

Jail Greens: US Government's Priority is to put Environmental Activists Away for Life

July 2006

After the attacks of 9/11, the US federal government has been targeting communities of dissent under the guise of a "War on Terror." Immigrant communities, anti-war organizers, and now environmentalists are facing widespread sweeps of arrests, mandatory minimums in sentencing, abuses of grand juries, specially targeted legislation, and even paid agents provocateurs. This has activists accusing the government of "Green Scare" tactics harkening back to the McCarthy era of repression against accused communists in the 1940's and 50's known as the Red Scare.

In December, 2005, seven individuals in four states were arrested, accused of seven unsolved acts of property destruction between 1996 and 2001, some of whose statute of limitations were about to expire. Most of these incidents were claimed by the Animal Liberation Front (ALF) or Earth Liberation Front (ELF). Bill Rodgers, one of those arrested, died in custody. Four indictees remain in whereabouts unknown, and four others have since been arrested bringing the number of arrested and indicted to thirteen (and may still grow) in what the FBI has called "Operation Backfire." The only evidence the government has shown they have is from one cooperating witness, Jacob Ferguson, a heroin-addicted self-professed serial arsonist. Despite this flimsy evidence, those charged face

sentences up to life in prison with no chance of parole!

The US government has said that the ELF and ALF are the the largest domestic terror threats in the United States. Yet the charges against the indictees are not terrorist charges, but charges of arson and conspiracy, some of which carry mandatory minimums. Mandatory minimums give the judge no flexibility in sentencing and the "use of a destructive device" charge that many of the accused are facing carry a mandatory minimum of 30 years for one, life for two. The extremity of the sentences have caused all but four of the defendants to become cooperating witnesses for federal prosecutors in attempts of pleading for leniency. Daniel McGowan is one of the four who are not cooperating and he is currently facing two of the "use of destructive device" charges.

Daniel McGowan is a social justice and environmental activist who is also a graduate student earning his master's degree in acupuncture and works at a nonprofit called WomensLaw.org that provides legal resources for victims of domestic violence. Now he is currently on house arrest as he awaits his trial which is set, as with all other defendants, for October 31, 2006, though this date may be easily pushed back indeterminately. He is accused of an incident at a poplar farm that grows genetically modified trees and one at a lumber company that clearcuts forests in the Pacific Northwest. His charges include two of the destructive device charges (one for each incident), charges of conspiracy, and an arson charge for each separate truck or building that burned. If convicted of all charges, Daniel would face a minimum of life, and a maximum of life plus 335 years.

The 83 page, 65 count indictment that charges Daniel and the other defendants in Operation Backfire was the result of a grand jury hearing. A grand jury hears evidence only from the prosecutor and determines if there is enough evidence to indict an individual for a crime. Those subpoenaed are not allowed to have counsel present

during the hearing, and are, unlike a trial jury, not screened for bias. Grand juries date back to colonial days when they were used as a buffer between defendants and the King's prosecutors - a type of civilian oversight that did not allow the prosecutor to indict people willy-nilly. Grand juries do not exist in Australia, the UK abandoned them in the 1930's, New Zealand in the 60's, and Canada followed suit in the 70's. Less than half the United States use grand juries, but those who still do do not use them as a check-and-balance as intended, but as a tool for the prosecutor to indict someone with flimsy or no evidence (e.g., Operation Backfire), or to simply harass individuals by subpoenaing them to a grand jury as in the case of Jeff Hogg.

Jeff Hogg was called to a grand jury on May 18, 2006 to respond to questions from the prosecutor about arsons that happened in the Pacific Northwest years ago. It is quite likely that the subject of this grand jury were incidents covered by the Operation Backfire investigation which would be yet another abuse of the grand jury which can only be used to ground an indictment, not gather intelligence for a current case. The procedure of Jeff's grand jury testimony is a textbook example of how grand juries are used against targeted communities.

The prosecutor posed questions to Jeff to which he pled the 5th Amendment which protects him from incriminating himself. At that point, the prosecutor granted him immunity which legally protects one from one's own testimony, but does not protect one from being indicted on the crimes being discussed. It is a precarious position, but immunity compels one to answer questions posed by the prosecutor. So if one still refuses to cooperate, as did Jeff, they can be brought before a judge and be held for contempt of court until the grand jury expires. Jeff, a nursing student and caretaker for autistic adults has been jailed and could be detained until September 30th. His contempt hearing, which is by law open to the public, was held in closed quarters with even lawyers (other than Jeff's counsel) barred from entering.

No one seems to know how many people have currently been subpoenaed, nor how many grand jury sessions are currently open, but it is known at this time that Craig Rosebraugh, former spokesperson for the ELF, has been subpoenaed to a grand jury for his eighth time. Knowing his history of refusing to testify before grand juries, it seems clear that the government is harassing and repressing individuals from the environmental movement, perhaps because of the success of certain campaigns within the movement.

When a movement thrives despite draconian measures taken against it, the government and private interests push for special legislation that targets that movement. One such piece of legislation is the "Animal Enterprise Protection Act" which may soon become the "Animal Enterprise Terrorism Act." This loosely written act defines any action that impedes or hinders the normal operation of an animal enterprise (e.g., fur farms, vivisection laboratories) causing economic damage over \$10,000 as domestic terrorism.

The SHAC 7, moderators of a website campaigning against Huntington Life Sciences (HLS) were recently convicted under the Animal Enterprise Protection Act, though the individuals were not accused of directly participating in any illegal action.

The history of Stop Huntington Animal Cruelty (SHAC) is an activist success story that has brought a corporation to the brink of collapse. HLS is the world's largest contract animal testing corporation, conducting experiments on dogs, rabbits, monkeys, and other animals involving household cleaners, pesticides, and drugs. SHAC pressured not only HLS, but their clients and service providers to drop their accounts through a diversity of nonviolent civil disobedience and direct action tactics.

Over 200 clients, shareholders, insurance brokers, banks, and other financial institutions who had worked with HLS in the past vowed never to deal with them again. SHAC claims that HLS is \$89 million in debt and there are no banks or insurance companies that will take them as clients.

The SHAC 7's website listed companies and individuals with ties to HLS and reported actions taken against them. When the six members of the SHAC 7 (charges against one individual were dropped) were in court, the prosecutor claimed that their running of a website put them in a larger conspiracy with underground activists who were doing illegal actions against companies with ties to HLS. If the actions of an underground movement aid an aboveground campaign, the logic here goes, then the campaign's organizers should be held responsible for the actions. In the end, the six were convicted of conspiracy to violate the Animal Enterprise Protection Act, plus counts of interstate stalking via the internet. They await sentencing which is scheduled for September 12, 2006, some people facing up to eleven years in federal prison.

Sometimes, people are more talk than action, so the federal government uses paid plants to instigate actions as in the case of "Anna" who posed as a medic at demonstrations and went to convergences across the nation to gather intelligence about "anarchist activities." At the 2005 Philadelphia Bio-Democracy protests, "Anna" recruited three people to engage in eco-sabotage activities. Now, Eric McDavid and two other defendants now cooperating have been arrested and charged for conspiracy.

The three never actually engaged in the activities and "Anna," who was paid \$75,000 plus expenses over two years rented a cabin, paid for and procured supposed bomb-making supplies, and scouted potential targets.

Eric has been denied bail and has been kept in solitary confinement at a Sacramento jail since his arrest in January. He faces up to 20 years in jail if convicted.

This is not the first time a paid agent provocateur was used against the environmental movement. In the late 1980's, a paid informant became Peg Millet's lover who drove her and one of her friends to topple a support tower allegedly as a test run for an action at Palo Verde, a nuclear power plant 50 miles west of Phoenix. Federal agents were waiting for them and Peg and others received three years in prison. Dave Forman, one of the founders of Earth First!, was also arrested and accused of funding the three, but he claims that federal agents coerced him into making a \$100 donation and that he had no knowledge for what the money was being used.

He was found guilty and ordered to pay a fine.

The War on Terror clearly has misplaced priorities. Supporting the current green scare indictees and others currently serving time like Jeff "Free" Luers (who received over 22 years for damaging 3 SUVs that were later restored and sold) is not just an alienated gesture of solidarity, but a vital strengthening of communities in struggle that only together can challenge an escalating repression. Tactics of divide and conquer between radical and moderate elements and between different but sympathetic movements worked to disempower the Black Panther Party and the American Indian Movement. If we don't learn from history, we're doomed to repeat it.

Daniel McGowan - www.SupportDaniel.org

Jeff Hogg - www.GreenScare.org/JeffHogg.html

SHAC 7 - www.SHAC7.com

Eric McDavid - www.SupportEric.org

Jeff "Free" Luers - www.FreeFreeNow.org

Green Scare - www.GreenScare.org

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