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Golden Eagles for the Gods

If a species is essential to religious practices of Native Americans, why would they recklessly kill it? And why would the Feds encourage them?

By Ted Williams

Audubon, March/April 2001

In the self-flagellation of the early Earth Days, America seized upon a passage reprinted in a now-defunct Native American tabloid and reported to have been uttered by Chief Seattle, patriarch of the Duwamish and Suquamish Indians of Puget Sound, to the territorial governor in 1855: "The earth does not belong to man. Man belongs to the earth. . . . Whatever befalls the earth, befalls the sons of the earth. Man did not weave the web of life; he is merely a strand in it. Whatever he does to the web, he does to himself." Stirring words. But they did not issue from Chief Seattle; they were written for a TV movie by a Texas screenwriter named Ted Perry in the winter of 1970-71. Perry had urged the producers to explain in the credits that the passage was only what the chief might have (or, perhaps, should have) been thinking. The producers didn't get around to it, so for nearly three decades Chief Seattle's grand but make-believe sermon has been a mantra for the environmental community and the media in their condemnations of our nation's profligacy.

Of all the ways white society has exploited Native Americans (Indians, Aleuts, and Inuits), few have been uglier or more destructive than attempting to make them into something whites want them to be. Who really stands to benefit from the myth that Native Americans, when given the opportunity, can't make as good exploiters as other Americans? Can wrongs to people long dead be righted by wrongs to people living and yet unborn? And can it really be that what is bad for wildlife is good for Native Americans?

The truth about Indians, like the truth about other races, is that one can't generalize about them. Some Indians do indeed think like the movie version of Chief Seattle. For example, in 1995, when the U.S. Fish and Wildlife Service asked Idaho to manage wolves, the state decided it couldn't be bothered. So the Nez Perce Indians, who revere wolves, volunteered, doing such a spectacular job that wolves in Idaho were essentially recovered three years later. And only Trout Unlimited and the Nez Perce seem alarmed about genetic pollution of westslope cutthroat trout caused by the hatchery-produced rainbows that the Fish and Game Department flings around the state like gum wrappers.

In Arizona, on the other hand, a faction of the Hopi tribe, which for centuries has captured and killed young golden eagles for ritualistic sacrifice, is lobbying the National Park Service (with apparent success) to let it collect eagles from the 54-square-mile Wupatki National Monument, just north of Flagstaff.

Unlike national wildlife refuges, which have traditionally been open to state-sanctioned hunting and trapping, national parks and monuments have traditionally been closed. Save for a few in Alaska established by Congress in 1980, these units have always been sanctuaries where killing of wildlife by the public has been expressly forbidden. Of the 3,026,000 square miles in the contiguous 48 states, only 30,750 (about 1 percent) have been designated as parks and monuments; they act as reservoirs, replenishing wildlife elsewhere. Virtually all conservationists, including mainstream sportsmen, support this traditional sanctuary mission.

"Whatever [man] does to the web, he does to himself." That famous and accurate pronouncement by Chief Seattle's ghost writer is especially pertinent today in northern Arizona, where the U.S. Fish and Wildlife Service hands out 40 permits a year to the Hopi for the collection of hatchling golden eagles. The Hopi may also take red-tailed hawks in any quantity they desire. The Migratory Bird Treaty Act and the Bald Eagle Protection Act (amended in 1962 to include goldens) provide for such take by Indians, but only if it is "compatible with the preservation" of eagles. It is not. "If studies were done," declares one Interior Department raptor biologist who asked not to be identified for fear of political reprisals, "the criteria are there to list the golden eagle as at least threatened in northern Arizona. We might as well be putting DDT out there. There are no young birds coming along. We have absolutely no way to justify handing out 40 take permits a year. Some conservation group needs to sue us. It's a no-brain winner; if you can't win that one, you should get another lawyer."

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Another raptor biologist, David Ellis of the U.S. Geological Survey, was willing to go on record as saying: "The biggest problem the eagle has on the Hopi and Navajo reservations [which occupy about 20 percent of the state] is overgrazing. The primary productivity has been destroyed, so there aren't very many jackrabbits or cottontails. The eagles are hurting already, and then they get hit by Hopi. The Navajos kill them, too [without permits, for their feathers]. I view the Hopi reservation as an aquiline black hole." According to Fish and Wildlife Service records, the permitted take of golden eagles by Hopi from 1986 to 1999 was 208. That's a lot of mortality for a predator perched atop the food chain. But the illegal kill by Indians (not necessarily Hopi) is many times more than that.

If there are two hatchlings in the nest, the Hopi invariably take both. To do otherwise would be "an affront to the gods," reports *The Indian Trader*, a monthly newspaper on Indian culture and history. (But tribal history suggests that this is a new concern. In the old days, when goldens were more plentiful, the gods apparently had no objection to the traditional practice of leaving one.) The eaglets are collected in early spring, then tethered to the tops of adobe buildings, where they are fed, given children's toys, and told how honored they should feel to be chosen for the ritual. In mid-July, they are ritualistically smothered in cornmeal or strangled by hand so that they may travel to the other world and explain, among other things, how well they were treated by the tribe. But the eagles may be delivering a different message. Occasionally their eyelids are sewn shut, and straps around their feet sometimes wear away the skin and sinew. After the carcasses are plucked, the longer feathers are used to make Kachina dolls. Other feathers are scattered under known aeries in ceremonies said to encourage the parents to return and nest again; but the practice appears to be increasingly ineffective.

Some Indians--in fact, some Hopi--think the ritual should be consigned to the past as was the sacrifice of children, from which anthropologists believe it may have derived. Hopi villages reportedly have suggested changing the ritual so that the eagles would be set free after only partial plucking. But the consensus among the Hopi practitioners is that this, too, would displease the gods. According to an Interior Department "report of investigation," a member of the Hopi Eagle Clan--which reveres free, living eagles--asked this of a Fish and Wildlife Service law-enforcement agent working undercover: "How would you like to be chained in the sun for 80 days?" The subject then stated that Indians from the Hopi First Mesa (the plateau on which the Eagle Clan lives) sometimes sneak up to the Second Mesa and release the eaglets. Finally, he opined that the tribe gets all the eagle feathers it needs from the Fish and Wildlife Service's Eagle Repository near Denver, which collects dead eagles and distributes about 1,500 of them a year, in whole or in part, to Indians who request them.

The Navajo Nation allows the Hopi to take eaglets on its land, but tribal members--particularly elders--abhor the practice. In 1999 the Navajo's chief warden, Larry Spencer, confiscated two dead eaglets from Hopi collectors, but they were later returned. Spencer says he doesn't see many eagles on the reservation now. "If you come around and take all the birds you can every year, it's going to affect them."

The Hopi are the only Americans--native or otherwise--allowed to kill eagles and hawks. They legally collect them most anywhere they find an active nest--including their own land, Navajo land, and public land managed by the U.S. Forest Service and the Bureau of Land Management. The trouble is, active golden eagle nests are getting harder to find in northern Arizona. So in May 1999 the Hopi tried to take eaglets from one place they legally cannot--Wupatki National Monument.

After the Hopi eagle collectors were turned away from Wupatki, tribal chairman Wayne Taylor announced in a press release that the tribe had "never experienced a situation where [they] were so mistreated by park officials." He bitterly complained in writing to monument superintendent Sam Henderson, who, after consultation with Park Service lawyers, responded that his agency didn't have the legal authority to allow the Hopi to collect wildlife. Taylor then complained to Henderson's boss, John Cook, director of the Park Service's Intermountain Region, who reiterated what Henderson had written, further noting, "We do not agree with your argument that the permitting authorities of the U.S. Fish and Wildlife Service under 16 U.S.C. 66a and 16 U.S.C. 703-712 are 'overriding contrary regulations.' Indeed, the U.S. Fish and Wildlife permit in question specifically states, 'The validity of this permit is also conditioned upon strict observance of all applicable foreign, state, local, or other federal law.'" Chairman Taylor wasn't having any of it, and he fired off a letter to Interior Secretary Bruce Babbitt, proclaiming that the Park Service was denying "fundamental Hopi religious rights." Babbitt asked the Park Service to respond, and on July 26, 1999, acting director Linda Canzanelli once again explained to Taylor that his tribe's eagle-collecting permit "does not override the National Park Service's regulation."

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But in August Don Barry, then assistant secretary for fish, wildlife, and parks, took a rafting trip down the Colorado River with Taylor and got his ear bent about how the Park Service was abusing the Hopi people. As assistant secretary, Barry had performed brilliantly. Like his boss, Bruce Babbitt, he had proven himself to be a true friend to wildlife; and, also like Babbitt, he had proven himself to be a true friend to Native Americans, people desperately in need of friends. Barry wanted to help the Hopi, and he thought he was doing just that in September 1999 when he reversed the decisions of Henderson, Cook, Canzanelli, and the agency's lawyers.

At a staff meeting earlier in the month, according to documents obtained by the Public Employees for Environmental Ethics (PEER) under the Freedom of Information Act, Barry had suggested that the robbing of eagle nests at Wupatki should proceed on a "don't ask/don't tell" basis, since the tribe had probably been doing it without the Park Service's knowledge. On this last point he was apparently correct. When I asked Taylor's chief of staff, Eugene Kaye, if Hopi practitioners had secretly been collecting eaglets in Wupatki all along, he said he was "pretty sure" they had. "Why shouldn't they?" he demanded.

After the staff meeting, Barry ordered lawyers at the Interior solicitor's office to come up with an opinion, based on law, that would justify the take of wildlife from park units by Native Americans. The lawyers tried for a year and failed. So last September they began drafting a special rule that would apply just to Wupatki. Barry has since left Interior and taken a job with the Wilderness Society, but on January 22 the proposed rule appeared in The Federal Register. Written comments will be accepted by mail, fax, or e-mail through March 23. The summary reads as follows: "The National Park Service has preliminarily determined that under certain circumstances it is appropriate to allow the Hopi Tribe to collect golden eaglets within Wupatki National Monument. . . . This rule would authorize this activity upon terms and conditions sufficient to protect park resources against impairment, and consistent with the Bald and Golden Eagle Protection Act." The Park Service can no longer find any nesting golden eagles in Wupatki. So how can the monument's golden eagle resource not be "impaired" if the first ones that hatch are removed and killed?

Despite condemnation by certain Native Americans of Hopi eagle killing, Suzan Shown Harjo, who directs a Washington, D.C.-based Indian-rights group called the Morning Star Institute, blames environmentalists for fomenting intolerance of the ritual. "You find a lot of environmentalists who are only too happy to appropriate the words of Chief Seattle, or take the thinking of other great people of native history about the environment," she says. "Anti-Indian racism is rampant among the environmental community."

But confronting Native Americans on wildlife exploitation is something the environmental community is terrified of, lest it be perceived as unsympathetic toward liberal causes such as racial and religious tolerance and the view of nature as ghost-written for Chief Seattle. In fact, some environmental groups--Friends of the Earth, for example--have lobbied successfully for previously illegal Native American take of desperately endangered wildlife, most notably the bowhead whale.

An animal-rights group--the Humane Society of the United States--has vowed to sue Interior if it allows the Hopi to take eaglets from Wupatki, and the National Parks and Conservation Association has made noises of discontent. But the only environmental outfit that has dared to openly confront Interior is PEER. "We haven't seen anything this crude in quite a while," PEER's director, Jeff Ruch, told me. To Barry he wrote: "Your conduct and involvement in this issue have been nothing less than disgraceful. At your September 10, 1999, staff meeting held at the main Interior Building, you expressed the view that National Park Service officials should look the other way while federal law and regulations were being violated by the taking of eaglets and hawks at Wupatki National Monument. . . . Since it is your job to protect both the national park system and its wildlife, your directive on that date violates your oath of office."

Why, all of a sudden, are the Hopi so hell-bent to get official permission to collect? I put the question to Bob Moon, resource and technology chief for the Park Service's Intermountain Region. "I think the Hopi decided that this was a good time and place to press this precedent," he said. "But that's my opinion. The puzzling thing to [Superintendent] Henderson was that he felt there was an excellent dialogue with the Hopi over traditional uses. And he was baffled because in all of the years of discussion and as they were going through general management planning, the Hopi never mentioned eagles. . . . This proposal has stirred a lot of concern about what has been the service's perception of a clear mission. We've searched the existing records for 30 years, and we've not seen anything like this."

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The Hopi are also trying to take eagles and hawks from three other park units in Arizona--Grand Canyon, Sunset Crater Volcano, and Walnut Canyon. But if one tribe is allowed to take wildlife from the national park system, how can other tribes, or even Anglos, legally be denied? Radical sport-hunting groups such as the National Rifle Association covet the trophy horns and antlers attached to wild ungulates that roam parks and monuments, often until they die of old age. In 1984 the NRA went so far as to sue the Park Service on grounds that its no-hunting regulation was "arbitrary, capricious, an abuse of discretion," but because all Americans--including Indians--had always been prohibited from hunting in national parks and monuments in the contiguous states, the case was dismissed in 1986 by the U.S. District Court for the District of Columbia. A quick survey of 40 park units by PEER last summer turned up 16 requests by Indian tribes to take wildlife. Species sought include eagles, hawks, desert bighorn sheep, Rocky Mountain bighorn sheep, mountain goats, Rocky Mountain elk, Roosevelt elk, deer, bison, moose, gulls (eggs), and bear. "I don't know how you stop it once it starts," says Henderson.

What the Bush administration will do with the special rule for Wupatki is anyone's guess, but even cancellation wouldn't slow current eagle killing. The 1,500 dead eagles distributed to Native Americans by the Eagle Repository are snapped up so fast, there's a three-and-a-half-year waiting period for whole birds. The waiting period for a pair of wings is a year; for 10 loose feathers, six months. By law, the stuff must be used only for "the religious purposes of Indian tribes." But the Indians sell some of it illegally. Much of it is used in costumes worn on the "powwow circuit." Indians frequently argue that commercial powwows are part of their religion, but they're no more religious than rodeos. Some dancers make their livings going from powwow to powwow, competing for cash prizes. The Mohegan Wigwam Powwow at Uncasville, Connecticut, is typical, offering "over \$50,000 in prizes for Dance Competition." Powwow contestants are judged, in part, by the feathers they wear. During the "grand entry" dance at the annual Albuquerque powwow, you can see the remains of at least 20,000 eagles bouncing around the floor at one time.

It is the powwow circuit that keeps eagles and eagle parts moving so briskly on the black market. An immature golden eagle tail, with the 12 coveted white-trimmed feathers, can sell for \$400. A single "deck" feather from the center of the tail can fetch \$300. A whole carcass, if it's immature and in good condition, is worth \$1,000. While there is no evidence that the Hopi use immature golden eagles for anything other than their religious rituals, no one can reasonably expect them simply to place feathers worth this kind of money on Kachina dolls that never get sold or to piously scatter them under robbed aeries. Members of the Hopi tribe have succumbed to similar temptations. In 1998, for example, the Bureau of Indian Affairs busted nine Hopis for selling ceremonial items (some with eagle feathers attached) in violation of the Native American Graves Protection and Repatriation Act. They served six-month jail sentences.

In 1995 and 1996, Kachina dolls, bustles, fans, and all manner of other powwow-circuit items containing feathers from golden eagles and 24 other species of protected birds were purchased from Indians of various tribes in Arizona, New Mexico, Colorado, and Utah by special agents of the Fish and Wildlife Service, working undercover. One type of ceremonial fan requires the carcasses of 25 scissor-tailed flycatchers.

So many birds were being killed that the agency decided to issue arrest warrants after only two years, thereby ending its sting operation early. Had the investigation continued for another year or two, as planned, agents believe they would have taken down several hundred traffickers. As it was, they successfully prosecuted about 45 individuals and businesses, many on multiple counts.

The agents found that a lot of the illegal selling was being done by traveling Native American Church leaders called roadmen. One roadman sold more than 90 eagles. Much of the contraband was finding its way to the Native American Church for ceremonies in which the hallucinogenic, mescaline-based drug peyote (illegal for non-Indians) plays a role as important as eagle parts. The church is much despised by elders who revere live eagles, and its ritual requiring peyote and eagle sacraments is a modern tradition among Native Americans, which may not even date to the 19th century.

According to search warrant affidavits, most of the eagles purchased in the undercover operation had been caught in leghold traps. Special agents learned that eagles had escaped from sprung traps minus their feet, and they obtained eagles with crushed, dangling, or severed legs and feet. In New Mexico one member of the Jemez Pueblo claimed that he and his fellow tribal members had killed 60 to 90 eagles during the winter of 1995-96 and that he had caught six at once by setting traps around a dead cow. He explained that the best way to dispatch a

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trapped eagle is to sit on it, get it to bite a stick, then ram your thumb down its throat so it can't breathe. They jump around for 10 or 15 minutes, he said.

A raptor biologist who used to work for the Park Service and who also requested anonymity told me this: "No one wants to confront the fact that so many eagles are getting killed. We have no data, but my sense is that more birds are being taken than are being hatched. I had one Indian tell me: 'I'm like most Navajos. If I see an eagle, and I've got a gun, I'm taking a shot at it.' I've been with them when they've said: 'I wish we had a gun.' Another time I was out with Hopis and an eagle jumped off a carcass out in the sand hills, and they were all bemoaning the fact that they didn't have a rifle. If Indians want to have eagles in their world, they need to consider changing their physical relationship with the bird; it's that simple."

When I asked Suzan Shown Harjo if all Native Americans should be able to take wildlife from all park units, she responded with an emphatic "Yes." Then she said: "If you're exercising your religion, it doesn't matter what other people think about it." But it does matter. In America freedom of religious belief is absolute. Not so freedom of religious practice. Religious practice has always been questioned when it conflicts with the public good. There is, for example, an obscure sect (not Native American) whose members believe that evil spirits are best banished by the screaming of dogs. Practitioners of this religion therefore hang dogs from trees and beat them to death with sticks--but not in the United States because we don't tolerate that kind of thing. Our courts acknowledge the rights of dogs. What about the rights of eagles? And what about the rights of Americans--white, black, and red; young, old, and yet unborn--who cherish or will cherish the sight of living eagles? As the Hopi of the Eagle Clan might put it: What kind of gods really want eagles dead instead of soaring in our spacious skies?

A chapter from Ted Williams's 1986 book, Don't Blame the Indians, appeared in the September 1986 issue of Audubon under the title "A Harvest of Eagles."

What You Can Do

The National Park Service has asked to hear what you think of its proposed rule to let the Hopi Indians take golden eagles from a national park unit for ritualistic slaughter. Don't disappoint it. Comments should be sent to: Kym Hall, National Park Service, 1849 C Street, N.W., Room 7413, Washington, DC 20240. Fax: 202-208-6756.

E-mail: WASO_Regulations@nps.gov.

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