

"Ecorealism": Principles, Problems, and Paradoxes

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Gregg Easterbrook, *A Moment on the Earth: The Coming Age of Environmental Optimism* (New York: Viking Press, 1995) 745 pages \$27.95.

If you enjoy, as I do, getting in bed and reading a while before it's lights out, do *not* reach for this book at that time. *A Moment on the Earth* is not so heavy that it will hurt you when it tumbles faceward onto your chest, a nightly routine I dearly love. Though large and thick, this book is marvelously light. This last observation holds true of both its prose and its physical weight. The difficulty with reading this book after 10:00 P.M. is that you'll find yourself waking up, getting up, and reading on. Its discourse has no soporific virtues whatever. Nor should you wait to take this book to the beach next summer, or even to the ski lodge this winter. In this context, unlike environmental defense litigation, delay is a vice. If you work on environmental claims or related problems, you should start this book now, place it in the hands of the people you work with, schedule company or firm seminars to see how to use the book, and get it into the hands of thoughtful judges and legislators. If Easterbrook is half right, and if he is widely read, his comprehensive tour de force will substantially change the way America thinks about its various environmental "crises." If these things happen, the interpretation of environmental laws will change, and that shift will alter the proper approach to environmental claims. One of Søren Kierkegaard's narrators remarked once that he wanted to make the world complicated again. This book does that.

Easterbrook is a reporter who has covered environmental issues for *Newsweek*, *The New Republic*, *The New York Times Magazine*, and *The Atlantic Monthly*. He is broadly and deeply knowledgeable about environmental affairs. In this book he writes confident chapters on virtually every environmental issue: acid rain, air and water pollution,

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endangered species, chemical toxicity, the possibility of clean technology, global warming, global cooling, power, agricultural pollution, forests, artificial radiation, natural radiation, population, land use, the industrialized world versus the third world as sources of pollution, and so forth. He frames these chapters with discussions of larger, more metaphysical, issues toward the first and at the end of the book. All of them are well-written, and Easterbrook displays his erudition lightly—sometimes even elegantly. Even the theoretical, philosophical parts of the book are sprightly.

This is a very human treatise. It is touched by both pith and vinegar. At a deeper level, it has also ingested a stiff dose of paradox.

ARGUMENT

Easterbrook, a political liberal, suggests that the development of environmental politics has been of cardinal importance in the second half of the 20th century, and he gives the environmental movement two cheers. Unfortunately, he says, the "Greens" have ossified into an institution in their own right. They have become (just) another lobby-wise interest group, with a long string of successes to its credit, an incentive to minimize its many victories and its institutional needs for stability into the future.

"Enviros," as Easterbrook calls the leaders of the environmental movement, have many incentives to exaggerate the seriousness of environmental problems, to portray industry as dominating the government, and to beat the drums of crisis and pessimism. After all, the visual media responds best to crisis and doomsaying. Contributors pay most when they have an immediate sense of danger and alarm. The high salaries of environmental leaders can be maintained best when there is a general sense of dread. Power grows out of paranoia.

Easterbrook regards the state of affairs as corrupt and immoral. He believes that political progress is best served by truth, and he calls on the environmental movement to tell the truth to the American people. The truth is, according to Easterbrook, that the United States is rebounding quickly from the doses of pollution administered to it in virtually every area; consequently, the dangers to the environment are exaggerated. Easterbrook believes that firm environmental commitment should continue into the future, and this commitment should encompass cleanup, maintenance, and improvement. Nevertheless, in his view, the environmental movement should adopt a philosophy of "ecorealism," and not philosophies of "eco-alarmism," "eco-primitivism," or "eco-antihumanism." Man is not the enemy. Indeed, man has

barely touched the earth. Economic improvement is not the enemy, although a materialist culture is far from a good idea.

It is impossible to summarize briefly the scientific and historico-political facts and stories told in *A Moment on the Earth*. It is a huge and robust book. For the purposes of this journal, it is probably best to focus on Chapter 33, entitled "Toxic Waste." According to Easterbrook, the Greens greatly exaggerate the dangers of toxic waste. In order for toxic waste to be harmful, there must be exposure to it, and the existence of a waste site does not automatically imply exposures. In addition, to be dangerous, toxic substances must be ingested in quite large quantities. Tragically, this happens occasionally, but infrequently. (For example, it apparently did happen at Woburn but did not happen at Love Canal, Times Beach, or Rocky Mountain Arsenal.) American industry now releases less dioxin each year than was sprayed on Vietnamese jungles in every average Agent Orange bombing attack.

The need for immediate and near-perfect cleanup is also exaggerated. Easterbrook makes this point in both general and specific ways. In general, he notes that we are spending \$1.7 to \$50 million cleaning up toxic waste for every premature cancer avoided. This figure is thrown into relief when contrasted with the \$756 society spends to prevent every premature breast cancer. In addition, the standard for successful cleanup—the "eat dirt" standard—is unnecessarily high. Why? Hardly anyone ever eats dirt, and whoever felt so inclined probably would not do it at a place known to be a former dump site. According to Easterbrook, everything must be taken in context:

Like many toxic disposal areas, Rocky Mountain Arsenal has genuine problems requiring correction. Yet all but a handful of toxic sites present nothing close to the looming threat depicted in doomsday ideology. Institutional environmentalism has exaggerated the toxic waste threat as much to advance its own political influence as to sound the necessary alarms. The result is disproportionate public anxiety and the cleanup program, Superfund, that accomplishes good but sometimes expends large sums for negligibly economical gains.

According to Easterbrook, "[h]ealth damage from anxiety, a real enough medical condition, is common among those who live near Superfund sites." But do such people often suffer environmental harm as well? Almost from the start of the "poisoning of America" scare, studies have shown this to be unlikely. Easterbrook cites one authority which states that only 109 of the 1,286 priority Superfund sites are in genuine danger of actually exposing people to toxic chemicals.

According to Easterbrook's authority, there are only 11 confirmed cases of direct human exposure to toxic waste at Superfund sites and only 98 probable cases. Of course, Easterbrook acknowledges that harmful exposures are tragedies, but he points out that "in number they do not approach the general cataclysm depicted in doomsday orthodoxy."

On the other hand, many special interest groups have reason to resist this deflationary message about Superfund. Governmental agencies tend always to preserve their flow of revenue, so the EPA favors Superfund. Superfund is a full employment act for consultants and lawyers. "For institutional environmentalism, toxic wastes represent an issue where everybody is scared to death...." The media loves Superfund, because toxic waste is a great story: Those who live near Superfund sites are "visual victims," and they are television's most prized commodity. Even many ordinary citizens have an interest in mythologizing toxic waste disposal, because it provides them with a rationalization for otherwise inexplicable and mysterious ailments.

Easterbrook's toxic waste chapter is especially interesting in discussing the politics of how to clean up waste sites. There are currently four alternatives: soil washing, incineration, removal, and a technique called "cap and contain." Each of these has merits and demerits. Individual decisions are by no means easy, and simple-minded political opposition is of no help at all. No one seems to be using their heads, complains Easterbrook. There is too much across-the-board, unthinking opposition.

What is needed here, says Easterbrook, is an appropriate measure of ecorealism. Government and corporate inaction have caused cynicism and anxiety. Most people consider the speed and certainty of Superfund cleanups more important than perfect results. The solution of ecorealism is to "favor rapid action for reasonable cleanup of toxic wastes while opposing big expenditures in quest of hypothetical perfection." Alas, the impulse of institutional environmentalism runs in the opposite direction. Sometimes, the position of institutional environmentalism is even cynical: "Some Greens demand perfection in Superfund cleanups exactly because they know perfection cannot be achieved without incinerators or other complicated engineering solutions that can themselves be depicted as horrors, endlessly restarting the [environmental crisis]."

PITH

In many ways, *A Moment on the Earth* is a sustained argument for ecorealism. There is even an "ecorealist Manifesto" at the end of the book. It is a sensible document: "The founding concept of ecorealism

is this: Logic, not sentiment, best serves the interest of nature." It is an optimistic document: "In the Western world the age of pollution is nearly over. Almost every pollution issue will be solved within the lifetimes of the readers of this book."

Manifestos, however, do not generally sparkle, even if they are succinct and hardhitting. Much of Easterbrook's prose is quite elegant, however. The following is a not-very-random sample:

- "A law of environmental affairs: whenever all respectable commentators believe a problem cannot be solved, it is about to be solved."
- "The notion of a fragile environment is profoundly wrong."
- "Human assaults on the environment, though mischievous, are pinpricks compared to forces of the magnitude nature is accustomed to resisting." [One of Easterbrook's main themes is to try to teach the reader to "Think like nature."]
- "The shift to environmental pessimism has come at a time when shifts to pessimism are the vogue in all quarters of academia and the arts. In the current[ly] received wisdom of liberal thought, humanity is such a lost cause—bumbling, bellicose, dependent on repressive social structures, wasting resources, pointless in the cosmic sense—that the idea women and men might not only help nature but serve as 'stewards' over a beneficial coming phase of evolution makes the academic and literary set gag."
- "Damophobia reflects the Fallacy of Stop in Place." Of course, life can never be stopped in place, says Easterbrook.
- Keynote addresses at highly publicized environmental functions reflect "the orthodox enviromaelstrom, providing barometric readings of its detachment from common sense."
- "When pondering nature, one would do well to reflect upon the endlessly insignificant insubstantialities of civilization...."
- In 1989 [the head of the EPA] tentatively endorsed a new wetlands manual, "one whose techno-gibberish quotient left readers longing for the snappy prose of the *Federal Register*."
- "Because [the] primal urge of contemporary environmental doctrine is to create a crisis, there have been attempts to make land seem in shocking danger. It is not."

Environmentalists...can now deliver [political] heat and more votes than can labor leaders [as President Clinton knows]. This is a shift of the first magnitude. Had you told a political scientist 20 years ago that by the 1990s environmentalists would be taken more seriously in a Democratic White House than the AFL-CIO, you would have been advised to seek professional care. Still the Greens are committed to 'Armageddon language.'

The book is peppered with paragraphs, sentences, and phrases like these. Brief writers and speech writers, as judges, can all profitably pillage Easterbrook's book in search of arguments, epigrams, aphorisms, and pith.

VINEGAR

Thankfully, *A Moment on the Earth* is not a book of unrelieved optimism. Some problems are simply too intractable. These are social problems, however, not environmental. Perhaps Easterbrook's deepest scorn is reserved for lawyers. If he had one kind thing to say about lawyers, litigation, legal theory, or the legal process, I cannot remember what it was. Some of Easterbrook's most scorching criticism of Superfund, for example, is reserved for the legalism it has engendered. Somehow, Easterbrook blames legalism on lawyers. Has he overdone it? Does it distort his perception of reality?

The rhetoric of one of his sentences, partly about insurance companies, makes me suspicious:

Liability insurers sue their own insureds, trying to evade responsibility; obviously guilty companies sue slightly guilty ones, trying to fob off costs; defendants willing to pay a fair share to get out of suits find other defendants to sue to keep them ensnared; the EPA, through the Department of Justice, sues other government agencies, the list goes on, billable hours accumulate.

The first independent clause of this sentence is twice problematic. What is so odd about a liability insurer suing its insured? How else could an authoritative adjudication be obtained, except by a declaratory judgment action? Would there be anything less odd about an insured suing its own liability insurer? And why is a liability insurer trying to "evade" responsibility? "Evade" is used only when responsibility is real; someone is trying to avoid something they ought to embrace. But the whole large controversy surrounding responsibility

of CGL insurers for pollution is by rhetorical magic cast out of consciousness. It should not have been. If Easterbrook were going to talk about it, he should have treated it fairly.

Similarly, Easterbrook should treat lawyers fairly. The following is hardly the whole truth:

According to a Rand Corporation study, fully eighty-eight percent of payments by Superfund insurers go to "transaction costs," mainly litigation; only twelve percent to cleanup. The paint company, Benjamin Moore, estimates it has spent nine times as much on Superfund litigation costs—often in trying to get legal permission to sign a settlement and pay up—as it eventually will pay in cleanups. A partner at a blue-chip Washington law firm told me, 'every big Superfund case now has a PRP steering committee where one of the main issues discussed is how to delay payment for as long as legal expenses are less than the present-dollar value of the settlement.'

If that is what a blue-chip Washington lawyer actually said, then he is an idiot and not representative. Lawyer-bashing is certainly nothing new in America, although it is now—perhaps since the baseball strike—our favorite pastime. Surely, the legal profession needs some bashing. After all, it is awash in negligence. Besides, despising the powerful helps safeguard democracy. Puncturing the pompous keeps life lighthearted. Easterbrook, unfortunately, lets the fun get out of hand. There must be something nice he could have said about some lawyer in a book about environmental controversies that is over 700 pages long. Surely, not every lawyer working on the environment fits the paradigm of family lawyers discussed at the beginning of Pat Conroy's 1995 novel *Beach Music*: "I met a series of reptilian lawyers so unscrupulous that I would not have used their marrow to feed wild dogs or their wiry flesh to bait a crabpot."

PARADOX

Easterbrook is dedicated to both democratic process and a clean-enough environment. He is also committed to two propositions. The first one is John Stuart Mill's principle: *Democratic process tends to produce truth over the long run*. The other one is less exalted: *The squeaky wheel gets the grease*. In any rough-and-tumble democracy, the second proposition is clearly true. Many people like to believe in the former one, too, and I hope it's true, but I am not so sure. Political realism is just as important as ecorealism. I am more inclined to accept a third proposition in place of the first. *Over time, democracies produce consensus myths; they are seldom the "true truth,"* as my wife calls it.

Such mythologies emerge and then stabilize after some groups have won, some have lost, or, there has been some sort of compromise where nobody feels like he has really won.

The paradox at the heart of Easterbrook's book is really an antinomy. *Point:* Institutional environmentalism has been exaggerating various pollution crises facing the polis, so it will be discredited because of its sponsorships of false views, and valuable environmental concerns will be shelved. On this basis, Easterbrook recommends that the Greens tone it down. *Counterpoint:* It is invariably true in any democracy that the most pressing concerns receive the attention of the public and their representatives. If environmental diagnoses are made more realistically, funding will be diminished, public profile will go down, and problems which have long-run importance will go unsolved. Easterbrook seems to think that the environmental movement can have it both ways and overcome this contradiction. It cannot. The only way to have it both ways is to place the resolution of the problems in the hands of authoritative elites, say, after the manner recommended by authoritarian political theorists. Such an idea contradicts Easterbrook's most cherished and most central assumption.

CONCLUSION

Still, this is a terrific book. It has already proved controversial, even provocative. Every reviewer must carp a bit, so I close with three. (1) There aren't any footnotes. (How can one cite the book to skeptical courts if one cannot provide Easterbrook's authorities. Law, after all, is an authority-ridden endeavor.) (2) Important sources discussed in the text are not in the bibliography. (3) The index stinks.

