A PROPERTY RIGHTS STRATEGY FOR PROTECTING THE ENVIRONMENT: A COMMENT ON STROUP AND GOODMAN

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For years the dominant political view has been that property rights and the environment are necessarily at war with each other; protecting one is certain to compromise the other. As command and control approaches to regulating the environment have developed over the past quarter century, the war between private property and the environment has been waged in diverse theaters—in wetlands,[1] neighborhoods,[2] mines,[3] and on ocean shores,[4] to mention just a few. To save the environment, so the argument goes, rights to use private property must be limited. Many of our institutions of environmental protection were designed to limit private property rights.

A somewhat different light was shed on the relationship between property rights and the environment by Garrett Hardin in *The Tragedy of The Commons*.[5] Hardin pointed out that problems with protecting the environment will occur unless some mechanism of controlling access to resources is in place, a mechanism that will confront resource users with the costs of their actions. Hardin noted that when effective legal and insti-

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1. Just v. Marinette County, 201 N.W.2d 761 (Wis. 1972) (upholding constitutionality of shoreland zoning ordinance prohibiting private owners from filling in wetlands); Avoyelles Sportsmen's League v. Marsh, 715 F.2d 897 (5th Cir. 1983) (upholding requirement that private owners of wetlands obtain permits before clearing land).

2. Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926) (upholding a zoning ordinance restricting building of certain businesses on private property).

3. Hodel v. Virginia Surface Mining & Reclamation Ass'n, 452 U.S. 264 (1981) (upholding the constitutionality of the Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, 91 Stat. 445 (codified as amended in scattered sections of 30 U.S.C.), a federal statute regulating surface mining operations); Keystone Bituminous Coal Ass'n v. DeBenedictis, 480 U.S. 470 (1987) (upholding constitutionality of Pennsylvania statute prohibiting coal mining that causes subsidence damage to pre-existing structures).

4. Lucas v. South Carolina Coastal Council, 404 S.E.2d 895 (S.C.), *cert. granted*, 112 S.Ct. 436 (1991) (holding that the state can prevent landowner from building on oceanfront property).

5. Garret Hardin, *The Tragedy of the Commons*, 162 SCIENCE 1243 (1968).

tutional controls over resources are absent or not properly used, our valuable natural and environmental resources will be overused and depleted.[6]

Hardin did not express a preference for a particular form of control. But his article clearly raised the question of what method of control is most effective in promoting the proper allocation of natural and environmental resources over time. Richard Stroup and Sandra Goodman[7] join a long list of commentators who have taken a position on this matter, and they come down solidly on the side of private property as the most effective control mechanism. Stroup and Goodman recognize the political tension between private property and the environment by pointing out that "distrust of private ownership of environmental resources remains widespread."[8] But they believe this view is mistaken. In particular, the authors reject the proposition that public institutions are inherently more competent in meeting long-term environmental protection objectives, and therefore, are better at protecting the interests of future or present generations:

> Our view, which we believe to be well supported in logic and in fact, is that when property rights are clearly established, the private sector's market-oriented decisions will tend to allocate resources to their highest valued uses across time, while the political and administrative decisions made in the public sector will tend to allocate resources to uses for which current political supporters exert the strongest immediate pressures. If this view is true, it has profound implications for the social utility of using private property rights wherever possible . . . to encourage wise use of natural resources.[9]

In addition to stating the central thesis of the article, this paragraph raises numerous questions. How do we test the assertion that private-sector, market-oriented decisions allocate resources more competently than the public sector? Is there anything different about natural and environmental resources that would lead us to think differently about the utility of property rights as a means of protecting them?[10] And then, assum-

6. *Id.* at 1244-1245.

7. Richard Stroup & Sandra Goodman, *Property Rights, Environmental Resources, and The Future*, 15 HARV. J.L. & PUB. POL'Y 427 (1992).

8. *Id.* at 428.

9. *Id.* at 430.

10. The distinction between natural and environmental is not firm, and in some respects illusory. Charles Howe refers to natural resource commodities as those that have been removed from their natural environment, for example, timber and minerals.

ing that private ownership is not already the norm, how do we establish private ownership of natural and environmental resources?

I. Testing the Hypothesis

The problem, Stroup and Goodman recognize, is how to test the proposition that "private stewardship, when it can be arranged, is superior in conserving resources."[11] One way is to compare the performance of private and public decisionmaking in allocating specific natural or environmental resources over time. The authors say that cannot be done, however, because publicly-owned resources that offer environmental amenities do not ordinarily have privately-held counterparts. Instead, the authors opt for "slightly less direct" evidence—comparing and contrasting the time horizons of public and private decisions in three non-environmental areas.[12] Stroup and Goodman credibly attempt to provide some concrete evidence in an area too frequently characterized by opinion. This critique, however, will deal less with how well Stroup and Goodman perform the analysis of the three non-environmental areas, and more with some of the underlying theoretical and practical issues in evaluating the private and public sectors as stewards of the environment.

Stroup and Goodman's article is fine to the extent that it evaluates decisionmaking time horizons in the three non-environmental areas.[13] Their examples raise important concerns about the incentives and pressures that limit the ability of the public sector to allocate efficiently resources over time. Much of this analysis is deduced from a body of literature that views government as a supplier of benefits, which well-organized and effective interest groups demand in the short term.[14] Govern-

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Charles W. Howe, Natural Resource Economics 1 (1979). Clean air and water are sometimes referred to as environmental resources. John Krutilla and Anthony Fisher refer to "natural environments," such as forests, which provide natural services or amenities. John V. Krutilla & Anthony C. Fisher, The Economics of Natural Environments (1975).

11. Stroup & Goodman, *supra* note 7, at 430.

12. *Id.* at 431-53.

13. I point out, however, that Section VI on electricity regulation is less a comparison than the first two areas on infrastructure investment and pension management.

14. *See* Mancur Olson, The Logic of Collective Action (1965); Mancur Olson, The Rise and Decline of Nations (1982). If a special interest successfully demands preservation for natural or environmental resources, this success might suggest that government indeed takes a long-term focus contrary to Stroup and Goodman's thesis.

ment faces significant incentives to satisfy immediate political demands and, as a result, may find it exceedingly difficult to take a long-term view.

A few general criticisms of Stroup and Goodman are in order. First, the authors should have addressed some of the situations in which a comparison of the performance of markets and government in allocating scarce environmental resources is possible. Examples might include ownership and management of oyster beds, treatment of wetland and riparian areas on private versus public lands, and private versus public forest resource management.[15]

Furthermore, the material Stroup and Goodman present supports only part of their hypothesis. The examples point out the incentives for the public sector to emphasize the short run at the expense of longer-term concerns. However, the examples do not clearly demonstrate that private sector decision-making takes a long-term or "steward-like" view toward natural and environmental resources. While Stroup and Goodman raise important questions, their position on the environment rests more on theory than fact. The theory is worth exploring a bit more.

Private sector decisionmakers also face incentives to address short-term concerns.[16] But a key distinction between public and private decision-making, according to Stroup and Goodman, is that once resources are privately held

> [t]he ability to capitalize future value into an asset's present value induces property owners to consider . . . the effects of deferring consumption of their asset returns. Furthermore, it implies that property owners will be responsible to future users. Any activity that reduces the future benefits or increases the future costs stemming from an asset results in a

However, the point to remember is that the policy demanded may principally serve the short-term interests of the group demanding it, and in any event, may not be an economically efficient use of resources over time.

15. *See, e.g.*, Richard J. Agnello & Lawrence P. Donnelley, *Property Rights and Efficiency in the Oyster Industry*, 18 J.L. & ECON. 521 (1975); E. Manning Seltzer & Robert E. Steinberg, *Wetlands and Private Development*, 12 COLUM. J. ENVTL. L. 159 (1987); Gerald Torres, *Wetlands and Agriculture: Environmental Regulation and the Limits of Private Property*, 34 KAN. L. REV. 539 (1986); Lawrence Solomon, *Save The Forests—Sell The Trees*, WALL ST. J., Aug. 25, 1989, at A8.

16. Private sector bureaucrats respond to short-term demands as well, including, for example, the scrutiny of investor analysts and the next report to "hit the street," or the demands of short-term financial plans and objectives (and the rewards for meeting them). Public policy, including alleged distortions created by various tax incentives, might also intensify the focus on the short term.

> reduction of that asset's current value. As soon as an appraiser or potential buyer anticipates future problems, his assessment of a property's value falls, and the owner's wealth declines immediately. Even if one is not personally concerned with the future, it is nevertheless in a property owner's current economic self-interest to consider future generations by attempting to maximize his property values.[17]

Others are generally in agreement with Stroup and Goodman on this point.[18] Stroup and Goodman's analysis, in at least two of their examples, supports the position that allocation of privately-held resources through markets is superior to public allocation over time. This assertion argues that we, as a society, should take a much closer look at private market-oriented arrangements for certain natural and environmental resources currently entrusted to the public sector.

The issue, however, is not as straightforward when it comes to the environment. Delineation and enforcement of private rights may create real incentives to take a longer-term view, but the establishment and effective enforcement of private rights is often costly and at times prohibitively expensive. Stroup and Goodman are careful to restrict their thesis to areas where private rights in ownership "can be established," presumably to weed out those areas where the value of private ownership may be questionable. Stroup and Goodman allude to another set of problems, however, where the competence of private rights in an environmental setting takes on a more troubling complexion—the ability of private rights to address environmental externalities.[19] While there is reason to believe that our environmental policy does not rely enough on market-oriented allocation mechanisms and the incentives of private property,

17. Stroup & Goodman, *supra* note 7, at 431-32.

18. *See, e.g.*, JULIAN SIMON, THE ULTIMATE RESOURCE 149-151 (1981) (positing that current material prices reflect current conditions as well as expected future supply and demand); Stephen F. Williams, *Running Out: The Problem of Exhaustible Resources*, 7 J. LEGAL STUD. 165, 180 (1978) (agreeing that the future is more heavily discounted in the political arena than in the marketplace); Richard A. Epstein, *Justice Across the Generations*, 67 TEX. L. REV. 1465, 1477-82 (1989) (specifically considering distinctions between certain private and public investments and pointing out the short-term bias of public investments); TALBOT PAGE, CONSERVATION AND ECONOMIC EFFICIENCY 7-14 (1977) (agreeing that efficient markets provide for the future but dissenting on the grounds that uncertainty in estimating costs and risks imposed on future generations causes markets to emphasize present values more than future values).

19. Stroup & Goodman, *supra* note 7, at 430-31.

environmental issues also reveal the "soft spots" in the private property strategy.

II. "Soft Spots" in the Private Rights Strategy

The underlying premise of Stroup and Goodman's analysis is that for the market to work its magic, the price system must operate efficiently. Prices provide the key signals to decisionmakers enabling them to evaluate properly the costs, benefits, and tradeoffs of different investment opportunities over time. Yet, the price system cannot always effectively perform this critical function.

For markets to work efficiently, both in the short and long run, economists tell us that certain conditions must be fulfilled: Markets must be competitive; actors must be informed or at least have reasonable access to information; and there must be an absence of spill-over effects or externalities.[20] An efficiently operating market, however, also assumes an efficient structure of private rights. Until somewhat recently, there was not much specific analysis of what such a structure involved or of its significance.[21]

The common law courts have historically defined private rights, arguably in a manner that tends to promote efficiency in the marketplace. As Richard Posner points out, "the common law establishes property rights, regulates their exchange, and protects them against unreasonable interference—all to the end of facilitating the operation of the free market, and where the free market is unworkable of simulating its results."[22]

In other words, the common law serves a dual role by establishing the legal protections necessary to facilitate exchange in the marketplace, and, where the market meets obstacles, by determining what result the market might have achieved. But Pos-

20. *See generally* A. Myrick Freeman et. al., The Economics of Environmental Policy 64-79 (1973).

21. Thanks in large part to the work of Ronald Coase and the popularity of law and economics as a field of study, the relationship between common law rights and resource allocation has received much attention in recent years. *See* Ronald H. Coase, *The Problem of Social Cost*, 3 J.L. & Econ. 1 (1960).

22. Richard A. Posner, Economic Analysis of Law 230 (3d ed. 1986). Posner also points out that an efficient structure of property rights is characterized by universal assignment of rights, exclusivity in those rights, and ease of transferability. Rights, however, are less universal and exclusive than they could be given the costs of establishing and enforcing property rights. This creates a challenge for the courts to define or "fine tune" rights to achieve efficiency.

ner, echoing the work of Demsetz[23] and others, notes that "the most dramatic economic function of the common law is to correct externalities."[24] Indeed, a now familiar paradigm resulting from the historical study of property rights is that, in response to increasing scarcity, property systems arose or evolved to internalize costs and protect the value of resources.[25] It would seem that the same idea should apply to the environment.

Unfortunately, the process of defining and enforcing private rights poses special challenges where the environment is involved. There are technical complications and potentially sizeable transaction costs in establishing and facilitating the operation of a system of private rights that burden the overall performance of the market. Consider the following situations:

1. Assigning discrete rights to use property (and more importantly, to exclude others from using property) is in some cases technically impractical (for example, the atmosphere).

2. In other situations, the asset itself might be owned (or ownable), but certain services or amenities produced by the asset are jointly consumed. For example, it is now well established that certain wetlands provide valuable services in the form of fish and wildlife habitat, natural water purification, and natural flood storage, to mention just a few.[26] Yet, over the years, wetlands have been altered and destroyed to accomplish other objectives (for example, development of housing and conversion to farmland). The point is not that the uses that result from alteration are not valuable, but that the market does not value the natural services. No one pays the landowner for the natural services which the wetland provides, and therefore he has no incentive to maintain the value of the amenities associated with the wetland. The costs of organizing private transactions to pay for these services may be very high because of the number of individuals involved, free-rider problems, and the cost of assembling the necessary information to structure an efficient bargain.

3. Where incompatible uses occur, such as in pollution

23. Harold Demsetz, *Toward A Theory of Property Rights*, 57 AM. ECON. REV. 347 (Papers & Proc. 1967).

24. POSNER, *supra* note 22, at 232.

25. *See, e.g.*, Demsetz, *supra* note 23; *see also* Terry L. Anderson & Peter J. Hill, *The Evolution of Property Rights: A Study of the American West*, 18 J.L. & ECON. 163 (1975).

26. *See generally* JON H. GOLDSTAIN, COMPETITION FOR WETLANDS IN THE MIDWEST: AN ECONOMIC ANALYSIS (1971).

cases, a common law court would be asked to resolve what, in other contexts, would be straightforward (although not necessarily easy) questions: Who should have the right to pollute or to be free of pollution? Once the right is established, how and to what extent should it be protected?[27] As Coase pointed out, if the world were free of transaction costs, we'd be indifferent to this problem.[28] But more often than not, courts must define rights so as to minimize the effects of transaction costs. Many complex and critical issues go to the heart of this process:[29]

(a) Who can avoid the costs of pollution more cheaply?
(b) Pollution cases usually involve multiple parties. Associated transaction costs or strategic behavior may prevent more efficient bargains after the right is defined. How can the court reach a remedy that minimizes the effects of large transaction costs? Should the right be protected with a damage award or an equitable remedy? Given the potential finality of equitable remedies, can they be tailored in a way to be efficient?
(c) Are all the relevant parties involved in the litigation? In pollution cases, the timing, spatial aspects, and extent of environmental impacts are difficult to determine. Also, the *immediate* costs of the damage to a potential litigant may seem small relative to the costs of participating in a lawsuit, creating a disincentive to bring the action.
(d) The parties involved will also affect the kind of information brought before the court. Are all the complex relationships adequately defined for the court to function properly?

The point of analysis is not that private rights cannot be successfully arranged to correct externalities. Nor is it to demonstrate that the concerns just discussed extend to all the resources one might consider for privatization. Rather, particularly when it comes to environmental concerns, the process of maintaining property rights can be costly (lawyers will be involved every step of the way) and subject to institutional limitations that can prevent efficient outcomes.[30]

27. Guido Calabresi & A. Douglas Melamed, *Property Rules, Liability Rules,and Inalienability: One View of The Cathedral*, 85 HARV. L. REV. 1089 (1972).

28. Coase, *supra* note 21.

29. Discussions of the limits of private litigation in addressing environmental issues are contained in James E. Krier, *The Pollution Problem and Legal Institutions: A Conceptual Overview*, 18 UCLA L. REV. 429 (1971) and RICHARD B. STEWART & JAMES E. KRIER, ENVIRONMENTAL LAW AND POLICY 198-324 (2d ed., 1978).

30. It is worth acknowledging that, at least from an academic viewpoint, it may be much easier to criticize market allocation in the context of environmental issues. For

More often than not, when environmental problems arise, we assume a total failure of the marketplace and opt instead for some form of government intervention. In fact, specific problems or defects that are identifiable and correctable may handicap the market and underlying private rights structures.[31] The point here, and I believe it is the central point, is not that markets fail. As Coase and others point out, governments also fail.[32] Government too is faced with enormous transaction costs and information needs. As Stroup and Goodman have demonstrated, the incentives which government officials face may be considerably different in many important respects, respects that may affect the ability to allocate resources efficiently over time. What is needed, therefore, is a careful comparison of markets and the government in the environmental context.

III. Using Politics to Create Markets

Overcoming the "tragedy of the commons," Hardin asserts, requires "mutual coercion mutually agreed upon."[33] This requirement has several components. In addition to identifying the root institutional cause of an environmental problem, it also involves selecting the appropriate form of mutual coercion or regulation, and then implementing it through our legitimized public institutions.[34] To date, society has demonstrated a fair degree of competence at identifying some of the root causes of resource misallocation and identifying potentially "efficient" remedies.[35] We continue to identify approaches that involve a much greater reliance on economic incentives and market-oriented approaches.[36] We have shown less resolve and

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one thing, we have a much more sophisticated model for evaluating private market allocation than we do for public or collective allocation.

31. For example, the presence of externalities (assuming we can identify them) are likely symptoms of problems rather than the problem itself. The symptoms might include imperfectly specified property rights, transaction costs, or limits on transferability. It may be possible to remedy the rights system rather than shift the problem to other forms of public regulation.

32. Coase, *supra* note 21, at 17-18.

33. Hardin, *supra* note 5, at 1243.

34. The choice here is rarely between the free market and public control or regulation. Rather the choice is between two forms of regulation—the common law and public regulation. Posner, *supra* note 22, at 343.

35. *See generally* Krier, *supra* note 29; Stewart and Krier, *supra* note 29 (discussing the root causes of resource misallocation in the area of environmental problems).

36. *See* Frederick R. Anderson et al., Environmental Improvement Through Economic Incentives 1-89 (1977).

success in gaining political acceptance, organizing collective activity, and implementing these approaches.

If we conclude, as Stroup and Goodman and others have, that we may be better off in the long run with a private rights or market-oriented approach to resource allocation, then we must determine how to achieve that end. Stroup and Goodman's analysis in this area turns out to be a double-edged sword. Just as Stroup and Goodman's analysis raises concerns about the inherent weaknesses of government allocation, it also reveals the problem of using political institutions to lead the way toward more efficient regulation, including overcoming commitments to regulatory approaches already in place. This is true regardless of whether we are trying to establish markets based on private rights or implementing some other more cost-effective means of government regulation to overcome the problems of command-and-control. Unfortunately, this is what I would consider a "Bermuda Triangle" of fresh ideas.

Moving the political process to "mutually agreed upon" market-oriented approaches poses at least two challenges. First, there is certainly a precedent, if not an outright bias, for public ownership and command-and-control style regulation, particularly at the federal level.[37] These approaches have their own built-in political constituencies which, I suspect, have little interest in seeing greater reliance on private property.

Second, reform proposals must be carefully, intelligently, and patiently crafted and then *sold*. As Charles Schultze notes,

> To increase the acceptability of market-like approaches requires . . . more effort on transition problems. Ten thousand technical studies demonstrating the superiority of emission and effluent charges as means of controlling many forms of pollution are not going to persuade legislators to junk existing regulation and switch in toto to a pricing approach. . . . Market-like instruments can supplant current command-and-control techniques only gradually. But not much thought has been devoted to dynamic strategies that, step-by-step, mesh a dwindling reliance on regulations with a cautiously expanding use of market instruments. Let not the economists cast too much blame on politicians for refusing to accept our marvelous instruments of efficiency; the fault lies not in our

37. *See generally* Howard Latin, *Ideal Versus Real Regulatory Efficiency: Implementation of Uniform Standards and 'Fine Tuning' Regulatory Reforms*, 37 STAN. L. REV. 1267 (1985); Bruce Ackerman & Richard B. Stewart, *Reforming Environmental Law*, 37 STAN. L. REV. 1333 (1985) (debating the merits of reforming the command-and-control approach).

politicians, but in ourselves.[38]

Consistent with this point is that advocates of change must be willing to engage in the difficult work of building a coalition for change. For decisionmakers to adopt specific approaches, such as those suggested by Stroup and Goodman, they must be convinced of both the short-term and long-term political and policy benefits. At a minimum, those advocating change must clearly define their agenda and educate the public; salesmanship is often an unpopular but necessary part of achieving reform.[39]

Perhaps there is some hope of an increased emphasis on market-oriented approaches at both the legislative and agency levels.[40] It is still uncertain, however, how deep the commitment to the market approach will be and how broadly it will be applied to different natural resource and environmental issues.[41]

IV. CONCLUSION

Does anyone really believe that markets and property rights can be used to protect fish or wildlife, stop acid rain or global warming, prevent the extinction of plant and animal species, preserve other aspects of biodiversity, and provide for the efficient utilization and conservation of our scarce natural resource over time? There is no consensus in any of these areas.

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38. CHARLES L. SCHULTZE, THE PUBLIC USE OF PRIVATE INTEREST 86-7 (1977).

39. In this respect, Stroup and others deserve credit for laying their agenda on the table. *See* NATIONAL CTR. FOR POLICY ANALYSIS, PROGRESSIVE ENVIRONMENTALISM: A PRO-HUMAN, PRO-SCIENCE, PRO-FREE ENTERPRISE AGENDA FOR CHANGE (1991); TERRY L. ANDERSON & DONALD R. LEAL, FREE MARKET ENVIRONMENTALISM (1991). At least one major environmental organization has taken a fairly aggressive posture in advocating market-oriented approaches to natural resource and environmental issues. *See* ROBERT E. TAYLOR, AHEAD OF THE CURVE: SHAPING NEW SOLUTIONS TO ENVIRONMENTAL PROBLEMS 72-83, 98-108 (1990) (discussing the Environmental Defense Fund's efforts on acid rain legislation and water transfers).

40. In 1990, the Congress adopted The Clean Air Act Amendments of 1990, Pub. L. No. 101-549, 104 Stat. 2399, which enacted a market-based acid rain control program in Title IV. *See* 1990 U.S.C.C.A.N. 3385, 3385-3728, 3874-3875. Although the approach is not considered by some to be a "genuine" market approach, it certainly represents a step in that direction. *See also* ROBERT N. STAVINS ET AL., PROJECT 88—ROUND II, INCENTIVES FOR ACTION: DESIGNING MARKET-BASED ENVIRONMENTAL STRATEGIES (1991); ENVIRONMENTAL PROTECTION AGENCY, ECONOMIC INCENTIVES: OPTIONS FOR ENVIRONMENTAL PROTECTION (1991).

41. A related development is the evolution of private rights against government action, which has both encouraging and disturbing features. *See* Robert H. Nelson, *Private Rights to Government Actions: How Modern Property Rights Evolve*, 1986 U. ILL. L. REV. 361 (noting that a significant amount of federal policy is resulting in the development of new private rights and interests, with varying degrees of efficiency).

But, as Stroup and Goodman argue, there *are* areas where resorting to market-oriented approaches based on property rights could produce real progress. The market-oriented approaches and their underlying objectives are important in bringing about a more efficient allocation of scarce resources. With total costs of EPA programs alone projected to reach nearly $200 billion dollars by the year 2000,[42] achieving greater efficiency in environmental protection has considerable social appeal.

If we could guarantee that efficient markets based on efficient systems of private rights could be established, might one still object to the market? Clearly, the answer is "yes." A dislike for the distribution of wealth generated by the market, or a concern that efficient markets may still redistribute too much risk to future generations are reasons that have been advanced for rejecting market outcomes.[43] But again, these are not reasons to discard the market approach generally, given the significant incentives the market provides for socially beneficial activity and reducing economic waste.

Finally, even if policies relying more on the marketplace are implemented, there is no guarantee that they will remain in place long enough to achieve the long-term benefits of which Stroup and Goodman believe they are capable. Interest group politics have been consistently successful in capturing the American political system and policy process. Environmental groups are often criticized for participating in this political process. However, advocates of free market environmentalism must also recognize that the private sector generally has had a dismal record of accepting the outcomes of the market. The literature is rife with studies showing that private interests, including business, use the political process to obtain special benefits and protection, which serve short-term interests.[44] On a political level, one of the most difficult aspects of accepting the market is accepting the outcomes it produces for specific interests along with the benefits it produces for society as a whole.

42. ENVIRONMENTAL PROTECTION AGENCY, ENVIRONMENTAL INVESTMENTS: THE COST OF A CLEAN ENVIRONMENT (1990).

43. PAGE, *supra* note 18, at 9-11.

44. *See generally*, GEORGE J. STIGLER, THE CITIZEN AND THE STATE: ESSAYS ON REGULATION 114-141 (1978).