In Memoriam: Leonard Ross

The Editors of the *Ecology Law Quarterly* dedicate this issue to former Boalt Hall law professor Leonard Ross, who took his own life this past year at the age of thirty-nine. During his careers as an academic, a political consultant, and a public interest advocate, "Lennie" Ross deeply touched the lives of the many individuals who knew him as a colleague, a teacher, and a friend.

Many of the most remarkable facts about Lennie Ross's life are readily catalogued: a federally-licensed ham radio operator at the age of seven; the eleven-year-old "whiz kid" winner of $164,000 on television game shows, answering questions about the stock market; political advisor to presidential candidate Adlai Stevenson as an undergraduate at Reed College; the youngest Editor-in-Chief of the *Yale Law Journal*; and the youngest Commissioner ever to serve on California's Public Utilities Commission.

Everyone who knew Lennie remembers his "sheer brilliance." Boalt Hall professor and former Ross student John Dwyer characterized him as a "certified genius." Others recall Ross's singular ability as a policymaker to sift through enormous amounts of information, and then pose a few pointed questions which went to the core of the issues under consideration. "Lennie would ask questions that you would not have come up with no matter how long you thought about the problem, questions that would give you new insights and change your attitudes about approaching an issue," recalls Richard Rosenberg, a former colleague of Ross's at the Public Utilities Commission.

Lennie was involved in many public interest issues throughout his career, but his interest in energy conservation and regulation was his most enduring concern. After serving as a consultant to fellow Yale graduate Edmund G. Brown, Jr. during Brown's first California gubernatorial campaign in 1974, Ross was appointed to the California Public Utilities Commission (PUC) by the newly-elected governor.

Lennie brought a regulatory background stronger than that of most new commissioners to the PUC, and he quickly mastered the complex administrative and technical issues facing the Commission. Former PUC staff member Barbara Barkovich remembers Lennie as a fountain of new ideas, bringing a consumer and public interest orientation to the Commission for the first time. Barkovich recalls that "Lennie's energy and enthusiasm renewed and galvanized the PUC staff," which had chafed

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under the more conservative, utilities-oriented Commission of previous state administrations. Even while challenging the underlying assumptions of many PUC energy policies, Lennie was able to form an effective working coalition among the Commissioners, and he became a powerful force at the Commission much earlier than had been expected.

Lennie soon became known as the "father of energy conservation" at the PUC.1 In 1975, he authored a major piece of PUC policy in a Pacific Gas & Electric (PG&E) general rate case which required utilities to place as much emphasis on energy efficiency and conservation as on new plant construction. The PG&E decision, which has served as the foundation of the Commission's conservation policies since that time, explained the need for a shift in the focus of the Commission's ratesetting policies:

We regard conservation as the most important task facing utilities today. Continued growth of energy consumption at the rates we have known in the past would mean even higher rates for customers, multibillion dollar capital requirements for utilities, and unchecked proliferation of power plants. Energy growth of these proportions is simply not sustainable. Nor is it necessary in order to achieve overall economic growth and full employment. Reducing energy growth in an orderly, intelligent manner is the only long-term solution to the energy crisis.

At present, the financial incentives for utilities are for increased sales, not for conservation. Whatever conservation efforts utilities undertake are the result of good citizenship, rather than profit motivation. We applaud these efforts, but we think the task will be better accomplished if financial and civic motives were not at cross purposes.

To this end, we intend to make the vigor, imagination, and effectiveness of a utility's conservation efforts a key question in future rate proceedings and decisions on supply authorization . . . . The effort we expect is not limited to exhortation, advertising, and traditional means for promoting conservation. We expect utilities to explore all possible cost-effective means of conservation . . . .

Similarly, we expect utilities to work aggressively for the development of alternate energy sources, including solar and geothermal energy, and we will consider these efforts in rate and supply decisions.2

In this same opinion, Ross also effectively halted the pro-nuclear, image-building advertisements that the utilities were financing with ratepayer dollars.3

While on the PUC, Lennie Ross also focused his attention on the connection between energy and foreign policy. In particular, he was con-

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2. PG&E General Rate Case, 78 C.P.U.C. 638, 746 (1975).
3. Id. at 691.
cerned that the sale of nuclear power plants around the world could supply the plutonium necessary for the proliferation of nuclear weapons everywhere. In a 1976 article he wrote for the *New York Times Magazine* entitled "How 'Atoms for Peace' Became Bombs for Sale," Ross outlined his concerns:

Atomic bombs aren't too difficult to make for a country with a developing industrial capacity and plutonium. Plutonium, a metal almost nonexistent in nature, will be produced as a result of the chain reaction within the nuclear-powered reactor and will remain in the spent fuel. Each standard-size reactor, as it produces energy for civilian needs, generates enough plutonium to make one bomb every two weeks. Twenty-one countries have reactors operating today; an additional twenty or more plan to acquire an atomic-power industry within the next decade. It is estimated that by 1990, reactors in the less-developed countries will produce enough plutonium alone for 3,000 bombs a year.

To be sure, governments that sell nuclear power plants insist on safeguards against diversion of fissionable materials. But the safeguards are weak. With 87 inspectors, 2,000 remote cameras and a safeguards budget of $6.4 million, the International Atomic Energy Agency monitors 315 nuclear facilities around the world. The most the agency can do is report a diversion to its board of governors; it has no power of prevention or enforcement. Even its "fire alarm" abilities are limited. Host countries can decide on the time and place of inspections and veto the use of certain monitoring equipment. And even if measures were precise and safeguards perfect, a country with a reprocessing plant could expel the inspectors and be ready to make bombs on a few weeks' or days' notice.4

Ross then proceeded to analyze American breeder reactor projects and nuclear technology exports from both an economic and a political perspective. In economic terms, Ross saw cost overruns, schedule setbacks, and inherent technological problems as making nuclear power prohibitively expensive.5 But ultimately, he viewed the prevention of nuclear war as the most compelling reason to halt the proliferation of nuclear power plants.6

At the article's conclusion, Ross offered some suggestions for immediately controlling the proliferation of nuclear reactors as well as some long-term observations on our energy future:

[T]he worldwide spread of nuclear power creates real security dangers and offers only modest and selective economic benefits. It is, of course, impossible to make the world reactor industry disappear. But it is feasible to end export subsidies, tighten safeguards, and choose purchasers

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5. *Id.* at 120.
6. *Id.*
more carefully. As with plutonium, the United States should both set an example and work toward international agreements.

. . . .

. . . For the long run, we could place our bets on technologies less menacing than the plutonium-fed breeder—cleaner coal, cheaper solar power, and enhanced conservation. For the near term, we could decide that the minimal economic benefits (if any) of plutonium recycling aren’t remotely worth the security hazards.7

Shortly after the publication of the Times article, Ross was presented with the opportunity to put some of his ideas into practice. Former Yale professor Richard Cooper had become Undersecretary for Economic Affairs at the State Department under newly-elected President Carter. Lennie left the PUC in early 1977 to become Cooper’s assistant, with a guarantee of room to roam on non-proliferation issues.

Lennie’s work at the State Department, however, was filled with frustrations. Infighting at the Carter Administration led to continuing compromises: Energy Department bureaucrats supported the breeder reactor and reprocessing, even if President Carter did not; National Security Advisor Brzezinski placed the issue of non-proliferation far below other foreign policy priorities; and the State Department ended up focusing on technical questions on an issue which Ross did not think had technical solutions.

Disappointed and frustrated by the State Department’s erratic policies and countervailing pressures in Washington, D.C., Ross left the State Department in 1979 and moved back to the San Francisco Bay Area to teach law at Boalt Hall School of Law. He summarized some of these frustrations in an article on which he was working at the time of his death:

The Carter Administration proved the limits of what even an extraordinarily committed public sector can do to combat the spread of nuclear weapons. The limits are partly those of foreign policy, partly even the more familiar inhibitions imposed by a recalcitrant bureaucracy and an export-hungry private industry; finally, and most pathetically, the self-imposed limits of officials dedicated to the cause but convinced of the inevitability of worldwide nuclear power and therefore the importance of the United States restoring its reputation as a “reliable fuel supplier.”

. . . .

. . . But the real fault of the Carter Administration was not in having guessed wrong, but in having so blinded itself to the dangers [of] and alternatives to nuclear power that it never seriously considered a world in which the sun and wind and forests, not plutonium and uranium, were harnessed for peace. That world is now possible—and an American administration committed to subsidizing it, rather than Reddy Kilowatt,

7. Id. at 122-23.
could change the course of the world's military as well as energy development.  

While at Boalt Hall, Lennie maintained his interest in nuclear power and nuclear proliferation. In 1980, he co-authored an article in *Foreign Affairs* with Amory and L. Hunter Lovins on “Nuclear Power and Nuclear Bombs.” At the law school, he taught courses in nuclear non-proliferation, public sector law and economics, and regulatory reform. He also taught a course on environmental law and served on the Faculty Advisory Board of the *Ecology Law Quarterly*, although he was, as one close friend commented, “never the backpacker type.”

One former student of Lennie’s remembers Ross taking a “distinctly non-linear, unstructured approach” to teaching. To students who sought out his assistance, Lennie offered himself as a resource on a wide range of issues—from environmental law to health care and trucking deregulation. As one student describes her memorable and influential first encounter with Professor Ross:

In the fall of 1979, I was hit by a truck—figuratively speaking. Leonard Ross, a young Berkeley law professor fresh from service as a California Public Utilities Commissioner, enthralled me and fellow members of a seminar in regulatory economics with tales of futile efforts to deregulate California’s trucking industry. After receiving veiled threats from union members who, like the regulated carriers they worked for, preferred to keep on truckin’ in the existing system, Ross and other reform commissioners began wearing specially-made buttons that read, “Keep on Deregulatin’.”

Lennie Ross’s friends and colleagues particularly remember his “remarkable gifts of language, intellect, candor, and comedy.” He was a man with a generous sense of humor, who was thoughtful and caring about the people with whom he dealt. As his close friend and colleague Jim Harding wrote:

The need to please, to humor, and to perform superhumanly ran deep in Mr. Ross, and the expectations of friends, family, and colleagues ran high. . . . Lennie often found spectacular failure preferable to average performance. No one trying to help was unaware of the irony of trying to persuade a superhuman man to adopt merely a human life.  

Lennie Ross’s death this past year was a great loss to the academic,
environmental, and public interest communities. While his contributions will live on, he will be sorely missed.

John P. Hays