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## David Ross Brower and Nature's Laws

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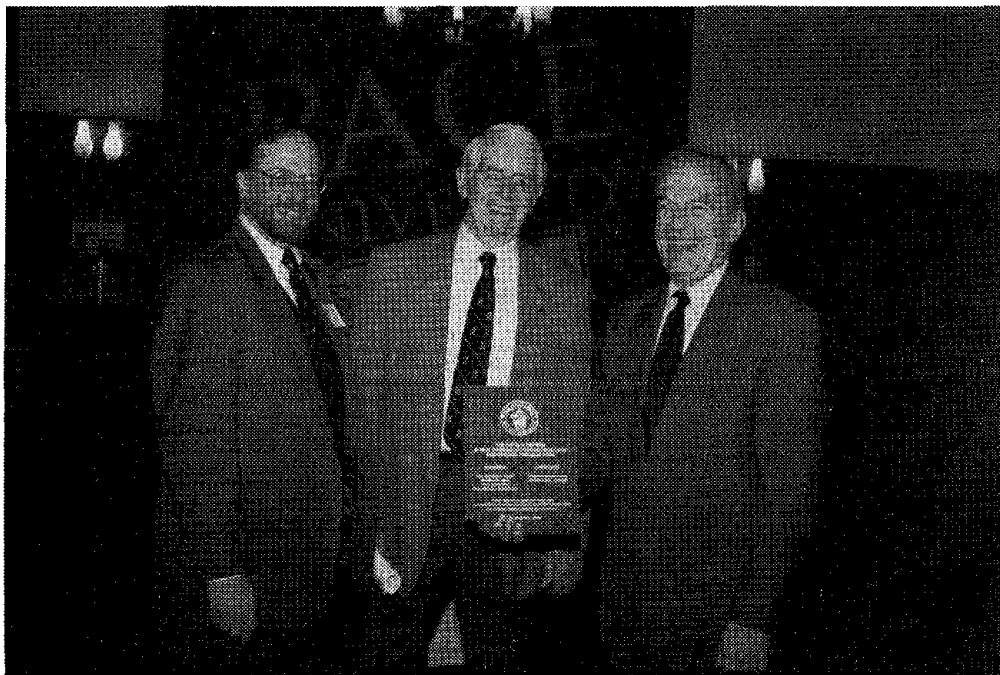
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IN MEMORIAM



Left to Right: Professor Nicholas A. Robinson, David R. Brower, and Dean Emeritus Richard L. Ottinger, at Pace University School of Law, World Environment Day, June 5, 1997.

**David Ross Brower  
and Nature's Laws**

“We’re not blindly opposed to progress. We’re opposed to blind progress.”<sup>1</sup> These words summed up the style and power of David R. Brower. Indelibly, he chiseled toe hold after toe hold on an arduous climb across the rock face of the commercial forces driven to seek short-term gain from natural resources and oblivious to the

1. Richard Severo, *David Brower, An Aggressive Champion of U.S. Environmentalism, Is Dead at 88*, N.Y. TIMES, Nov. 7, 2000, at C22 (quoting David R. Brower).

longer-term costs to the Earth that the ecological sciences would chronicle but that economists would disregard as mere “externalities” in their classical market models. As Brower campaigned to protect the wilderness of North America and the Earth, through his sheer conviction and abundant eloquence, he emerged between 1952 and 1988 as an architect of contemporary environmental government policy toward nature.

Brower was congenial and courteous in demeanor. He dressed conservatively, so that his appearance would not detract from the passion of his message. His love of nature came naturally, as he grew up in California, hiking in the Berkeley hills, the Coast Range, and the Sierras. He was a skilled mountaineer, and served with the 10th Mountain Division of the Army in World War II. He knew the climbs of the Sierra’s peaks with intimacy, and could have devoted his life to exploring the wilds, but for a nagging awareness that to do so would betray that very love of nature which the wilds gave him.

In 1952, Brower left his work editing manuscripts at the University of California Press (he was then also, as a volunteer, editing the Sierra Club’s *Bulletin*), and became the Executive Director of the Sierra Club. He knew then that developmental encroachments on natural areas were extinguishing species, eroding pristine ecosystems, and defiling the air and water at a pace that John Muir could never have imagined. The Sierra Nevada mountains, Muir’s “Range of Light”<sup>2</sup> and Brower’s “Gentle Wilderness,”<sup>3</sup> were at risk, and if they were at risk, so were mountains everywhere.

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2. JOHN MUIR, MY FIRST SUMMER IN THE SIERRA (Houghton Mifflin Co. 1998) (1911), available at [http://www.sierraclub.org/john\\_muir\\_exhibit/writings/my\\_first\\_summer\\_in\\_the\\_sierra](http://www.sierraclub.org/john_muir_exhibit/writings/my_first_summer_in_the_sierra).

And after ten years spent in the heart of it, rejoicing and wondering, bathing in its glorious floods of light, seeing the subbursts of morning among icy peaks, the noonday radiance on the trees and rocks and snow, the flush of alpenglow, and a thousand dashing waterfalls with their marvelous abundance of irised spray, it seems to me above all other the Range of Light.

*Id.*

3. JOHN MUIR & RICHARD KAUFFMAN, GENTLE WILDERNESS: THE SIERRA NEVADA (David Brower ed., 1964)

The gentleness of this Sierra wilderness is never cloying. Fear can be mixed with the exhilaration that the cliffs and torrents and storms bring. The passes come impressively high, your breath short, and your pulse rapid. But there is always enough gentleness in the Sierra, or soon will be when the storm clears; no other mountain range I know can outgentle it.

*Id.*

Brower knew that everyone could not come to know the mountains at once – and if they did, the peril would be great. But all could come to appreciate them. Seeking to awaken the love of nature in each urban dweller, and to bring the beauty of the mountains vicariously to them, he created the “Exhibit Format Books.” Engaging Ansel Adams and other renowned photographers, eloquent writers, and the best printing houses in Italy and America, he produced a score of Exhibit Format Books,<sup>4</sup> whose stunning appearance and compelling short texts would entice even the busiest person to linger over the views of nature and savor the prose as if it were poetry. The Sierra Club books were on the reception tables in the waiting rooms of members of Congress, in parlors and living rooms across the nation, were celebrated in book reviews, and won awards. They also won the minds, hearts and votes of those who read them.

These books, together with the annual Wilderness Conferences organized by the Sierra Club, made the case for The Wilderness Act of 1964.<sup>5</sup> That year, Brower summed up his message, and that of the Sierra Club he led, thus:

One of the purposes of the Sierra Club is to . . . gather together people who know how important it is that there should always be some land wild and free. They are needed to counter the rationalizations of the highway builders, and dam and logging-road builders, who would slice through and dismember the Sierra Wilderness, all for a variety of reasons that may apply some place else but that ought not be allied here. The purpose of this book is to remind everyone we can that neither California nor the rest of America is rich enough to lose any more of the Gentle Wilderness, nor poor enough to need to.<sup>6</sup>

Brower led the successful campaign against the United States Bureau of Reclamation’s plan to dam the Grand Canyon. ‘Sooner flood the Sistine Chapel,’ read the headline of the full page advertisements that the Sierra Club ran in the nation’s newspapers.<sup>7</sup> The successful defense of the Grand Canyon was costly; defeated opponents of Brower’s aggressive Sierra Club lobbied Congress

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4. See MICHAEL P. COHEN, *HISTORY OF THE SIERRA CLUB 1892-1970* 291-299, 345-352 (1988).

5. See 16 U.S.C. §§ 1131-1336 (1994 & Supp. 1997).

6. David Brower, *Cover Jacket Text* to JOHN MUIR & RICHARD KAUFFMAN, *GENTLE WILDERNESS: THE SIERRA NEVADA* (David Brower ed., 1964).

7. See COHEN, *supra* note 4.

and the Internal Revenue Service, and the Club lost its tax exempt status.

The counter-attack on the Sierra Club emboldened Brower to fight harder. He escalated his advocacy, and his very personality became a target of controversy. John McPhee told that story in his essays about Brower, *Encounters With the Archdruid*,<sup>8</sup> originally published in *The New Yorker*. McPhee describes Brower's impact on the Sierra Club and its Board of Directors. As Brower's campaign style matured, so did his impatience with those who did not fight harder. When he decided to take the first step to save the world by opening a Sierra Club office in London, without consulting his Board of Directors, he lost a toe hold. In a contested election, the Club's members backed the Board and David left his beloved Executive Directorship.<sup>9</sup> Years later, Brower was to be re-elected to the Board, and debated Club issues – whether on the Board or just as Club Member – with focus and passion.

David Brower found his voice as a conservation conscience for the Sierra Club, and for American society.

After departing as Executive Director of the Sierra Club, he pursued his passion of campaigning for nature and promptly founded a new conservation organization, "Friends of the Earth," and became FOE's first Executive Director. After leading FOE to prominence, and publishing a new generation of Exhibit Format Books with FOE's imprint, David Brower again found himself impatient with the ponderous needs of budgets and the slow deliberations of boards of directors.<sup>10</sup> He and FOE parted ways, and in 1982 Brower founded the Earth Island Institute as a small and nimble vehicle for his ongoing conservation advocacy. The very

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8. See JOHN MCPHEE, *ENCOUNTERS WITH THE ARCHDRUID* (1971).

9. Dr. Edgar Wayburn, himself a giant among conservation leaders, often elected as Sierra Club President, and a tireless advocate successful in the campaign for the preservation of the wilderness of Alaska, said at the time of the Board dispute that Brower was "the greatest spiritual conservation leader of this century," but also observed that "two giants are in conflict – the body of the Sierra Club and the embodiment of David Brower." *Id.* at 218.

10. Brower was to later write, in commenting on government bureaucrats:

There are bureaucrats in the environmental movement, too. The cure for them is same as it is for politicians: Get out of Washington (or San Francisco, New York, Los Angeles) and listen to the mountains. Float the rivers. It is too easy to lose touch with the grass, with the grassroots. Don't ever give up what you haven't seen.

DAVID BROWER WITH STEVE CHAPPLE, *LET THE MOUNTAINS TALK, LET THE RIVERS RUN* 185 (1995).

name, Earth Island, summed up his environmental message, and hosted his work until his death.<sup>11</sup>

Brower's contributions to environmental policy and law have been numerous. Brower relished venturing into the halls of Congress and its committee meetings and Members' offices to press for strong environmental laws. He campaigned before federal and state agencies to enhance nature protection. Pace University School of Law celebrated Brower's life-time career on World Environment Day, June 5, 1997.<sup>12</sup> Pace's commendation noted Brower's leading voice among the choir of conservation voices that over the years have safeguarded nature. The names bespeak a poetry all their own:

Our great grandchildren will see unchanged American landscapes because of David Brower: Kings Canyon, the North Cascade, the Redwoods, Great Basin, Alaska, Cape Cod, Fire Island, Point Reyes, Olympic National Park, San Geronio, Dinosaur National Monument, the Yukon, the Grand Canyon. Not satisfied with saving one wilderness at a time, David Brower's advocacy is carried on through the National Wildlife Preservation System, the Outdoor Recreation Resources Review Commission, the Land and Water Conservation Fund.<sup>13</sup>

The first administrator of the U.S. Environmental Protection Agency once remarked: "Thank God for David Brower; he makes it so easy for the rest of us to be reasonable."<sup>14</sup> President Jimmy Carter, who ultimately established the preservation laws for the wilderness heritage of Alaska, put it this way: "David Brower has been for many years a steady force of nature, drawing us to see the natural world as nurturer, teacher, inspirer and partner. He has been the pathbreaker, not given to easy answers or ruinous compromises. . . a man of great insight who cares deeply for his work."<sup>15</sup>

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11. Brower's autobiographical works were both released through the Earth Island Institute, in San Francisco. See *EARTH'S SAKE: THE LIFE AND TIMES OF DAVID BROWER* (1990), and *WORK IN PROGRESS* (1991).

12. See *Brower Honored by Law School*, 1 ENVIRONMENTALLY FRIENDLY 1 (Robert Goldstein ed., Fall 1997), at <http://www.pace.edu/lawschool/env/envfriendly/archive1-1.html>.

13. Dean Richard L. Ottinger, David R. Brower: Our Honoree, Remarks at Pace University School of Law for World Environment Day (June 5, 1997).

14. Severo, *supra* note 1.

15. Ottinger, *supra* note 13.

I had the privilege of working with David Brower while I was serving as International Vice President and Board Member of the Sierra Club, and on numerous conservation issues over the past quarter century. It was Brower who launched the *Earth Law Journal*,<sup>16</sup> which I edited in the early 1970s before most environmental law reviews existed. The *Earth Law Journal* at Pace paved the way for the establishment of the *Pace Environmental Law Review*.<sup>17</sup> Brower knew nature needed its own lawyers and legal scholarship; he was less successful in his effort to launch a journal of "Earth Economics." He would reach out to enlist any and all who crossed his path – or whom he wishes to lure into his path – in his campaigning. He was tireless.

Environmental policy debates today are less vivid without Brower's articulate voice. Environmental law enforcement has lost a champion. The mantle of Brower's work passes to the law students that he addressed at Pace Law School, at Boalt Hall at the University of California in Berkeley where he lived and whose students founded the *Ecology Law Quarterly* as the first specialized law school law review, and everywhere else where a passion for the laws of nature thrives.

We shall miss him.

Nicholas A. Robinson\*

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16. Sijthoff-Noordhoff Publishing, vols. I-V (The Netherlands) 1975-1977.

17. Prior to establishing the *Pace Environmental Law Review*, whose editorial board was organized in 1981, and whose first publication occurred in 1983, Pace students worked with me on the editing of the *Earth Law Journal*, which had been launched as a commercial publication. The early lack of an international market for such a journal resulted in the publishers discontinuing it. This scholarly endeavor was then carried on by the *Pace Environmental Law Review*. It is, thus, particularly fitting that the *Review's* editors have decided to honor David Brower *in memoriam*, with this issue.

\* Gilbert & Sarah Kerlin Distinguished Professor of Environmental Law.