

LEAP OF FAITH
A Death in
YOSEMITE

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SCORCHING THE EARTH TO SAVE IT

Conciliation may indeed be a trend in the new environmentalism, but if so, the folks at one firebrand group never got the memo. Which, to judge by its success, might be a good thing.

BY JOHN SKOW



Attack environmentalism, or suing the bastards, is not much in fashion in these gentle days of “win-win” development deals, consensus clear-cuts, and count-your-fingers land exchanges with timber-and-condo outfits. So you hear. Certainly the big national environmental groups — save a couple that escape this grouchy assessment — are breathing very little fire. It could be argued that the Clinton administration, its Interior Department, and the U.S. Forest Service, our official environmental shepherds, are breathing even less.

But the many adversaries of a small Tucson advocacy group, the Southwest Center for Biological Diversity, are breathing hard indeed, and occasionally giving off a whiff of burning insulation. Since it first rumbled into battle in 1991, the Southwest Center has filed more than 100 Endangered Species Act lawsuits in federal court, winning an impressive 82 percent of them. It secured an “endangered” listing for one of Arizona’s rarest birds, the southwestern willow flycatcher. It squeezed the Forest Service’s arm until the agency banned cattle on 350 miles of the Gila River. It is in the process of forcing the U.S. Fish and Wildlife Service to designate the upper San Pedro River region as critical habitat for the pygmy owl and a kind of floating parsley called the water umbel, two species that only made the endangered species rolls thanks to the Center’s lawsuits. And it scored a truly seismic environmental victory in 1995 and 1996 when its lawsuit to secure a “threatened” listing for the Mexican spotted owl shut down all public lands logging in Arizona and New Mexico. This in the face of the congressional class of 1994’s one-year moratorium on new endangered species listings and the 1995 salvage logging rider that effectively suspended all timber regulations in national forests. As salvage logging decimated old-growth forests around the country, chain saws sputtered to a halt in the Southwest.

They call it “the legal train wreck” approach, and although other grassroots outfits have put it to good use, the Southwest Center is its undisputed master. Throw a pile of thorny lawsuits on the tracks, and the logging, mining, and wildlife bureaucrats have to clear them off before the trains can run. Like it or not, it’s a strategy that has made the Center one of the most effective regional environmental groups in the country, and certainly the most in-your-face.

“Yeah, we go in with guns blazing,” admits — or brags — Kieran Suckling, the Center’s founding director. The 34-year-old sometime Earth First! activist and former Ph.D. student in

philosophy likes the blazing guns image, and clearly has noticed that reporters scribble in their notebooks when he hauls it out. In fact, most everyone at the Southwest Center likes his rhetoric spicy. Cofounder Robin Silver, 48, throws words such as “corrupt” and “functionally lobotomized” against the wall and then watches with satisfaction as they slide down. “There’s just no more room for compromise,” says Silver, the emergency room doctor who runs the Center’s almost all-volunteer Phoenix office out of his suburban home. “Maybe decades ago, but not now.” And then there’s the third founder, Peter Galvin, 33, another Earth First! veteran and the Center’s conservation biologist and litigation coordinator. “The developers and the extractors have eaten nine pieces of a ten-piece pie,” he rants, “and they want to negotiate about the tenth piece. I’m happy to stick my fork in their hand.”

It’s millennial environmentalism, combat-style. They’re not selling calendars full of idyllic nature photography. They’re throwing torts like hand grenades.

WHETHER OR NOT THE CENTER’S STRIDENT APPROACH FORETELLS FUTURE environmental tactics, it’s at least crystal clear from its opponents’ reactions that the Southwest Center’s salvos hit their mark. “They want the Southwest to be pre-European settlement, period,” Charles “Doc” Lane of the Arizona Cattle Growers’ Association told High Country News in March 1998. “You don’t kill a fly with a sledgehammer. But that’s their only solution.”

“They move like a band of guerrilla insurgents in their battle for public lands,” chimed in the ranching lifestyle magazine *Range* last year. “Hundreds, if not thousands of public land ranchers, loggers, and miners have had their livelihoods destroyed by the ultraeffective strategies of the Southwest Center.”

“A drive-by shooting,” former Arizona governor Fife Symington called one of its lawsuits, declaring that the Center

Symington was complaining about the Center's fight against the U.S. Army's Fort Huachuca, a high-tech listening post near the Mexican border, and its dependent town, Sierra Vista. The two were basically sucking dry the aquifer beneath the San Pedro River, a 130-mile stream that, with sightings of 400 of the 800 or so birds identified in North America, is one of only two National Riparian Conservation Areas. The obvious next step in the San Pedro's environmental collapse — as a team of international hydrologists had certified, in what was NAFTA's first investigation of a U.S. environmental mess — was that the river itself would be sucked down into the parched subsurface and stop flowing.

What scared the Army, local boosters, and politicians like Symington was not that they might soon lose their river, but rather that in 1993 the Southwest Center had filed the first in a string of federal lawsuits to force Fish and Wildlife to protect the San Pedro

a degree in atmospheric sciences is learning the delicate art of extracting Fish and Wildlife's research data via the Freedom of Information Act. Suckling and Galvin are, as usual, talking legal strategy. What we might have here is a young, small computer firm, just after it has grown out of someone's garage and just before big money falls from the sky.

... These days the largest institutional donor is Ted Turner's Turner Foundation, which donated \$85,000 in 1998, and the largest source of funding is the money sent by the Center's 4,450 members.

The latest budget reported an income of just over half a million dollars. After a recent pay hike, Suckling makes \$20,000 a year; his wife, Stephanie Buffum, the development director, makes \$16,500. Galvin gets \$16,000; assistant director Shane Jimerfield \$15,000; and so on down to Silver, who takes no pay. ... They all work full time.

"With its brawling, lawsuit-brandishing, no-compromise approach to battle, the highly successful Southwest Center for Biological Diversity has earned as many critics as victories."

(this first suit was on behalf of the spikedace, a small fish, but the umbel and the owl followed). This meant that excessive groundwater pumping would have to stop. Fort Huachuca might have to decamp, taking its economic boon with it.

Evasive rhetoric began flowing instantly. Fish and Wildlife, as it often does in such cases, refused to designate the San Pedro as critical habitat, reasoning that if birdwatchers and real estate developers knew where to find the spikedace or the umbel or the owl, the species would be further endangered. The Army said it was conserving water. Sierra Vista said it planned to conserve. The Center's position was clear, as summed up in a letter back in 1991 from Robin Silver to the fort's commander that began "Re: 1) Continuation of the U.S. Army's San Pedro River campaign of prevarication, denial, and deceit." It sued again — and won again — in what has become a recurring dance with Fish and Wildlife. Finally, last November, after five years of litigation, a federal judge ruled on behalf of the river.

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GIVEN BRAWLS LIKE THE SAN PEDRO FIGHT, I HAD EXPECTED SUCKLING and Galvin to be down-in-flames fanatics, the Center something of a seething hive of hollow-eyed hippies. The two easterners could still be cast as ecoterrorists, but it would be a stretch. Suckling is skinny and medium-tall, with a small, roundish face somewhat lost behind bushy black eyebrows and a goatee; Galvin is skinny, a bit shorter, and has long, lank brown hair, a mustache, and a beard. It's Suckling who attracts most of the controversy, which is unsurprising given such public statements as, "Yes, we are destroying a way of life that goes back 100 years, but... ranching is one of the most nihilistic lifestyles this planet has ever seen. Good riddance."

But instead of fire and brimstone, I get dry, dreamy academic talk. Suckling, the perpetual grad student, is on last-chance status at the State University of New York at Stony Brook to finish his Ph.D. thesis. His gossamer notion is to find and explore a parallel between the world's loss of biological diversity and its loss of languages.

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Most of the staff is young — a few women, more men, some with long hair, some not. They dress like grad students, since that's what most of them were not long ago. They all eat veggie, maybe because it's cheaper. But the atmosphere of the place doesn't

The threadbare pay scale is well publicized, and it gives the Center the moral high ground when it is time, for instance, to ask a lawyer to work for zilch. Most of the Center's lawsuits are filed pro bono. If they win, the lawyers are paid by the loser, generally Fish and Wildlife or the Forest Service. "Reasonable legal fees" for success and starvation for failure may account for the Center's win rate.

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AT THE CENTER EVERYONE IS SOLDIERING ON AS USUAL. NOBODY HAS enough time. Call the office at 2 a.m. and somebody will be there, beaver away at too much work. Ask a question and you get several chapters of fiery answer. I asked Daniel Patterson, a young staffer, something about the San Pedro as he headed out the door on a bird-counting mission. Twenty minutes later he was still there, downloading facts and enthusiasm.

In a little over three hours at the office one January day, Suckling and his staff, on a "yes," "no," "later," and "forget it" basis, raced halfway through an arm's-length list of present and future litigation. And this was just the timber meeting. The creatures they're battling for include the jaguar, the Mexican gray wolf, the grizzly (which they would like to reestablish in the Southwest), the Sonoran tiger salamander, two kinds of goshawk, and the Chiricahua dock, a southwestern plant. Some, like the coho salmon, the Queen Charlotte goshawk, and the beluga whale, are not even desert creatures. But the Southwest Center is spreading faster than Tucson. A few weeks ago Peter Galvin was in northern California working with the Environmental Protection Information Center, known for its efforts to preserve old-growth redwoods, on a lawsuit to force critical habitat designation for the coho, whose spawning grounds have been trashed by logging. In Alaska, in a fight for the beluga whale in the Cook Inlet, the Center is schooling such local groups as the Sitka Conservation Society in their litigation techniques.

And last September, in its most audacious effort yet, the Southwest Center organized 20 local and national environmental outfits to challenge — for the first time — logging on all federal lands until the Forest Service comes up with a broad environmental impact statement and a credible no-logging alternative.

Who do they think they are? Do the Center and its allies really believe they can shut down all public lands logging? "Oh, sure," says Suckling absently, his mind already on other mischief