

## Under the Law: Legal Consciousness and Radical Environmental Activism

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*A growing body of sociolegal scholarship focuses the study of law away from formal texts and legal institutions and toward the experiences and perceptions of “everyday” citizens. This study introduces seventeen “radical” environmentalists who engage a repertoire of tactics that includes some actions that involve relatively severe forms of illegality. This research seeks to investigate the role of civil disobedience and lawbreaking within the radical environmental movement and the corresponding legal consciousness of movement actors. Utilizing ethnographic fieldwork and content analysis, this analysis suggests that Ewick and Silbey’s (1998) three-tiered model of legal consciousness is an operative starting point, but could be enhanced through theoretical expansion. This study proposes a new category of legal consciousness—Under the Law—that views the law as the protector and defender of a social order that is fundamentally illegitimate. Under the Law is qualitatively different from existing conceptualizations of legal consciousness and reaffirms the mutually constitutive nature of law and society.*

What good is a Bill of Rights that does not include the right to play, to wander, to explore, the right to stillness and solitude, to discovery and physical freedom?

Edward Abbey<sup>1</sup> (1968, 137)

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1. Abbey is frequently cited as the founding father of the radical environmental movement.

## INTRODUCTION

In 2002, the Federal Bureau of Investigation (FBI) declared that radical environmental and animal-rights activists constitute “the most dangerous domestic terrorist threat to the country,” surpassing the historical monopoly by a myriad of right-wing isolationist and race-based hate groups (Jarboe 2002). According to the Domestic Terrorism Section Chief of the FBI, between 1996 and 2002 “eco-terrorism” was responsible for over six hundred criminal acts and damages surpassing \$43 million (Jarboe 2002). These figures may be an underestimate, as some activists claim that “ecotage”<sup>2</sup> “probably costs the resource industry and government agencies between twenty and twenty-five million dollars annually” (Manes 1990, 186). By 2005, the extent of purported eco-terrorism led John Lewis, deputy assistant director of the FBI’s Counterterrorism Division, to declare that “investigating and preventing animal-rights extremism and eco-terrorism is one of the FBI’s highest domestic terrorism priorities” (US Senate Committee on Environment and Public Works 2005).

Historically, the environmental movement has used the law as a legitimate tool to advance its agenda, and some leading figures within the movement view the court system as the primary mechanism to protect and defend the environment. However, beginning roughly in the 1970s, a new breed of environmentalists instituted a diametrically opposed way of using the law; these activists are often described as radical environmentalists, in part because of their instrumental use of *lawbreaking*. The contemporary tactical repertoire of radical environmentalism maintains a modest dedication to traditional forms of resistance, including lawsuits. Simultaneously, its proponents are devoted to direct-action tactics that build upon the rich tradition of civil disobedience of Gandhi, the suffrage movement, Martin Luther King Jr., antiwar movements, animal-rights activists, Students for a Democratic Society, and a cornucopia of other activist individuals and groups that have espoused civil disobedience to advance social change.

This research seeks to investigate the role of civil disobedience and lawbreaking within the environmental movement and the corresponding legal consciousness of movement actors. Given their often flamboyant dedication to instrumental lawbreaking, I am broadly interested in how these groups perceive law enforcement, the judicial system, and the relationship between the legal system and other social institutions; their “participation in the process of constructing legality” (Ewick and Silbey 1998, 35); and legal consciousness.

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2. Ecotage is defined as “ecological sabotage,” or sabotage to defend the natural environment from modern civilization (Manes 1990, 12).

## DIRECT ACTION

In part, radical environmental groups distinguish themselves from hierarchical and grassroots environmental organizations via their firm dedication to “direct action.” Direct action, as operationalized within the environmental movement, is an expansive concept that contains ideological, structural, and tactical elements. Direct action places paramount importance on individual, active engagement with environmental issues. According to Rik Scarce (2006), radical environmental groups are distinguished from their mainstream counterparts by “their emphasis on confronting problems head-on through ‘direct action’” (4). Earth First! highlights the individualism inherent in their Direct Action Philosophy: “Direct Action means personal, focused effort on the front lines in the war against the earth” and the delegitimation of the social order (Earth First! n.d.).

Noel Sturgeon (1997) emphasizes the structural and tactical character of groups dedicated to direct action.

“Direct Action Movement” refers to a series of “actions” engaged in by groups that organize themselves in a decentralized, nonhierarchical manner . . . which use a participatory, democratic, decision-making process . . . and which prefer direct action to institutionalized, electoral, or interest-group politics. Frequently, such groups are involved in civil disobedience, that is, the principled breaking of the law in the process of political protest. (60)

According to Sturgeon, direct action encompasses a tactical repertoire that includes some actions that may violate the law. The definition of direct action posed by the FBI also reflects that direct action may or may not involve lawbreaking: “Direct action generally occurs in the form of criminal activity to cause economic loss or to destroy the victims’ company’s operations” (Jarboe 2002). Thus, activists use the term “direct action” to refer to a wide-ranging tactical arsenal that includes some actions that involve relatively significant forms of instrumental lawbreaking:

- 1984: Earth First! introduces tree-spiking, “the practice of driving large nails into trees to hinder logging operations . . . the most effective and provocative technique in the radical environmentalists’ repertoire” (Manes 1990, 10). It is noteworthy that the spiked areas are immediately announced to prevent injury to loggers, as well as the harvesting of the trees.
- April 21, 1988: Proclaimed “National Day of Protest” against the United States Forest Service by Earth First!, the Rain Forest Action Network, and the Action Tree Council. Actions included relatively large-scale demonstrations,

a variety of monkeywrenching,<sup>3</sup> and occupying multiple Forest Service offices.

- August 1989: National Tree Sit Week. Thousands of activists illegally occupied trees around the country to prevent logging and to draw attention to logging issues.
- May 1989: Four Earth First!ers were arrested for allegedly conspiring to sabotage an Arizona nuclear plant.
- June–August 1990: Northern California Redwood Summer protests. Activists were arrested for continually occupying trees and blocking logging access roads.
- 1990: Concerns about tree-spiking led California, Washington, Oregon, Idaho, and Montana to codify felony laws against tree-spiking.
- 1990s: The Association of Oregon Loggers reported that ecotage costs logging organizations approximately \$60,000 per incident, with some events resulting in over \$100,000 in damages.
- 1997: Earth Liberation Front (ELF) claimed responsibility for an arson that destroyed a series of Bureau of Land Management horse corrals in eastern Oregon, and reported damages neared \$500,000.
- October 1998: ELF claimed responsibility for an arson that caused \$12 million of damage to a ski resort in Vail, Colorado.
- 1999: The Racketeer Influenced and Corrupt Organization Act (RICO) was modified, so asset forfeiture could be used against radical animal-rights and environmental groups.
- February 2002: The FBI has ongoing cases involving Earth First!, ELF, and/or the Animal Liberation Front in twenty-six field offices (Jarboe 2002).
- August 2003: ELF claimed responsibility for an arson that caused \$50 million of damage to a five-story apartment building that was under construction in San Diego, California.
- November 2004: California Institute of Technology graduate student William Cottrell is convicted for an arson that caused \$2.3 million of damage to 125 sport-utility vehicles near Los Angeles, California. The phrases “Fat, Lazy Americans,” “ELF,” and “I (heart) pollution” were painted on some SUVs.
- 2005: The Sea Shepherd Conservation Society releases an unknown number of “rippers” into the ocean designed to thwart illegal and legal trawl fishing. Each ripper is approximately fifteen hundred pounds, has eighteen large blades, and is connected to the ocean floor by two large anchors. The group is able to track their devices using global positioning system monitors attached to each ripper.

The spectrum of direct-action environmental groups exists within the context of a large, diverse, and complex environmental movement that is active in nearly every country in the world (Melucci 1996). Doug McAdam (1996) argues that “although radical environmental groups such as Earth First! continue to receive a disproportionate amount of media attention, the

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3. Scarce (2006) defined monkeywrenching as “sabotage in the name of the environment” (72).

movement as a whole continues to adhere to the generally institutionalized reform approach embodied in such 'industry leaders' as Sierra Club and the Nature Conservancy" (30). Moreover, John McCarthy (1996) has noted the multiplicity of organizational and tactical strategies within the environmental movement, which includes grassroots organizations, lobbying groups, and legal professionals. Within the contemporary environmental movement, the environmental issue at stake dictates which components of the broad movement are mobilized (Keck and Sikkink 1998).

## LEGAL CONSCIOUSNESS

The law and society perspective implemented in this study examines the law and legal action foremost as a pragmatic social process (Edelman 1995) and as an evolving product of "social construction" (Berger and Luckmann 1967, 76). This sociolegal perspective is exemplified by McCann and March's (1995) definition of law, "less as discrete rules and official decisions than as various modes of knowledge—as specific cultural conventions, logics, rituals, symbols, skills, practices, and processes that citizens routinely deploy in practical activity" (210). Moreover, the law embodies "a system of cultural and symbolic meanings" (Galanter 1983, 127) that encompasses a "broad range of values and objectives" (Ewick and Silbey 1998, 34), involving the "ideology" of legal professionals and laypersons (Merry 1990, 6). Moreover, Ewick and Silbey (1998) provide a very useful definition of consciousness: "Consciousness is understood to be part of a reciprocal process in which the meanings given by individuals to their world become patterned, stabilized, and objectified. These meanings, once institutionalized, become part of the material and discursive systems that limit and constrain future meaning making" (39). Consciousness is not merely an abstract idea, but rather a "type of social practice" (225) that assigns meanings to social structures and continuously refines and reproduces these assigned meanings. Over time and intensely influenced by socialization, consciousness develops a baseline, a taken-for-granted assumption about an element of the social world. According to Sally Merry (1990), consciousness becomes "the way people conceive of the 'natural' and normal way of doing things, their habitual patterns of talk and action, and their commonsense understanding of the world" (5). An individual's consciousness about a particular social process will likely change over time, as the nature of his or her experience develops (McCann and March 1995) and via the ever-evolving socialization process. Individuals develop a consciousness about myriad social and structural entities, including the law.

Legal consciousness has been broadly construed as "the ways people understand and use the law" (Merry 1990, 5) and "participation in the process of constructing legality" (Ewick and Silbey 1998, 35). Legal consciousness encompasses perceptions of lawmaking bodies, the court system, law

enforcement and other “meanings, sources of authority, and cultural practices that are commonly recognized as legal” (22). Silbey (2005) reiterates the research foci of this construct as “the study of legal consciousness is the search for the forms of participation and interpretation through which actors construct, sustain, reproduce, or amend the circulating (contested or hegemonic) structures of meanings concerning law” (334). The existing work on legal consciousness demonstrates that it is truly a dynamic concept. Legal consciousness is not imparted onto individuals only by legal institutions. Rather, individuals actively participate in the formation of their own legal consciousness. First, an individual’s social and legal consciousnesses are mutually constitutive. Second, an individual’s experiences with and reactions to all things legal contribute significantly to this development. Profoundly influenced by socialization, legal consciousness is adaptive and ever-evolving.

Ewick and Silbey (1998) offer a three-pronged categorization system (*Before the Law*, *With the Law*, and *Against the Law*) that situates components of individual actors’ legal consciousness. As mentioned, given the dynamic nature of this construct, it is unlikely that the legal consciousness of any individual will be entirely bound within any one of these categories, and often apparently contradictory forms are embraced simultaneously. *Before the Law* consciousness conceptualizes the law as an abstract entity, removed from the everyday experiences of life. Individuals believe the law is autonomous, objective, hierarchical, rational, and immobile. It operates by a “formally ordered, rational, and hierarchical system of known rules and procedures” (47). The law is perceived as truly neutral; all persons regardless of individual characteristics are treated equally Before the Law. These majestic, formalized systems give the law a static quality that increases its perceived legitimacy.

*With the Law* legal consciousness comprises the second prong of the model. With the Law consciousness is somewhat cynical, likening law to a game or “a terrain for tactical encounters” (28), in which resource mobilization and strategy are required for victory. Individual players are expected to act purposefully in their own best interests and to manipulate legal rules, which are perceived to be malleable. The legal system is accepted as “an arena of contest” (131), and legal victory ultimately depends on an individual’s legal proficiency. Ewick and Silbey’s study demonstrates that toughness and/or determination are perceived to be key aspects of an individual’s legal proficiency. More importantly, subjects expressed that one’s ability to acquire lawyers, the ultimate legal commodity, is the most important factor in determining the outcome of the legal game. With the Law consciousness demystifies many of the lofty ideals expressed in *Before the Law*. “When one plays with the law, the time of law is human rather than eternal time. The space of law is something people create. It is common rather than hallowed, vulgar rather than magisterial. It is like a game” (163).

*Against the Law* comprises the third and most combustible prong of Ewick and Silbey’s legal consciousness model. An *Against the Law*

consciousness is evident when the law is perceived as a commodity of power, “unable to effectively resolve disputes, recognize truth, or respond to injustice” (196). Law is interpreted as a slow-moving mechanism that is largely inaccessible to everyday citizens. From this perspective, the law is rife with subjectivity and routinely fails to produce equitable outcomes for everyday people and the less powerful. An *Against the Law* consciousness may lead individuals to accept the problem or “lump it.” However, often this consciousness manifests in various types and levels of defiant action. This excerpt encapsulates *Against the Law* consciousness and demonstrates how it can lead to resistance:

Law is a product of power. Rather than objective, legality is understood to be arbitrary and capricious. Unwilling to stand before the law and unable to play with the law, people act against the law . . . people talk about the ruses, tricks, and subterfuges they use to appropriate part of the law’s power. (28)

Since the construct of legal consciousness is dynamic and influenced by social contexts, individuals can “express through words or actions, a multifaceted, contradictory, and variable legal consciousness” (Silbey 1992, 46). Empirical applications of Ewick and Silbey’s schema have demonstrated that the legal consciousness of individuals is rarely encapsulated within a single type. While “the forms of consciousness do not neatly correspond to actors” (Ewick and Silbey 1998, 50), this typology provides a mechanism to dissect and interpret the sometimes “multifaceted, contradictory, and variable legal consciousness” of environmental activists (Silbey 1992, 46).

Orly Lobel (2007) observes that “two parallel streams” (949, note 1) of the legal consciousness construct have evolved, one stream within legal theory and one stream within the realm of law and society. The consciousness of social and political movements has customarily been the domain of legal theorists, while the sociolegal tradition, exemplified by Ewick and Silbey, has explored the legal consciousness of “everyday people” in largely mundane situations. While these two traditions have customarily remained distinct, recent studies have blurred the boundaries between the two approaches. Silbey (2005) cites McCann’s 1994 investigation of the pay equity movement, Polentta’s 2000 work with the American Civil Rights movement, and Kostiner’s 2003 study of social justice activists as work that elucidated the relationship between groups, political mobilization, and legal consciousness. These studies demonstrated that “political mobilization and legal consciousness, that is, participation in the construction of legality, went hand in hand” (356); the current study of the radical environmental movement seeks to add further impetus to this interdisciplinary momentum, via a multifaceted and rich account of the legal consciousness of the radical environmental movement.

The social-science literature archives a diverse and bountiful legacy of scholarship about radical social movements and consciousness on myriad



topics, including law. In my judgment, Ewick and Silbey (1998) pose a tremendously expedient model for mapping the construct of legal consciousness. Their categorical diagram provides a heuristic device, a common language from which the sociolegal tradition and the social movements tradition can analyze and explore legal consciousness as the boundaries between the two modes of inquiry become increasingly less distinct. In short, the legacy of knowledge about radical social movements and their conceptions of law would benefit from increased inclusion of Ewick and Silbey's model.

Moreover, Silbey (2005) explicitly advocates for broad application of the legal consciousness construct. She argues that the sociolegal conception of legal consciousness was intended as a critical lens through which we could explore the hegemonic force of law and how the law reproduces existing power hierarchies, in short, "Why the Haves Come Out Ahead" (Galanter 1974). She encourages further application of legal consciousness to issues of ideology and inequality. Thus, conceptions of law by radical social movements seem like an unambiguously appropriate target for their model of legal consciousness. This broadening application of Ewick and Silbey's model of legal consciousness, beyond everyday people in largely mundane situations, provides the opportunity for theoretical refinement and possible expansion. The present study will utilize the words and experiences of seventeen radical environmental activists to import social movements into the expedient model posed by Ewick and Silbey. This study will further blur the boundaries of the two approaches and aims to create a vivid depiction of the legal consciousness of this inimitable group and their flamboyant challenge of the status quo.

I will marshal data to illustrate that the legal consciousness of radical environmental activists regularly transcends even the most extreme boundary of an Against the Law legal consciousness. Emanating from a collective identity rooted in "deep ecology"<sup>4</sup> and their lived experience with the many facets of law, radical environmentalists have nurtured an *Under the Law* legal consciousness. This category of legal consciousness perceives that a vitally corrupt social order has produced a vitally corrupt legal system to assist in perpetuating its own power. From this perspective, the law veils the illegitimacy of the existing social order and actively represses dissent. Against the Law observes that the law often fails as an asset to achieve justice; Under the Law views this failing as intentional and perceives law as an active agent of injustice. This proposed new prong of the legal consciousness model is coined *Under the Law* because, as we will see, radical environmental activists are fundamentally revolutionaries. They espouse subverting the entire legal

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4. Deep ecology is an egalitarian philosophical paradigm. It posits that all elements of nature have inherent equal worth and is often interpreted as a criticism of modern, industrialized society. Much work about deep ecology that is written by activists capitalizes both words. Some of the more traditional scholarly work keeps both words lowercase.



system and the modern industrial, capitalist system that it actively protects—in short, the delegitimation of the social order. They do not stand Before the Law, work With the Law, or engage in the modest resistance of those Against the Law. Rather, radical environmental activists often engage in flamboyant acts of instrumental lawbreaking for the purpose of symbolic or actual subversion. They purposefully, and often very visibly, break the law and openly challenge the legitimacy of law and the social order—hence Under the Law. This subversive ideology is bluntly evidenced by the title of Christopher Manes's<sup>5</sup> (1990) vigorous defense of the movement, *Green Rage: Radical Environmentalism and the Unmaking of Civilization*.

## METHODOLOGY

### Sample

This study relied on a snowball sampling technique to expand access to potential subjects within the radical environmental community. My familiarity and rapport within the environmental movement<sup>6</sup> was augmented by my gatekeeper “Alonso,” who provided initial introductions to potential subjects. Alonso is a well-established environmental activist, policy advocate, environmental lawyer, and a fixture in various local and regional environmental organizations. The seventeen subjects in this study include five women and twelve men. Alonso and two other subjects presently hold leadership positions in grassroots environmental organizations and also have substantial experience with direct-action groups. All remaining subjects are current members of longstanding direct-action groups. Collectively, these subjects represent three established “radical” groups that are dedicated to, respectively, land-based environmental issues, deforestation, and mountain-top removal.<sup>7</sup> My past experience conducting interviews with subject populations actively engaged in illegal activity (Mohamed and Fritsvold 2006) provided a roadmap of how to successfully implement snowball sampling procedures in vulnerable populations. Moreover, this experience was invaluable in developing and executing safeguards intended to minimize the risk to

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5. Manes is a former Earth First! activist, author, and attorney.

6. I have been a longtime member of the local chapter of a national, grassroots environmental organization. Additionally, as a musician, I have performed at fundraisers for environmental groups, political candidates, and at various rallies and events for approximately six years.

7. Mountain-top removal is the practice of displacing large amounts of landmass, typically via explosives, in order to uncover and extract minerals and soil deep underground. The displaced mass is often dumped in nearby valleys, impacting and often permanently burying rivers and streams and altering the topography of the region. This practice has become “the dominant form of surface mining in West Virginia” and other states and a source of controversy (Ward 2006, 1).

and maximize the confidentiality of this vulnerable subject population: monikers<sup>8</sup> were used in place of all subject names, and locations and other potentially identifying information were described with a deliberate lack of specificity; potentially identifying information was excluded from interview transcriptions, and all audiotapes of interviews were stored in the researcher's personal fireproof safe.

### Data Collection and Analysis

Upon initiating this research, it quickly became apparent that the primary issues in this study—perceptions of law and the social order—have been vetted intensely by the radical environmental community and “mainstream” environmental groups. Various environmental groups, including Earth First!, the Sea Shepherd Conservation Society, and the Animal Liberation Front, frequently publish newsletters, Web sites, journals, and position papers that enabled the researcher to analyze the evolution of concepts and ideas over time and to compare and contrast these issues with data collected through open-ended interviews. Additionally, many of the most prominent leaders in the radical environmental movement have written books and articles that detail their ethical stances on a series of issues related to direct action tactics and law.<sup>9</sup> Many of these texts explicitly address the legitimacy and illegitimacy of the law, the modern social order, and the reasoning that underpins their tactical choices. These groups have an ongoing, open-forum discussion on a myriad of issues relevant to the movement, creating a rich source of data for this project.

Archival analysis techniques augmented more traditional ethnographic fieldwork, that is, “the systematic collection of observations and interview data” (Fleisher 1998, 52). I conducted participant observation with a variety of grassroots and hierarchically structured environmental organizations. The primary sites for participant observation were meetings of grassroots and “mainstream” environmental organizations, rallies for environmental political candidates, and fundraisers. As anticipated, these participant observation sessions yielded very little data about radical groups. Rather, they were valuable because Alonso often introduced me to future subjects at these events, and they further developed my rapport in the environmental community. Content analysis and participant observation techniques complimented data that derived from semistructured, intensive interviews. These interviews

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8. Movement members frequently use pseudonyms as a form of identification in their daily work as activists. These pseudonyms typically connote meaning and often evoke images of animals or nature. All subjects were given the opportunity to devise new monikers as part of their participation in this study.

9. See Appendix A for a complete description of these content analysis texts.

allowed the researcher to pose relatively general topics and channel the interview using open-ended questions,<sup>10</sup> while also allowing the subject to focus on specific subtopics they perceived as important or deserving of more attention. In some cases, distance prevented a face-to-face interview, and thus subjects were included in the study via an open-ended questionnaire. In combination, these data-gathering techniques helped create a vivid window into the world of radical environmentalism.

The various forms of data collected for this research were analyzed utilizing a multistage categorization system. First, data from interviews and content analyses were categorized based on broad themes and concepts relevant to the research question. For example, an initial umbrella topic was “the relationship between moderate and radical groups.” After initial categorization, data were further grouped within categories and subcategories based on more specific themes. Continuing the above example, subcategories included “positive relationships between factions” and “negative relationships between factions.” Within negative relationships, further categorical iterations included “tactics,” “structure,” and “outcomes.” Tactical divisions between mainstream and direct-action groups inevitably involved a discussion of the utility and boundaries of traditional legal channels, as well as direct action, and complemented questions explicitly dedicated to law and lawbreaking. Several repetitions of this categorization process were necessary to reveal the nuances and variability inherent in the construct of legal consciousness and the complexities of human behavior.

This data-analysis approach ensured that all determinations regarding group and individual dynamics were systematic, as objective as possible, and data-driven. Moreover, this multifaceted approach is appropriate given the complex, dynamic, and sometimes contradictory nature of legal consciousness. Similar to Richmond’s (2003) research on judicial narratives in gay and lesbian custody cases, the “aim will be to get beyond the reflex answer and surface level explanations, and explore in depth the range of reasons and motivations, and their implicit statements about the role of law in the interviewees’ lives” (2). The core issues of this study, perceptions of the law and social order, have been vetted intensely within the movement; established qualitative procedures allowed this research to capitalize on this rich discussion.

## THE SOCIAL AND THE LEGAL: UNDER THE LAW

“Inherently, the government is the enemy. They are the background force that pushes the destruction forward. From the laws that they pass to

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10. See Appendix B for a generic interview schedule.

protect industry, to the money that they feed to industry to keep its gears turning" (Jaime<sup>11</sup>).

The law is social. Understanding the law as a social construct is the core tenet of sociolegal studies and a commonly held belief in many contemporary perspectives on jurisprudence. Viewing the law as mutually embedded with social structures and social dynamics opposes the dated Langdellian model of Legal Formalism and provides a point of departure for this investigation of legal consciousness. As outlined by Ewick and Silbey (1998), legal consciousness derives from social life and individual social experiences:

Consciousness is not an exclusively ideational, abstract, or decontextualized set of attitudes toward and about the law. Consciousness is not merely a state of mind. Legal consciousness is produced and revealed in what people do as well as when they say. In this sense, consciousness is . . . constituted and expressed in the practical knowledge individuals have of social life. Consciousness is discursively deployed as reflexive consideration about day-to-day activities; it is also tacitly enacted as competent social action. (46)

Throughout their theoretical construction and in this passage, Ewick and Silbey explicitly link legal consciousness and social consciousness; perceptions of the law and legality are intertwined with larger constructions of the social world and the dynamics of social structures.

Radical activists have developed a legal consciousness that embodies their perception of a vitally corrupt social order. This Under the Law legal consciousness perceives the law as fundamentally illegitimate because it is created by and embedded in a social order that is fundamentally illegitimate. Under the Law consciousness views the law as a veil for a social order that is perceived to be intrinsically corrupt; this is a dynamic that is qualitatively different from any of the three prongs of the existing legal consciousness model (Before, With, and Against the Law). However, the categories created by Ewick and Silbey's model of legal consciousness are not designed to be mutually exclusive. An individual's legal consciousness can be multifaceted and at times even contradictory. Thus, periodically, radical environmental activists are likely to demonstrate an Against the Law and an Under the Law consciousness. However, data will be presented to show that the legal consciousness of this group regularly transcends even the Against the Law model. I will argue that an Under the Law consciousness is expressed by the radical environmental movement but is by no means exclusive to this group. Under the Law is evident over time in various individuals and various social movements. The likely prevalence of this category of legal consciousness makes theoretical expansion of existing models of this construct compulsory. Recall that legal consciousness

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11. A direct-action activist dedicated to halting mountain-top removal.

involves perceptions of a host of institutions “commonly recognized as legal” (22). Thus, an Under the Law consciousness is evident in how radical environmental activists perceive law enforcement, the courts, and the relationship between the legal system and other social institutions.

Tim, a direct-action activist working to oppose deforestation in the Pacific Northwest, bluntly alleges that law enforcement is the protector and defender of a cornerstone feature of the existing social order—wealth. His response references assorted acts of police misconduct, the “thin blue line,” and is notably pessimistic about the militarization of law enforcement.

Cops protect wealth, it is almost that simple. We know they commit murder, steal, and rape. We also know [that] it is more than a few bad apples and the other apples all dummy up when it comes to the brotherhood. As the military increasingly is performing law enforcement functions, we can expect far worse in the future. (Tim)

Law enforcement is viewed as a veil and a protector of a corrupt social order, in part because laws are not equitably enforced. Not only are violations of the law by these groups ignored, but dissenters like environmental advocates are allegedly targeted. Alonso, my informant and gatekeeper, argues implicitly that there is a gap between the law on the books and the law in action. While myriad environmental crimes exist and frequent violations occur, they are rarely prosecuted.

Actually, law enforcement has a long history of turning a blind eye to those who break the law. There are a ton of criminal statutes for environmental crimes and they are just not enforced. You go to any district attorney’s office and look in their files and find out how many environmental crimes they have prosecuted. Go to the EPA and find out how many times they have prosecuted someone criminally or civilly and you will be blown away. They just don’t prosecute crimes that have to do with the environment because in their mind the victim is too intangible. That’s just a travesty. So, when any law enforcement group is out there using the rationale of “we need to be extra tough on these guys” [radical environmentalists] because they are really breaking the law, that is horse shit. That is like putting all your effort in prosecuting poor people for loitering. There are more important things to be spending your time doing. When people do actions in the name of the environment, at the end of the day, on some level, you know . . . you have to look at what are the laws intended to protect? And sometimes the laws are just not written in a way that is effective in protecting the environment. (Alonso)

Thimble, a Pacific Northwest direct-action veteran, makes a similar point that corporations and “resource extractors” are essentially exempt from

criminal charges, while activists are often subject to the full brunt of law enforcement.

In activist campaigns, law enforcement is like a military wing of the state and industry. They generally are partial to resource extractors, refusing to charge them for their crimes either against the environment, or the activists who oppose them. It seems that there is often a sort of brainwashing going on, where officers are heavily indoctrinated with discriminatory or false information about the citizens who feel moved, either temporarily or relatively permanently, to act in defense of the earth. This makes it easier for them to fulfill their duty, dictated to them by elected or appointed, and often corporate-beholden, superiors to take whatever action is necessary to disperse obstructions to [the] resource-extracting processes, and maybe deal an extra measure of damage—in the form of pain, torture, seizure of possessions, infiltration, spying—to make sure it doesn't happen again. (Thimble)

Jodie, an activist dedicated to halting mountain-top removal, argues that a conflict exists between protecting individuals and the environment and a stringent enforcement of the law. She alleges that a strict enforcement of codified law does not reduce but rather causes harm.

Law enforcement officers are enigmatic in many ways. They are expected to behave as machines and to enforce the law exactly as written, but in reality they are human beings. I think that [is] the inherent struggle between good, evil, and the law that causes many of them to go so wrong. It is not their job to protect the environment, or to protect people. Their job is to uphold the law, and often upholding the law means harming people and the environment, or allowing others to do so. (Jodie)

Against the Law perceives that the law is too unpredictable to serve as a meaningful tool for social change. In contrast, Under the Law views the law as an active repressor of dissent. Tim, Thimble, and Jodie are arguing that the law and law enforcement are producing actual harm to those that challenge the status quo. This perception arguably cannot be bound within Against the Law and demonstrates a need for theoretical expansion of Under the Law.

Arguably, the issue of terrorism is one of the most combustible topics in today's America. Many within the environmental movement strongly object to the terrorist label being applied to radical environmental groups. This is an issue I broached with Alonso.

Erik: The FBI now classifies radical animal-rights and so-called radical environmentalists as the number one domestic terrorist threat in the country, now superseding the long monopolies of white power folks and separatists.

Alonso: You know how black is the pot, or the kettle? If you ask me, the biggest domestic terrorist group we have is our police department, and next the federal police departments, if you will. I mean I think you cannot ever take a government classification like that without recognizing the propagandist reflection.

By equating state and local law enforcement with terrorists, Alonso is employing Sykes and Matza's (1957) condemnation of the condemners. He is clearly and stalwartly questioning the legitimacy of the state and the role of law enforcement in protecting the state and exhibiting an Under the Law legal consciousness.

On December 19, 2000, ELF claimed responsibility for an arson on Long Island, New York, that burned several new homes nearing completion, or as ELF calls it, "urban sprawl." Like Alonso, in their subsequent communiqué, ELF also condemns their condemners, linking law enforcement with terrorism and perceptions of a largely illegitimate social order.

It is time for the Nassau and Suffolk County Police to realize we are but the symptoms of a corrupt society on the brink of ecological collapse. Law enforcement should be directing their time and resources towards the real terrorists. Those who commit murder and theft upon our populace daily. (Rosebraugh 2004, 160)

An Under the Law legal consciousness is exemplified by a belief that codified law, law enforcement, and the court system are actively protecting and defending a larger social system that is fundamentally corrupt and fundamentally illegitimate. Blackbird is an experienced direct-action activist and member of a Northwest group dedicated primarily to the issue of deforestation. Arguably, Blackbird expresses an Under the Law legal consciousness by alleging that the law is a guise that helps perpetuate a "dysfunctional relationship" between corporate and political power holders.

I feel that the law enforcement system is a pawn in the dysfunctional relationship between government and business. Corporate executives and politicians rarely visit the sites of gory environmental massacres. The cops are pitted against us and they don't tend to be very happy people. I feel that most of our efforts are spent thwarting law enforcement and not confronting people in power. It's very difficult. The court system has made some solid rulings that might help if they were ever enforced, but my belief is that folks make laws so they don't have to worry about actually doing anything. (Blackbird)



Skeeter, a direct-action activist dedicated to land and animal-rights issues, further substantiates that law enforcement and the legal system act to maintain existing power hierarchies. While his point is similar to those of his direct-action colleagues, his tone is notably more tame and subdued.

Law enforcement and courts tend to be the protectors of industry, the state, and the status quo. Most cops are just doing their jobs, though, and it's not until one of those interests really get threatened that they'll show their true colors. The FBI obviously considers environmentalists a threat if they've taken the time to infiltrate different circles. (Skeeter)

Arguably, the perception of the law by Craig Rosebraugh, ELF, and the activists in this study builds upon and moves beyond an *Against the Law* legal consciousness. These activists are questioning the core tenets of the legal system and condemning their condemners by linking the law and law enforcement with terrorism. The severity of this critique challenges the most extreme boundary of an *Against the Law* legal consciousness. Rather, the consciousness of these activists mandates an *Under the Law* classification that views the law as a veil for a corrupt social order.

An *Under the Law* consciousness is further evident in the way radical environmental activists perceive the court system. Earth First! members Lenny and Oskar poignantly criticized the ethics of the American legal system in an article titled "The Trials We Endure" (2005). "This experience has made it clear to us that the system has no restraint. It has no interest in compromise or dialogue. It will fabricate testimony, distort the truth beyond recognition and then demand that we call it 'your honor'" (2). These activists perceive that the legal system is hypocritical, expecting to be respected while also engaging in actions that clearly undermine its legitimacy. Willie, a mountain justice advocate and direct-action activist adds, "Mostly the courts and the cops are a mechanism of repressing activists, trying to scare us away from doing what's right." The way in which Lenny, Oskar, and Willie perceive the law and the American legal system is likely multifaceted and contains aspects of *Against the Law*. However, the harshness of their assessment and their view of law as a repressor are more accurately classified as *Under the Law*.

Thimble strongly contends that the available mechanisms of traditional resistance are "something of a sham." He adamantly accuses the government and the legal system of intentionally creating and maintaining a bureaucratic labyrinth to stifle mainstream environmental activism. Established channels of resistance are largely futile because they attempt to work within a system that is fundamentally illegitimate, rife with "lies and doublespeak," a trap for the naïve.

In general, my feeling is that "appropriate" channels will always be offered as bait to any activist willing to delve into them. [The] public

process itself can be something of a sham, and I've seen cases where it is. Furthermore, I believe strongly that anyone who commits their full intellect and energy to an environmental achievement using legal channels to influence government or political activity, if it ever starts to become successful, will find that the government is more than ready to devote massive resources creating new departments and complicated public processes with timeline requirements, paperwork, and perhaps monetary expenditures or special requirements, just to impair the effectiveness of that one person. It may seem ridiculous, but I've seen many environmental activists go squint-eyed trying to keep up with the volumes of government publications relating to the issue they are fighting for using public channels, delving through the lies and doublespeak, only to find that there is ultimately nothing that can be achieved using those tactics. (Thimble)

Kris, while optimistic for change, argues that the legal system is compromised by the influence of corporate elites.

Right now law and the judicial system are bought by big business as well. [They] are willing to spend everything to stop anyone who gets in the way of big business interests. I do not believe that this is necessary, or that it will continue this way much longer. It is becoming more and more evident that something is amiss when courts are willing to look the other way as giant corporations pollute and destroy the environment and peoples' lives. I think that the individuals involved in law enforcement and the legal system must see this and they will fight it. (Kris)

While *Against the Law* views the law as a product of power, I would argue that the severity of Kris's allegations stretches the boundary of this category of legal consciousness. He charges that the law and legal system knowingly allow environmental crimes to persist because of the undermining influence of corporate wealth. The law is not merely the product of structural power dynamics and relationships, but rather is owned and controlled by "big business" to some extent. Kris perceives the law as fundamentally invalid, and thus expresses an *Under the Law* legal consciousness.

Additionally, I would argue that an *Against the Law* legal consciousness does not adequately describe dissenters who feel that state actors are actively persecuting them. However, it is beyond the scope of the present inquiry to investigate the validity of these claims of state and law enforcement persecution. It is the way activists perceive the law and perceive state authority that is of paramount interest.

I mean, I kinda take it as a given that I am watched and that I am tapped because of the way our government is. You know we all make jokes about it. We know from other political things that have happened that the

government is looking to prosecute people who don't think like they do and particular liberal people, Democrats, particularly in our community . . . if you are a Democrat and in a position of power you should expect to be targeted. It's just a given. (Alonso)

Alonso is alleging that the government is actively, knowingly, and probably criminally repressing an array of dissenting groups, "people who don't think like they do." *Against the Law* describes a situation in which the law often fails as an asset to achieve justice; *Under the Law* views law as an active agent of injustice, and more accurately locates Alonso's perception of law.

In similar fashion, ELF also perceives that state actors and law enforcement are actively persecuting them. On December 19, 2001, ELF claimed responsibility for another arson attack on luxury home construction on Long Island. Activists claimed the four homes that were destroyed resulted in losses of approximately \$2 million. In their communiqué following the action, ELF questions the ethics of law enforcement practices and links the grand jury to terrorizing

the countless other known activists who suffer persecution, interrogation, police brutality, and crappy jail conditions, yet stand strong. Whether it's denying a prisoner vegetarian or vegan food or phone calls (which is a right), or inflicting even the terrorism of the grand jury, they stand strong. Oppression of our brothers and sisters will only make us uproot our tactics, by means, frequency, and cost. The more brutality you give our brothers and sisters, the more money we cause the oppressors. (Rosebraugh 2004, 161)

Ewick and Silbey (1998) argue that an *Against the Law* legal consciousness encompasses an "understanding of legality as untrustworthy" (192). Above, Alonso and ELF are alleging that law enforcement is being controlled by elites with a political agenda and, in conjunction, they are committing unethical acts that may or may not be criminal. While they clearly view legality as "untrustworthy," that categorization minimizes their perception of the law—thus, like Lenny and Oskar, their legal consciousness transcends the boundaries of *Against the Law* and is more accurately categorized within *Under the Law*. Moreover, Alonso is referencing a fundamentally flawed political and legal system that is conducting a furtive and possibly illegal attack on liberal activists to perpetuate its own power. A legal consciousness that views the law as a cover for an illegitimate social order diverges conceptually from existing categorical models of this construct, again suggesting a theoretical niche filled by *Under the Law*.

Given that legal consciousness categories are multifaceted, these activists are exhibiting an *Against the Law* and an *Under the Law* consciousness. They often criticize the lawmaking, judicial, and law enforcement systems that are perceived as actively protecting the corrupt social order and

employing questionable ethical practices to target radical activists and other dissenters. Bron Taylor, of the University of Florida, is an authority on social and religious ethics and is one of the nation's leading experts on the radical environmental movement. In an e-mail dated April 14, 1996, sent to National Public Radio's "All Things Considered,"<sup>12</sup> Taylor eloquently linked how activists perceive democracy, the state, and the law. He linked these perceptions with tactical decisions within the movement:

Radical environmentalists do not see electoral politics as a way to bridge the gap between what is (the present extinction crisis) and what ought to be (the flourishing of all life forms). Democracy is seen as broken (or as never having existed in the first place), and elections as dominated by corporate elites. Consequently, many laws are illegitimate and illegal tactics . . . may be morally permissible or even obligatory.

According to Taylor, radical environmental activists have constructed a social consciousness that views the existing social order as fundamentally illegitimate: democracy is seen as broken (or as never having existed in the first place). The laws that are derived from this social order are perceived similarly: many laws are illegitimate. These activists do not magically develop these social and legal consciousnesses, but rather socialize one another to question and actively oppose the grand social structures of modern capitalism. They view the legal system as the protector of evil. They are revolutionaries that embody an Under the Law legal consciousness.

Viewing the law as a veil for a corrupt social order is a dynamic that is not adequately represented in current models of legal consciousness. Against the Law, the most extreme category in their legal consciousness continuum, cannot adequately locate the legal consciousness of activists who view the legal system as a sham, a grand illusion that attempts to defend the inherent and fundamental flaws within the existing social order. The data suggest that these activists are overwhelmingly denouncing the law and its role in perpetuating the existing social order. In part, these groups are dedicated to undermining the perceived legitimacy of the economic, political, and legal systems. These activists are not subservient to law; rather, they are subverting it—hence, Under the Law.

This conception of legal consciousness is qualitatively distinct from either Before, With, or Against the Law. Ewick and Silbey (1998) argue that within Against the Law, "law is a product of power. Rather than objective, legality is understood to be arbitrary and capricious" (28). Within this conception, the law fails as a reliable mechanism to achieve tangible social change because of its unpredictability. In stark contrast, an Under the Law legal consciousness perceives the law as deliberate and predictable; a

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12. <http://www.hartford-hwp.com/archives/25b/025.html> (accessed May 15, 2009).

deliberate and predictable protector and defender of the status quo and existing power hierarchies. Not only is the law an inadequate tool for social change, the law is an active agent impeding change and defending the existing social order. Similarly, those up Against the Law perceive that the “law is slow and ineffective” (201). Radical environmentalists and others who adhere to an Under the Law legal consciousness perceive that the law is often quite efficient and effective: efficient and effective in repressing dissent and protecting the illegitimate social order. Lastly, individuals who exhibit an Against the Law legal consciousness perceive that the law fails to produce just results; “other respondents also described encounters that undermined their sense of any connection between legality and justice” (193). Again, in dramatic contrast, Alonso, Tim, Thimble, and others who exhibit an Under the Law legal consciousness feel that the law is actively perpetrating injustice. The law, the state, and law enforcement are actively conspiring to repress dissent. These qualitative distinctions further suggest that theoretical expansion of the original three-pronged model of legal consciousness is warranted. This proposed new prong in the legal consciousness model locates the ideology of a social movement utilizing an established sociolegal schema. Thus, Under the Law further blurs the boundary between the two “parallel streams” of legal consciousness, establishes a tributary for further theoretical development, and serves as the primary contribution of this study.

## RESISTANCE AND UNDER THE LAW

The need for Under the Law as an additional prong of the legal consciousness model is further demonstrated by examining mechanisms of resistance. McCann and March’s (1995) definition of resistance includes “efforts by subaltern groups either to renegotiate the terms of dominant power relations or to construct anew separate, alternative forms of practical activity” (230). Individuals who subscribe predominantly to a Before the Law legal consciousness are extremely unlikely to engage in acts of resistance of any sort against the legal system. Those who exude a With the Law legal consciousness will try to strategically maximize their advantage in legal contests through various means but are also unlikely to engage in resistance. Individuals who demonstrate an Against the Law legal consciousness are likely to engage in some form of resistance. This perspective views the law as “unable to effectively resolve disputes, recognize truth, or respond to injustice” (Ewick and Silbey 1998, 196). Law is interpreted as a slow-moving mechanism that is largely inaccessible to everyday citizens. From this perspective, the law is rife with subjectivity and routinely fails to produce equitable outcomes for everyday people and the less powerful. Resistance within Against the Law can manifest in “foot-dragging, omissions, ploys, small deceits, humor; and making scenes are typical forms of resistance for those up against the law”

(48). These forms of resistance are relatively mild and they do not adequately represent the forms of resistance regularly employed by radical environmental activists.

It has been demonstrated that radical environmentalists are unleashing a spectrum of direct-action tactics in vigorous opposition to the established social order. They are revolutionaries who routinely break codified law to protect the environment by combatting law enforcement, the state, and the court system. Clearly, some of the direct-action tactics used within the movement go well beyond “foot-dragging, omissions, ploys, small deceits, [and] humor.” The means of resistance employed by radical environmental activists include arson, large-scale property destruction, identity theft, and monkeywrenching—actions that cause millions of dollars of damage. Categorizing these more overt acts of resistance alongside the more subtle forms of resistance within *Against the Law* would be a misrepresentation. Augmenting the original three-pronged model of legal consciousness with a fourth prong, *Under the Law*, is necessary to adequately represent these more explicit types of revolutionary resistance.

## DEEP ECOLOGY AND UNDER THE LAW

The prevalence of an *Under the Law* legal consciousness is further revealed and elucidated via the collective identity<sup>13</sup> of the radical environmental movement. It has been established through a bountiful legacy of scholarship and activist publications that the collective identity of the radical environmental movement is firmly rooted in the philosophy of deep ecology (Hinchman and Hinchman 1989; Manes 1990; Merchant 1992; Gottschalk 2000; Luke 2002; Scarce 2006). Deep ecology, originated by Arne Naess in the early 1970s, postulates that every component of the natural world has inherent value and “criticize[s] the bedrock theoretical assumptions of modern society” (Hinchman and Hinchman 1989, 202). Human beings do not have privileged status on the planet; rather, we are merely a single component in an egalitarian system of all constitutive elements of nature. Because of war, development, and the extraction of natural resources for profit, the existing modern social order is viewed as the most significant violator of the principles of deep ecology. Thus, deep ecology has been poignantly dubbed the “subversive science” (Scarce 2006, 34), because those who embrace its teachings have “a suspicion or disdain for government” and “cannot envision any lasting solution to environmental problems that would not entail a fundamental restructuring of society as well as a shift in the objects of human

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13. Collective identities are defined as “group definitions through which they [movement members] understand themselves, their connection with one another, and their political place in the world” (Meyer, Whittier, and Robnett 2002, 205).

desire, even transformation of man's very 'consciousness'" (Hinchman and Hinchman 1989, 220). The tenets of deep ecology evidently prescribe large-scale social change as the only meaningful way to fulfill the dogma of this quasi-religious worldview, essentially calling for a deindustrial revolution.

The deep ecological collective identity of the radical environmental movement clearly dovetails with an Under the Law legal consciousness. Deep ecology challenges the legitimacy of the existing social order; an Under the Law legal consciousness challenges the role of law in perpetuating this fundamentally illegitimate social order. The law not only fails to produce justice as claimed within Against the Law but also actively produces injustice via its vigorous defense and perpetuation of current social relationships that facilitate massive and frequent violations of deep ecological principles. Deep ecology is a "revolutionary worldview" (Bari n.d.) that explicitly supports a macrolevel restructuring of society; law, as one of the paramount structures in society, would also be subverted, hence, Under the Law. This collective identity has contributed to the radical environmental movement embracing direct-action tactics and embodying a spirit of resistance that transcends an Against the Law legal consciousness, and suggests the utility of theoretical expansion of Under the Law.

## UNDER THE LAW AND SOCIAL MOVEMENTS

In conclusion, recall that qualitative studies of this nature are limited in a variety of respects. I am hopeful that some findings and ideas posed in this study might lead to further research using larger sample sizes, mixed methodologies, and samples that include different social movements, as well as everyday citizens—work that further blurs the boundaries between the two "parallel streams" of legal consciousness theory. This research demonstrated that within the radical environmental community, the law is not perceived as an abstract, magnificent, dispute-resolution mechanism. Nor is it merely a game, or "untrustworthy" (Ewick and Silbey 1998, 192). Rather, law—in these activists' Under the Law view—is constituted within and serves to perpetuate a fundamentally corrupt society. Initial evidence suggests that Under the Law may also be applicable to other historic and contemporary social movements.

Many cornerstone figures in American and world history also have used civil disobedience in an attempt to rearrange existing power hierarchies. Berger, Free, and Searles (2005) argue that Martin Luther King, Jr., Mahatma Gandhi, Rosa Parks, Susan B. Anthony, and others have employed civil disobedience or "the deliberate yet nonviolent public refusal to obey a law that one thinks is unjust—as a mode of rebellion" (365). Using a variety of tactics, the 1960s Weather Underground Organization had the explicit goal to "topple the capitalist system" (368; Federal Bureau of Investigation 1976). Like radical environmentalists, these activists were focused on large-scale



social change. According to Buechler (2000), 1960s social movements “spilled beyond the polity into a countercultural challenge to the American way of life. . . . It was a fundamental political challenge to the legitimacy of the central institutions of the society that dovetailed with a cultural challenge to the hegemony of the core values of the society” (33). The primary objectives of these movements and the mechanisms and severity of their resistance likely reflect a legal consciousness that transcends existing models, hence, Under the Law.

## APPENDIX A: CONTENT ANALYSIS TEXTS

For example, the *Earth First! Journal* was a valuable and rich source of data for archival analysis (<http://www.earthfirstjournal.org>). Each year, eight issues of the journal are published that range between forty-five and sixty pages each. I analyzed the volumes published from January 2004 to March 2006 and the December 2000 one-hundred-page anniversary edition, a total of approximately nine hundred pages of data produced by myriad Earth First! activists. Content analysis sources included other direct action journals—*Green Anarchy Magazine* (<http://www.greenanarchy.org>) and *No Compromise* (<http://www.nocompromise.org>), published by the Animal Liberation Front. Moreover, electronic resources helped reveal and elucidate the social and legal consciousness of radical environmental activists via content analysis. Electronic sources included, but were not limited to, Al-Pieda, Animal Liberation Front, Biotic Baking Brigade, California Forest Defenders, Cascadia Rising, Earth First!, Earth First! Direct Action Philosophy, Earth Liberation Front, Greenpeace, Les Entartistes, Mad Anarchists Bakers League, Mazama Forest Defenders, Northwest R.A.G.E., Rainforest Action Network, Ruckus Society, Sea Shepherd Conservation Society, and T.H.O.N.G.

Additionally, many of the most prominent leaders in the radical environmental movement have written books and articles that detail their ethical stances on a series of issues related to direct-action tactics and law. For example, Paul Watson, founder of the Sea Shepherd Conservation Society, has written several books that outline in great detail the reasoning processes and philosophical positions behind his decisions to engage in civil disobedience and direct action. Members of the radical environmentalist community, such as Christopher Manes, and academics, such as Rik Scarce, have written books that contain not only a detailed history of the movement but a series of interviews with activists that engage issues directly related to the core questions posed in this study. Craig Rosebraugh, activist and longtime media liaison for ELF, published every communiqué ever issued by this group, a group considered by the FBI to be “the number one domestic terrorist threat in the United States” (Rosebraugh 2004, 213). These communiqués claim

responsibility for the group's many actions, including a \$50 million arson in San Diego, California, in 2003 and a \$12 million arson in Vail, Colorado, in 1998. Analysis of these publications might be thought of as "literary ethnography."

## APPENDIX B: SAMPLE INTERVIEW SCHEDULE

Note: Question categories were not mutually exclusive. As dictated by established intensive interviewing procedures, specific questions varied somewhat depending on the individual interviewee's role and expertise in the environmental movement. The following interview schedule was adapted to the context and progression of each individual interview.

### Background

(1) What initially motivated you to get involved with environmentalism? (2) What motivates you to continue to work so hard on behalf of the environment? (3) Describe your goals for the environmentalist community. What do you hope to accomplish? (4) What have been the largest obstacles you have faced? (5) What have been your biggest assets?

### Factionalism

(1) Many people talk about so-called mainstream environmental groups and "radical" groups. What separates these types of groups? (2) How, if at all, do these different types of groups work together? (3) What, if any, tensions exist between these different types of groups? (4) How, if at all, do actions by "radical" groups like the Sea Shepherds or ELF impact more traditional groups like the Sierra Club? (5) Generally, how are "radical" groups perceived within the environmental community?

### Legal Consciousness

(1) The environmentalist movement has a long history of civil disobedience and direct action—marches and protest to more serious behavior, like sabotage, etc. What roles do these activities play in environmentalism? (2) What are the advantages of these types of activities? (3) What are the disadvantages of these types of activities? (4) In what types of situations is civil disobedience appropriate? (5) In what types of situations, if any, are more severe actions appropriate? (6) What justifications are there, if any, for activities like protests and civil disobedience in the environmentalist movement? (7) What

justifications are there, if any, for more serious actions like sabotage in the environmentalist movement? (8) At what point, if any, does some level of lawbreaking behavior hurt the cause of environmentalism? (9) In deciding what types of tactics to use (lawsuits, media, protests, arson, etc.), what guidelines should environmental activists use?

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