family as if encountering the dam for the first time, as if they had come some distance to see it, or as if they were facing it as an unexpected and annoying hurdle on an allegorical journey toward civilization. In this interpretation the family is surprised, stunned really. The stark contrast between the family dynamic and the massive technology, between the traditional ways and the colossal modernism, creates a tension unprecedented in Norman Rockwell’s work.

The film *DamNation* tells stories besides those that Norman Rockwell and Mikal Jakubal foreground. David James Duncan (2001)also shows his passion for rewilding U.S. rivers and reads from *My Story as Told by Water*, his book that practices an effective literary activism in its advocacy for fish. Likewise the late Elmer Crow, a Nez Perce elder featured in the film, can barely contain his sadness and anger over the suppression of the formerly free-flowing Columbia and Snake Rivers, the loss of its iconic salmon. Folksinger Katie Lee, 94, shares film footage and photos of the Colorado River before Glen Canyon Dam. Some of those canyon photos depict her recreating nude there, a la Thoreau’s fluvial excursions. On the pro-dam side, the directors strive to give equal time. Washington legislator Doc Hastings and Northwest Power and Conservation Council member Jim Yost explode with anger that salmon should take precedent over human needs. Hastings now has retired as a legislator and NPCC member. Yost, who owned an Idaho dairy distributorship for years, still serves the Council. Some reviewers complained that coverage of the issues in *DamNation* is unfair and imbalanced. But fewer people today are willing to speak on behalf of such ruinous dams.

The two filmmakers attempt to paddle by kayak through a set of locks at a lower Snake River dam—they had read online they were legally allowed to do so—but two policemen and a security officer force them to reverse course. The river has become so tame, so dewilded, that officials have banned travel by paddleboat. The confrontation makes for some cultural dissonance and cinematic tension. Even though the paddlers are approaching public facilities constructed by public tax dollars, the port officials accuse them of activities the government equates with “terrorism.” The “T” word punctuates the scene and makes the confrontation stressful and irrational. It all becomes absurd when those officials readily reconstitute documentary filmmaking as ecoterrorism. If tourists approaching the dams by motorboat are allowed to pass, then the double standard begs a crucial question: would terrorists bent on blowing up a dam be more apt to transport explosive devices by muscle power or by motor? Using the ready alibi of thwarting terrorism, bureaucrats choose to dewild rivers for security’s sake, disregarding the spiritual need for wildness that throbs in the many people who live along the rivers, who traverse them, fish them, recreate on them.

How may we define ecotage or vandalism in the context of salmon, rivers, Indians, paddlers, and dams? Decommissioning dams that have been in place for almost a century is legal. It is a form of withdrawal that activist environmentalists never took upon themselves. Had they blown up a dam, as members of *The Monkey Wrench Gang* (1975) hoped to do with a houseboat, the environmental movement might never have recovered. Destroying bad dams now, defunct or destructive dams, comes about because such destruction makes economic sense. Legislators, taxpayers, and engineers come together to undo ancestral goofs. University of Washington geology professor David Montgomery observes in the film that, even though exchanges about removing dams 50 years ago would have been “unthinkable, conversations change.” In future decades, conversations might change about activists or artists like Mikal Jakubal. He and his kindred might be perceived no longer as dangerous lunatics, as fanatics, but instead as progressives on the order of abolitionists and later advocates for gay rights.

One of the final images in *DamNation*, a still, shows Katie Lee holding a bundle of dynamite in one hand, a monkey wrench in the other, her arms crossed. She is not an actor. She is an activist and a folk singer, one of the few people left alive who rafted and explored Glen Canyon before it was dammed and flooded, its Native artifacts destroyed forever. Her wildness has remained alive into a ripe old age. Today the form that Katie Lee’s wildness takes is resistance to dams and other mandates that would tame or dewild North American streams. Hers, in other words, is another voice in the growing chorus to rewild U.S. rivers.

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**Where are the Animals in Environmental Education? A Discursive Analysis of the Alberta Program of Studies**

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**Abstract**

Although the Environmental Education curriculum would seem to be one of the most obvious places where junior high students (7th-9th graders) learn about animals, a discourse analysis of the program of studies demonstrates that learning objectives are largely anthropocentric. There are three main areas that could be further developed in the Alberta Learning Environmental Education curriculum: discussions about non-human animals, how food choice impacts the environment, and the ethics surrounding human communities when environments are destroyed. This analysis calls into question the broader implications of Western systems of schooling that are still highly influenced by a scientific and industrial paradigm.

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**WHERE ARE THE ANIMALS IN ENVIRONMENTAL EDUCATION? A DISCURSIVE ANALYSIS OF THE ALBERTA PROGRAM OF STUDIES**

**Introduction**

With the notable exception of the science lab or the lunch room, which parallel the vivisection lab and the cafeteria in post-secondary institutions, the absence of non-human animals in public school curricula functions to maintain a hegemonic and speciesist discourse that prioritizes the human animal over other possibilities of inquiry within the broad topic of environmental study. As institutions of cultural reproduction, schools act as microcosms of larger socio-cultural conventions (Bourdieu, 1973; 1974; 1979; 1991; Dewey, 1902; Pedersen, 2010), crystalizing accepted discourses and disseminating this knowledge through the authority of curricular documents. In this paper, I identify and problematize some of the primary learning objectives in the Alberta Learning Environmental and Outdoor Education Program of Studies for junior high (7th to 9th grade). The Program of Studies is the standard public school curricular guide in Alberta. It is legally required that teachers follow the Program of Studies for any subject area that they teach. This paper examines how the environmental education curriculum, as merely one example of pedagogical discourse, operates within the larger context of the educational-industrial complex to privilege certain humans and undermine the authority and inherent intelligences of non-humans. The Educational Industrial Complex (EIC) is a component of the Global Industrial Complex, which is a modernist system that ultimately strives for unrelenting growth, mass production, and conformity (Best, Kahn, Nocella II, & McLaren, 2011). The term “Educational Industrial Complex” was first coined by Anthony Picciano in 1994, and encompasses three primary components: ideology, profit, and technology (Picciano & Spring, 2013). The EIC is made up of networks of organizations that aim to promote capitalist ideals such as competition and hierarchy. In schools, high-stakes tests and corporate partnerships with fast-food companies are examples of these ideals. Nelson (2011) adds that institutes of higher education (colleges and universities) are also caught up in this system, as they emulate top-down management practices of other industries and are financially linked to corporations (p. 155-157). Although the very existence of a program devoted to the study of environment suggests that schools are taking steps to cultivate awareness about non-human beings, the simplistic and dichotomous undertones that linger beneath the explicit learning objectives warrant deep reflection. By drawing upon critical discourse analysis to methodologically guide my textual analysis of this curriculum, I uncovered three main areas where discussions about animals were not present:

1. There were no learning objectives that specifically addressed the significance of non-human animals in the environment.
2. There were no learning objectives that discussed the links between non-human animals, the environment, and food choice for human animals.
3. There were no learning objectives that discussed how environmental destruction impacts already marginalized humans.

In addition to these three gaps, I also observed a general neglect of critical inquiry—the curriculum “focus[es] instead on the promotion of outdoor educational experiences that (…) advance outdated, essentialized, and dichotomous views of nature and wilderness” (Kahn, 2010, p. 7). Therefore, I am proposing that the Environmental and Outdoor Education curriculum move away from reproducing oppressive relationships (Lupinacci, 2013, p. 185) through a highly anthropocentric, capitalist, and Western dominant notion of environmental study, and embrace alternative possibilities and perspectives about the environment. This shift will require schools, teachers, and students to question (or “unlearn”) their existing assumptions about nonhuman animals (Pedersen, 2010, p. 33), creating a space for nonhumans where they are not commodified for human entertainment or inquiry. As well, I am proposing that the Program of Studies for environmental education dismantles notions of students as impartial observers of the environment. As Nocella II (2004) points out, the liberatory component of critical pedagogy is to “dissolve the subject-object dichotomy” (p. 197) in order to better understand and work towards protecting a particular phenomenon (in this case, the environment). In this way, students challenge dominant cultural assumptions with the goal of “ultimately [becoming] self-negated and irrelevant” (Socha, 2012, p. 19).

**Defining Curriculum**

As the focus of this paper is the analysis of a single curricular document, I believe it would be prudent to briefly clarify some generally accepted classifications within the notion of “curriculum.” Curricular structures in schools are intricate and nuanced. It is important to note that various forms of curricula, while distinct, operate not only independently, but also in relation to one another in the context of school and society (Dewey, 1902). Because of these entangled points of intersection, it would be beyond the scope of a single paper to identify the myriad ways in which curricular structures generate and circulate knowledge, ideas, and attitudes. This project is one component of a larger study that aims to more comprehensively investigate the connections between multiple types of curriculum. Therefore, the focus of this paper is on analyzing the prescribed curriculum.

The various forms of curriculum exist synergistically and can be thought of as occupying individual points on a complex, three-dimensional shape. The two most basic ways that matters of curriculum operate are overtly and covertly (Glatthorn, 1987; Ornstein & Hunkins, 2004). The overt or explicit curriculum refers to the planned aspects of formal schooling, whereas the covert or implicit curriculum represents the unintentional and often unexpected realities of the classroom. The overt curriculum encompasses curricular documents, teaching and learning materials, lesson plans, and other resources that authoritative bodies such as governments, administrators and teachers deem important for learning. Overt goals are influenced by the tradition of scientific inquiry (Bobbitt, 2013) and tend to be pragmatic in nature. They aim to create uniformity and standardization between schools so all students have access to the same content, and assessment practices such as standardized testing can be administered more efficiently. Despite the goals of the overt curriculum, students are also shaped by the covert outcomes of their schooling. The covert curriculum attends to the conclusions that students draw from the organizational structures of the school combined with the attitudes of authority figures, such as teachers and administrators (Longstreet & Shane, 1993, p. 46). For instance, students may covertly learn that following a schedule, raising one’s hand, remaining quiet during instruction, and waiting in line are behaviors that elicit praise. They may also make assumptions about rigid, clearly established teacher and learner roles. The other categories of curricula complicate the overt/covert binary because they may take up either an overt or a covert space, depending on the circumstances.

There are two further categories of curriculum that are related to overt and covert structures: the prescribed curriculum and the null curriculum (Ornstein & Hunkins, 2004). These two areas are primarily what I am interested in analyzing through this paper. The prescribed curriculum refers to the written, formal, planned parts of learning that typically originate from a professional organization or government. State (or in this case provincial) legal documents such as curricular guides and expectations from administrators are examples of prescribed curricula. In Alberta, the significance of the prescribed curriculum (or “Program of Studies”) was emphasized in my teacher education program, where we learned that teachers are legally obligated to teach only the Program of Studies. Although teachers have some degree of autonomy over the implementation and delivery of learning outcomes in these documents, they must ultimately cover each learning objective within the Program of Studies. Teachers are not permitted to introduce new material, unless this material is justified through a learning outcome, or unless a student brings up a new idea or topic in class discussions (teachable moments). A peculiar assumption of the Programs of Study for each subject area is that it is actually possible to teach each learning outcome to any classroom in Alberta, regardless of demographics such as ethnic compositions, socio-economic factors, and class sizes; McClements (2011) demonstrates that even standardized provincial exams in Alberta test less than 20% of learning objectives (pp. 21-39). Although prescribed curriculum documents are most frequently accessed by teachers, they are available digitally and without restrictions on the Alberta Learning Website (Alberta Learning, 2016; https://education.alberta.ca/programs-of-study/). This means that these documents are also accessible to parents, students, and other members of the public. A counterpoint to the prescribed curriculum is the null curriculum, or the subject matter that is not taught or discussed. Eisner (1994) proposes that the null curriculum can prevent critical thinking skills in students by reinforcing a parochial perspective (p. 97) rather than “a wide range of modes of thought” (p. 98). The null curriculum intentionally excludes subject matter and prevents or restricts teaching opportunities for particular topics. The three major gaps that I found when I analyzed the prescribed curriculum for environmental and outdoor education represent the null curriculum; the absence of these three areas sends the message that they are not important or relevant in school (Eisner, 1994).

There are a multitude of other forms of curriculum that operate in tandem with the overt, covert, prescribed, and null curricula. The taught curriculum describes how teachers interpret and deliver prescribed learning outcomes, and the learned or received curriculum is what students actually retain as a result of taught activities. As well, the societal curriculum acknowledges that not all learning takes place in a formal school setting. Cortes (1981) suggests that a variety of social forces such as family, community organizations, and media influence how people learn (p. 24). Because the study of curriculum is so vast and layered, this paper focuses only on a textual analysis of the prescribed curriculum.

**Methodology**A research methodology, or design framework is supported by two primary components: a philosophical or theoretical position and a research method (Hesse-Biber & Leavy, 2011, p.6). My inquiry is methodologically situated within the traditions of critical theory: the philosophical position that guides this project is a critical animal theory (CAT) framework, and my research method utilizes critical discourse analysis (CDA). I use these two critical positions as a means to understand what the prescribed curriculum (the Alberta Learning Program of Studies) reveals about the relationship between humans, nonhumans, and the environment. The CAT lens guides this study by provoking wonderings about the types of messages that students might receive about the significance of nonhuman animals in environmental study. As a government-mandated document that is required to be used by all public schools in Alberta that teach environmental and outdoor education, I was interested in using CDA to interrogate the dynamics of power that are at play through the learning objectives that are expected to be disseminated to students.

My theoretical orientation is critical animal theory. CAT is a scholarly perspective for addressing dominance and inequality; it extends the ideas of critical theory to apply to both human and non-human animals. CAT works to dismantle all oppressions and is especially concerned with the protection and emancipation of nonhumans, as this area has been largely overlooked in academic discourse. CAT emerged through movements of animal advocacy and liberation (Nocella II, Sorenson, Socha, & Matsuoka, 2014, p. xxii). The primary goal of CAT is to ask individuals to better “understand society from the perspective of those who are oppressed and victimized…our ideas of social justice should be applied to other animals, not just to members of our own species” (Sorenson, 2014, p. xx).

CAT is heavily informed by many fields, but this paper is most concerned with CAT’s links to environmental justice (EJ) studies. There are several areas of overlap between these two fields: “both movements broadly view threats to ecological sustainability as harmful to all life forms[…and…]view human society as the source or point of origin for the harm visited upon vulnerable bodies” (Fitzgerald & Pellow, 2014, p. 39). Additionally, both fields draw from interdisciplinary sources of scholarship to challenge hierarchy and inequality. Though the protection of nonhuman animals is essential to EJ studies, the emphasis is more broadly on investigating the impact that humans have on the destruction of environments and communities (Lynch, 1990). For instance, human populations that are already marginalized in multiple intersecting ways “also tend to confront disproportionately intense exposure to pollution and other risks associated with industrialization” (Fitzgerald & Pellow, 2014, p. 37). CAT is also interested in these vital concerns, but it expands the notion of animal protection to theorize that the emancipation of all animals is necessary. This paper seeks to contribute to the emancipation of both human and non-human animals by illuminating the silence that curricular texts have maintained through their written discourses. In my research, I am interested in using CAT as a lens through which curriculum can be analyzed and interpreted. Though much of the research in CAT emphasizes the need for a greater public awareness about speciesism and human privilege through education (Lee, 2014; Socha & Mitchell 2014; Weil, 2004), few have closely interrogated the ways in which curriculum in Canada and CAT may be intertwined. For instance, although Socha & Mitchell (2014) have worked in this area by providing lesson plans that link Critical Animal Studies with English and History curricula in America, there seems to be a general lack of scholarship that examines multiple grades and subject areas in Canada. I am advocating a humane model of education (Weil, 2004), where the well-being of the earth, plants, non-humans, and humans are all woven into the prescribed curricula. By using CAT to inform my analysis of the environmental and outdoor education program of studies, I am questioning whether learning objectives are as holistic as they could be. With the intent to avoid the parochial perspectives that Eisner (1994) warns educators about, I am proposing that the prescribed curriculum would be strengthened by a deeper understanding of the more-than-human (Abram, 1996).

The focus of this analysis is to investigate how dominant discourses about non-human animals operate hegemonically (Gramsci, 1971) through various social contexts and institutions. In particular, this project seeks to determine how an existing social discourse permeates educational discursive structures, such as curriculum. The origins of discourse analysis draw upon three main fields: discourse studies, feminist post-structuralism, and critical linguistics (Rogers et al., 2005, p. 367). While discourse analysis can be used to study many types of visual, symbolic, verbal, and non-verbal texts (Mattingly, Lutkehaus, &Throop, 2008), I am specifically interested in how a prescribed, mandatory curricular document might be reconsidered from a new vantage point. To address my curiosity about non-humans in curricular spaces, my work engages in a textual analysis that is specifically informed by CDA, a methodology that “studies the way social power abuse, dominance, and inequality are enacted, reproduced, and resisted by text and talk in the social and political context” (Van Dijk, 2001, p. 352). In other words, my analysis of the Program of Studies as a social text is driven by critical theory, which “stresses giving voice to those whose voices are rarely heard” (Hinchey, 2008, p. 68). This research questions the neutrality of curriculum by exposing the messages that are conveyed through “null” topics.

The most basic and distilled definition of the term “discourse” is a discussion. Discourse has historically been understood as communication through “the use of language” (Chilton, 2004, p. 16) but the definition has expanded to include “anything written or said or communicated using signs” (Fillingham, 1993, p. 100). Information that is exchanged through communication is drawn from a pool of generally accepted knowledge, and because statements must either challenge or reinforce existing assumptions, social truths gradually change over time (Jager, 2004, p.129). Analyzing discourse means taking apart the processes of communication to understand how human expressions, especially through language, are linked to knowledge. According to Van Dijk (2001) and Foucault (1972), discourses occur at both a micro and macro social level (p. 354, p. 4). Micro structures refer to the direct communications that occur between individuals, such as language and other verbal or non-verbal interaction, while macro contexts take into account the power, dominance, and inequalities that occur in groups or institutions. The Program of Studies in Alberta represents an interesting unification of the micro and macro because it is taught both in individual class settings and on a large scale in schools throughout the province. Because it is required that this document be used by any teacher of environmental education in a public school, the Program of Studies is a salient example of how social power can be established and maintained. Recipients (in this case students) are likely to accept knowledge through what they perceive to be “[an] authoritative, trustworthy, credible [source]” (Van Dijk, 2001, p. 357). To form my analysis of the Environmental Education Program of Studies, I first downloaded and printed a copy of the document, which is available publicly on the Alberta Learning website (https://education.alberta.ca/programs-of-study/). I initially reviewed each section with the simple intention of finding any mention of non-human animals; I planned to then critically analyze what meanings might be conveyed through the linguistic and contextual discussions of these animals. The Program of Studies is composed of five basic areas: course rationale and philosophy, course characteristics, general learner expectations, specific learner expectations, and a description of required and elective components. Though the observations that emerged were reflective of the entire document, the focus of the analysis was on the general and specific learning outcomes, as these are the units of information that teachers are required to transmit to students. As well, I included both the required and the optional components in this study. It should also be noted that Environmental and Outdoor Education is not a “core” (required) course to obtain a high school diploma in Alberta, so there is no government-issued standardized exam; individual teachers are responsible for assessment.

**Non-humans and Curriculum**

It is interesting to observe that in elementary schools, the presence of non-human animals is generally very prominent, extending the ethic of care and compassion towards non-humans that is encouraged through juvenile literature, media, toys, and songs. In contrast, students in higher grades are assumed to have conformed to a dominant Western social paradigm, where the caring of non-human animals is channeled towards only specific groups or species (Pallotta, 2008, Zerubavel, 1997). This process of socialization works in several ways. As Plous (1993, p.21) notes, stuffed animal toys that parents buy for children are rarely farm animals, which may minimize the conflict of both loving and consuming animals. As well, society encourages children “to believe that meat is necessary for adequate nutrition and that meat comes from happy farm animals who live in idyllic settings” (Plous, 1993, p. 21). School curricula, as well, assist in solidifying an entrenched viewpoint of humans as separate from, and elevated above the “more-than-human” (Abram, 1996) world. In the current Alberta Environmental and Outdoor Education curriculum, the elimination of non-human animals speaks to both the explicit and implicit segregation of the non-human and reinforces a civilization-wilderness dualism.

The Alberta Learning Program of Studies for Environmental and Outdoor Education contains 26 overarching ideas, or General Learning Outcomes (GLOs) and 64 Specific Learning Outcomes (SLOs) (Alberta Learning, 1990). At a junior high (7th-to 9th grade) level, a course specifically designed for the study of the environment would seem to be a rich space for discussions about non-human animals and the intimate links that tie our own species to the earth as a whole. Curiously, not a *single* learning objective in the Environmental and Outdoor Education curriculum mentions non-human animals as worthy of consideration in learning about the environment. There are a few objectives that come close to referencing non-human animals. They state that students will: “appreciate the diversity of life forms…found within environments,” understand that “human life and lifestyles are dependent on environmental resources,” and recognize that “humans influence environments through direct and indirect means” (Alberta Learning, 1990). The ambiguity of the terms “life forms” and “environmental resources” are problematic for various reasons. First, the term “life forms” presumably eliminates diverse aspects of the environment that in the Western paradigm are not considered living, such as rocks, air, and water. Additionally, the meaning of “life forms” may include both animals and plants, animals alone, or even plant life alone. Depending on how this term is interpreted, it is conceivable that a student could learn about appreciating life in an environment without actually reflecting upon the abundance of non-human animal species (in addition to the plant species) that may be present. The term “environmental resources,” as well, warrants further contemplation. Again, the curriculum does not clearly articulate whether plants, non-human animals, or both are designated as “resources.” More saliently, the categorization of non-human life as “resources” is saturated with anthropocentric and colonial implications, implicitly reinforcing the notion of non-human earthlings as having no further purpose than to satisfy the needs or desires of humans. If non-human animals, especially those that are considered livestock are labeled “resources,” there are a multitude of additional complications that emerge. Discussions examining the living conditions of Concentrated Animal Feeding Operations (CAFOs), the contradiction of distributing grain to non-human animals rather than directly supplying it to hungry humans, and the enormous environmental impact (Oppenlander, 2014) of the animal-industrial complex (Noseke, 1989; Twine, 2012) would meaningfully expand and diversify the existing curriculum.

Because the curricular discourse surrounding non-human animals is superficial at best, the Alberta Learning environmental and outdoor education curriculum can unintentionally function as an “effective legitimizer for the…erosion of [the world’s] ecological and cultural richness” (Shiva, 1990, p. 60). This is evidenced by a learning objective calling for students to recognize that “air, water, and soil are important media for the exchange of materials between living and non-living systems” (Alberta Learning, 1990). At issue here is whether the word “media” is the most appropriate choice in defining these very essential aspects of the earth. By essentializing the air, water, and soil as significant only in terms of their capacity to facilitate the exchange of materials between systems, the curriculum has effectively quashed a subtle, complex, and nuanced relationship in favor of a sterile, post-positivist view. Learning about the environment is divorced from the earth itself, and students are robbed of alternate viewpoints and contexts. The Western enlightenment model of schooling is a dominant system that must acknowledge the threat of destabilization if multiplicities of knowing, rather than the standardization of information are adopted as possibilities. If students learn to value nature intrinsically, rather than as a binary in constant relation to human needs, perhaps new ways of thinking about the environment can emerge. As a simple example, the notion of an external authority in the process of learning is called into question. Rather than an omnipotent teacher or panoptical curriculum, the land and non-humans could be consulted in decision making (jones, 2009). If the dominance of the teacher, as a single, concentrated source of power shifts to the non-human realm, it is possible that new types of learning could take place. As Sadr (2013) remarks, the behavior of bees can provide humans with lessons in collaboration and disregard for arbitrary, irrelevant boundaries (p. 24).

**Animals, Food, and Environment**

In addition to the exclusion of live non-human animals from the Environmental Education curriculum, opportunities to investigate food choice, particularly in relation to the consumption of non-human animals and their by-products, are not suggested. The environmental impact of consuming non-human animals has been documented extensively (Margulis, 2003; Myers, 1992; Oppenlander, 2014; Steinfeld et al., 2006; United Nations Environment Programme, 2003), and I believe that environmental studies at a junior high level would be enriched by looking to the entire field to inform curriculum. There are two learning objectives that can be critically examined when considering the links between environmental sustainability and food choice:

1. Students will recognize changes that result from human use of environments, including…

-changes due to individual and group activity in the environment

-changes that result from human construction (e.g. roads, buildings)

-changes that result from extraction or harvesting of natural resources

-changes that result from addition of materials to environments

1. Students will make responsible choices in selecting from alternative actions that may affect environments. (Alberta Learning, 1990).

In the first learning objective, one item of concern is the disregard for the major role that animal agriculture plays in environmental degradation. Presumably, discussions about this topic would fall under the “extraction or harvesting of natural resources” category, but the SLO (Specific Learning Outcome) is, in my view, not specific enough. Industrialized farming is a leading industry in environmental destruction primarily due to the tremendous strain it places on the Earth’s water supplies, rainforests, and oceans (Jacobson, 2006; Mekonnen and Hoekstra, 2010; Oppenlander, 2014; Pimetel et al., 2004). Although the meat industry dwarfs other industries in terms of air pollution and greenhouse gas emissions (Oppenlander, 2014; Steinfeld et al., 2006), the possibility to discuss this issue in a classroom is disproportionately small, if present at all. If the second learning objective can be viewed as a complement to the first, an inherent paradox becomes apparent. What “alternative actions” are actually being proposed? Does the responsibility to reduce one’s impact on the environment end if the alternative is inconvenient or uncomfortable? Most junior high students are not constructing roads or purposefully adding hazardous materials into the environment. Environmental sustainability in schools often comes under the adage of “small steps” collectively having a large impact. Both public pedagogy and curricular discourse encourage us to take shorter showers, walk or bike instead of drive, and recycle to help conserve environmental resources. However, these “small steps” are essentially negated and surpassed by the choice to eat non-human animals (Oppenlander, 2014). Although factory farming is having a sizeable influence on the health of the earth, information on this topic within the curriculum is concealed and negated. Many of the environmental and ethical complications produced by the meat industry are suppressed by both society and the school curriculum. The reluctance of public school curricula to directly bring these issues into classroom discussions is unfortunate because it is unlikely that our current environmental crises will correct themselves within one generation.

**Human Animals**

The overall narrative that is produced by the Environmental Education curriculum negates the existence of non-human animals both as living beings and also as food “products” that negatively impact the environment. Although the curriculum is largely anthropocentric, it is also limited in how it considers the human animal as connected to the environment. One area that necessitates attention is the consistent human-non-human binary that is a thread running through the majority of learning objectives. Humans are discussed alongside the environment through the segregation, redirection, and taxonomical ordering of the more-than-human. A needed reform to the existing curriculum is an acknowledgement of humans as merely one aspect of an immense, elaborate, and entangled web of beings.

Furthermore, the curriculum for Environmental Education does not discuss environmental justice, an important component of environmental studies. While the focus of the Environmental Education curriculum is on considering one’s individual actions and how they impact the earth, students are not required to also examine socially approved forms of environmental destruction and how these harmfully influence humans (Lynch, 1990). While the effects of such activities as road and building construction and adding materials to the environment are included as possibilities, the learning objectives themselves do not allude to the wider social justice impacts of these activities. For instance, a student may learn that road construction destroys habitats, but may not learn that indigenous human groups have simultaneously been displaced as well. The fragmentation of curriculum isolates and removes the study of environment from a wider ethical context. As Fitzgerald and Pellow (2014) note, human populations that are already marginalized in multiple intersecting ways “also tend to confront disproportionately intense exposure to pollution and other risks associated with industrialization” (p. 37). If students are not tasked with critically analyzing the implications of further oppressing disenfranchised populations, they may not be motivated to confront and actively resist these injustices The Environmental Education curriculum could benefit greatly from encouraging students to reflect upon “the common good” (South & Beirne, 2006, p. xxv) for both the human and the non-human, while being careful to include discussions of marginalized individuals and communities through an enabling rather than victimizing perspective, as suggested by Van Damme and Neluvhalani (2004).

**Conclusion**

In Alberta, the Environmental and Outdoor Education curriculum only superficially begins a conversation about humans, non-humans and the earth. As an authoritative voice informed by humanism (Corman, 2012), the prescribed curriculum functions as a “social script” that “[legitimizes] the human domination of nonhuman nature” (Bell & Russell, 2000, p. 190). The Program of Studies seems to speak “for” nature and environment (Corman, 2012) without inviting students to critically interrogate their own potential participation in systems that are destructive and oppressive. While other subject disciplines (science and math curricula for instance) are in constant flux as new information and types of knowledge are acquired, the environmental education program has retained the one-dimensionality of valuing a Western and anthropocentric way of knowing only. Though learning about both human and non-human animals intuitively seems like a given for a subject focused on the study of environment, the prescribed curriculum distances itself from non-human animals, food choice, and human social justice issues. The multiple, intersected oppressions that are present in any discussion about the exploitation of the earth can only be addressed if today’s youth are informed and motivated to challenge and change these pressing concerns. This means that the role of being a student of environmental education is not limited to the location and time limits of traditional schooling; students must also be critical pedagogues who act (alongside teachers and environmentalists) to create social change in the streets of their communities (Nocella, 2007, p. 5). “There is a great need,” writes Lupinacci (2013), “for teacher leadership that fosters critical and ethical learning” through intergenerational relationships and grassroots organizations for justice and sustainability” (p. 186). As well, a critical approach to pedagogy calls for a deconstruction of the student/teacher role (Nocella, 2011, p. 35) and the embracing of anarchist pedagogical applications such as autonomy, choice, critical thinking, and challenging hierarchy (Drew & Socha, 2015). The definitions of learning and “schooling” can be expanded beyond the walls of the classroom or the constraints of “learning objectives” if the environment itself is our teacher.

**Limitations**

The interpretations of the curricular text discussed in this paper are intertextual; the meanings that have been derived are dependent upon the experiences of the researcher (Purves, Rogers, & Soter, 1990). My experiences as a classroom teacher and an animal liberation activist have informed my reading and analysis of the Environmental and Outdoor Education program of studies. Analyzing this document from the perspective of critical animal studies offers just one view of how a curriculum may not be as holistic as it could be. It would be equally significant, in my view, to construct a reading of this curriculum through the lens of other traditions, such as a critical feminist and critical race framework. As well, I believe it would be important to consider the curricula of all subject areas from these perspectives. Another limitation of this project is that only one type of curricular structure, the prescribed curriculum, was attended to. This research is one component of a larger study that intends to incorporate the viewpoints of students and teachers to provide a richer understanding of pedagogical dynamics within schools. Our understandings of how nonhuman animals, the earth, and marginalized human groups may be taken up in school systems could be further broadened with studies at a national and international level. A final limitation of this study was that I was unable to access reliable data on how many students actually study Environmental and Outdoor Education as part of their public school program. Because this subject is regarded as an elective course, it is only available to students if their school offers it. In future research, determining the demographics of schools and students will be an important consideration.

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